

MBE LIAISON TRAINING

Presented by Governor's Office of Minority Affairs Staff



APRIL 27, 2015

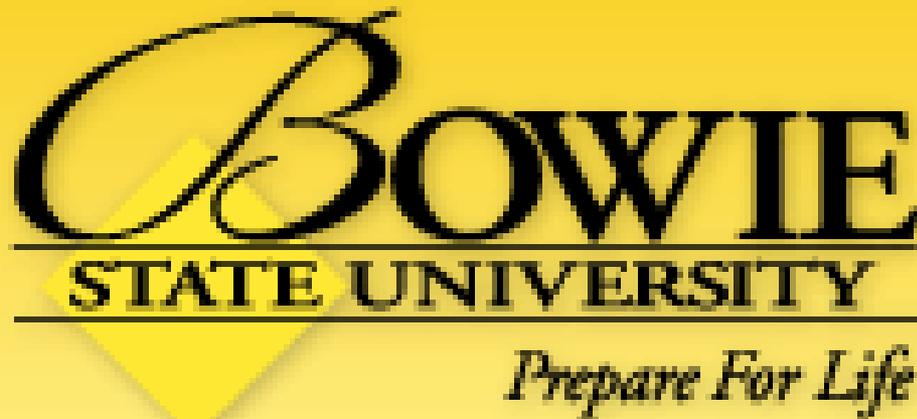
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AGENDA

1. Greeting – Bowie State University Karen Shaheed, Executive Vice President and General Counsel
2. Introduction to GOMA Staff – Lisa Sanford
3. Introduction GOMA’s New Special Secretary, Jimmy Rhee – Alison Tavik
4. GOMA Communications – Alison Tavik
5. Preferred Provider Program – George Mitchell, DGS
6. Veteran Program – Greg Bedward, BPW
7. Advocacy Cases - Chantal Kai-Lewis
8. MDOT Disparity Study Update – Tracie Watkins-Rhodes, MDOT
9. MDOT Certification Update – LaCheryl Jones, MDOT
10. MBE Prime Forms (*Technical Training*) – GOMA Janice Montague
11. Liquidated Damages (*Technical Training*) – Janice Montague
12. Small Business Engagement– April Williams
- ~~13. Computing MBE Participation Goal (*Technical Training*) – Janice Montague~~
14. Exempt vs. Delegated (*Technical Training*) – Janice Montague and Lisa Sanford
15. MBE Reporting (*Technical Training*) – Lisa Sanford
16. SBR REPORTING (*Technical Training*) – Janice Montague

WELCOME



**Executive Vice President and General Counsel
Karen Shaheed**

GOMA STAFF

- Vacant, Assistant Special Secretary
- 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
- April Williams, Outreach Manager
- Pamela Gregory, Special Assistant



SPECIAL SECRETARY JIMMY RHEE

- Assistant Secretary of Commerce and Trade for the Commonwealth of Virginia
- Former COO/CEO of Global Technology Systems Consortium, Inc.
- Over 20 years of entrepreneurial experience and mentoring small business entities
- Board member for various organizations including Asians in Energy, Environment and Commerce, the George Mason University Diversity Advisory Committee and the Asian Information Technology Business CEO Organization
- Graduate of Johns Hopkins University where he earned a Master's in Science and a Master's in Business Administration
- Bachelor's in Science from the University of Maryland
- Professional Certificate in Sustainable Energy Conversion & Storage from the Stanford University Professional Development Center and an Electronic Systems Design Certificate from the U.S. Army Corps of Engineers
- Member and certified performance coach with the International Coach Federation

SPECIAL SECRETARY JIMMY RHEE

- Agency Meetings
- Change in Reporting Frequency
- Designation of SBR Liaison
- New GOMA Advocacy Contact
- Small Business Engagement
- Training

GOVERNOR HOGAN

"Maryland's small businesses, including minority- and women-owned firms, have a significant impact on our economy. I will ask all State agencies to work collaboratively through GOMA to ensure our Minority Business Enterprise and Small Business Reserve programs remain a vital element of our success."



- Larry Hogan, Governor

GOMA COMMUNICATIONS

- Reports Online
- MBE Liaison Directory
send updates to Alison.Tavik@Maryland.gov
- Event Photos
- Pathway to Procurement
- MBE Rights and Responsibilities



goma.maryland.gov

PREFERRED PROVIDER PROGRAM

- (House Bill 48/Senate Bill 1066) required a study of the impact incurred by removing the "Preferred Provider" vendors from the Minority Business Enterprise program.
- Maryland Correctional Enterprise (MCE), Blind Industry Services of Maryland (BISM), and the Maryland Employment Works Program (MD Works) granted first right of refusal
- Beginning July 1, 2015 the Preferred Providers will be removed from the MBE program
- Annual report of contracts fulfilled by BISM and MD Works
- The interim and final evaluation reports submitted to the Maryland General Assembly, December 1, 2015 and December 1, 2016 respectively

PREFERRED PROVIDER PROGRAM

- Forecast Report
- Actuals Report
- Preferred Providers' Report
- Challenges and Observations
- Summary
- Next Steps and Recommendations for Second Annual Reporting Period

VETERANS PROGRAM

- VOSB 100% Self-performance regulation
COMAR 21.11.13.05 (effective March 2015)
- Goal is now 1.0% up from 0.5%
- Dual certification with a MBE goal
and a VSBE goal
- Errors in VSBE participation schedule
responsibility issue



VETERANS PROGRAM

- VSBE waiver process mirrors the MBE waiver process
- VSBE participation schedule template and annual reporting forms
www.bpw.maryland.gov
- More than 7,300 verified veteran-owned businesses in www.vetbiz.gov
- Confirm VSBE is added as an ADPICS vendor



VETERANS PROGRAM

- Exempt from VSBE requirements: University System of Maryland, Morgan State University, Stadium Authority, and St. Mary's College of Maryland

Board of Public Works

POC for annual reports – Devan Perry

devan.perry@maryland.gov

(410)260-7793



ADVOCACY CASES

- **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”**

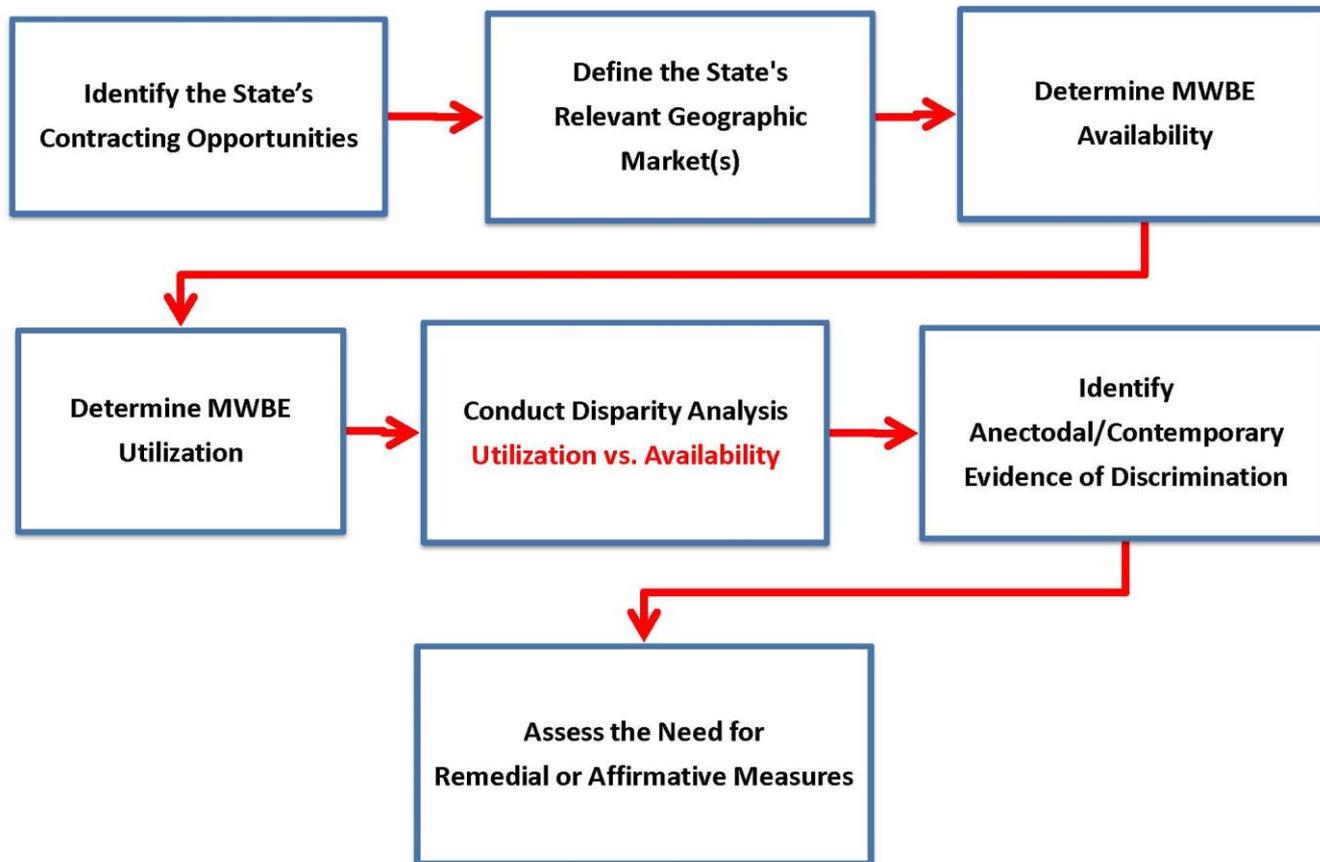
MDOT DISPARITY STUDY

- To be effective, enforceable, and legally defensible, the State's MBE Program must meet the judicial test of constitutional "strict scrutiny." Strict scrutiny requires a "strong basis in evidence" of the persistence of discrimination, and any remedies adopted must be "narrowly tailored" to address that discrimination. This is achieved through conducting a disparity study.

DISPARITY STUDY PROCESS

The Disparity Study Process

Significant Aspects



MDOT DISPARITY STUDY

- The MBE Program sunsets in July 2017. The study will be delivered to the General Assembly in September 2016, providing adequate time for evaluation before the 2017 legislative session.
- All of the State's spending/contracts for fiscal years 2009 - 2014 will be evaluated. This includes ALL prime contracts and subcontracts - MBE and non-MBE.
- **Link to most recent study**
http://www.mdot.maryland.gov/Office%20of%20Minority%20Business%20Enterprise/Resources_Information/NERA_MD_Disparity_Study_Final_20110218.pdf



**Current Statewide Aspirational
MBE Goal is 29%**

Achieved 27.3% MBE Participation in FY14

MDOT CERTIFICATION UPDATES

- **November 3rd 2014**
- SDAT- All firms headquartered in Maryland must be in good standing with the State Department of Assessments and Taxation
- US DOT Size Standard- for participation in DBE/SBE Programs increased to \$23.98 million dollars
- - **January 1st 2015** PNW Increase to \$1,669,419 for MBE Program
- mdot.maryland.gov/Certify

SBE vs SBR

SBE

- ✓ Race and gender neutral
- ✓ USDOT Federally Funded Contracts- MTA, SHA and MAA- Goals to be established
- ✓ MDOT Certification Process

SBR

- ✓ Race and gender neutral
- ✓ Applicable to 23 Maryland Agencies 10% mandate
- ✓ Self certification process, online via DGS

MDOT POC

- **Monica A. Crusse, Certification Operations Manager**

7201 Corporate Center Drive

Hanover, Maryland 21076

[410-865-1381](tel:410-865-1381)

Fax [410-865-1309](tel:410-865-1309)

Toll Free: [1-800-544-6056](tel:1-800-544-6056)

mcrusse@mdot.state.md.us

MBE PRIME FORMS

- **Check GOMA website for latest version of MBE forms, there have been subtle changes recently**
- **See Handout**

MBE PRIME FORMS HANDOUT

Q&A

- For purposes of clarifying the requirements relating to the new MBE forms, we have provided several examples. All examples are subject to the information contained in the instructions that accompany GOMA's MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule standard form, as well as Title 14, Subtitle 3 of the State Finance and Procurement Article of the Maryland Annotated Code and 21.11.03 of the Code of Maryland Regulations, as updated from time to time.
- Please note that requirements to meet the MBE participation overall goal and subgoals are distinct and separate. An MBE prime may meet or exceed the overall goal if it counts its own participation but may still need to request a waiver if it is unable to meet one or more of the subgoals it is not self-performing or the remainder of the overall goal that it is not self-performing.
- For all of these examples, please note that each of the MBE firms listed on the MBE Participation Schedule (including the MBE prime) must be properly certified to perform the scope of work and must be performing a commercially useful function. Failure to meet the overall goal and/or any subgoals is subject to waiver and good faith efforts requirements. Please refer to Sections 4 and 5 of the MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule and the information included in the Waiver Guidance.

MBE PRIME FORMS HANDOUT

Q&A

Example 1: IT Services contract example

Established goals for Example 1 contract:

18% overall MBE Participation goal

No subgoals

(Contract less than \$200,000)

A Hispanic firm can count its self-performed work up to 9% of the overall goal and must meet the additional 9% with other MBE firms or request a waiver.

Self-perform (Hispanic Firm)

9% overall self-perform

9% (all minority classifications)

18% commitment

LIQUIDATED DAMAGES

- See Case Study

LIQUIDATED DAMAGES

- Effective May 13, 2013
- Applicability to DOIT Contracts
- Biggest Violation – not notifying MBEs that they must submit reports to State
- Monitor Contract – give vendor a chance to cure deficiency
- Liquidated Damages = Last Resort

SMALL BUSINESS ENGAGEMENT

Ready, Set, Grow

Coming Spring 2015

Spring Matchmaking Event

May 27, 2015

MDOT Headquarters

Watch for e-mail

On-line Community Engagement

Social Media

Webinar Training

Send all event notices to: APRIL.WILLIAMS@MARYLAND.GOV



COMMERCIAL BREAK

Total Contract Awards by Procurement Categories

Procurement Category	Total MBE Participation Percentage
Architectural	22.16%
Engineering	23.54%
Construction	24.04%
Construction Related Services	7.18%
Maintenance	16.89%
Services	24.47%
Supplies & Equipment	8.92%
IT Services	30.44%
IT Supplies & Equipment	37.52%
Human, Cultural, Social & Educational Services	56.67%
Corporate Credit Card	5.88%
Direct Voucher	13.42%
Totals:	27.34%

EXEMPT VS DELEGATED

- **Control Agency Delegation of Procurement Transactions**
- Outlines how agencies should handle reportable procurement transactions initiated by a control agency
- Delegation can apply to awards, payments, or both
- Could include responsibility for MBE compliance
- Each control agency's delegation is outlined differently
- Almost all **Statewide contract awards** are reported by the **control agency** issuing the contract (exception: delegated master contracts, e.g., CATS contract)
- Almost all **statewide contract payments** are to be reported **by the using agency** (exception: exempt categories described below)

EXEMPT VS DELEGATED

- **MBE/SBR Non-Reportable Procurement Transactions (Exemptions)**
- Summarizes transactions that are not considered procurements for purposes of MBE or SBR reporting
- Exempt categories outlined in **BPW Advisory 1998-2 and the General Accounting Division's list of Controller Objects and Commodities Exclusions**
- If a procurement category is exempt, transaction should never be reported for MBE or SBR (e.g., purchase or lease of real property)

TOP 5 MBE REPORTING MISTAKES

1. Counting non-profits **FY15=YES**
2. Unreported Credit Card purchases
3. NOT submitting supporting
documentation
4. Missing BPW items
5. Exempt vs Delegated Items

HB 48 THREE PRONG APPROACH

- 1. DGS responsible for forecasts and reporting**
- 2. MDOT responsible for MBE Certification Directory
& DOIT responsible for FMIS MBE coding**
- 3. GOMA responsible for changes to MBE reporting
beginning July 1, 2015**

HB48: MDOT & DoIT

- MDOT is diligently working to remove non profits from active certification file by July 1, 2015
- DOIT will work in conjunction with MDOT and GOMA to modify MBE coding of non-profits/community service providers in FMIS

HB 48: GOMA'S ROLE

- Non Profits are to still be reported in FY15
- **Removal is effective July 1, 2015 (FY16)**



Non Profit/Preferred Provider Cheat Sheet

FY	Vendor Classification	MBE Award	MBE Payments	SBR Payments	DGS Awards and Payments
FY 15	MCE*	Do Not Report	Do Not Report	Do Not Report	Report
FY 15	BISM & Employment (MD) Works*	Report	Report	Do Not Report	Report
FY 15	DDA (DHMH Only)	Report	Report	N/A	N/A
FY 15	OTHER NON-PROFIT	Report in Denominator	Report in Denominator	Do Not Report	Report in Denominator
FY 16	MCE*	Do Not Report	Do Not Report	Do Not Report	Report
FY 16	BISM & Employment (MD) Works*	Do Not Report	Do Not Report	Do Not Report	Report
FY 16	DDA (DHMH Only)	Do Not Report	Do Not Report	N/A	N/A
FY 16	OTHER NON-PROFIT	Report in Denominator	Report in Denominator	Do Not Report	Report in Denominator

*Preferred Providers as defined in COMAR 21.11.05.01 Preferred Providers are NOT Statewide Contractors and should not be treated as such for MBE reporting. For FY15 each agency should report all awards and payments to BISM and the current 56 MD Works providers. MCE is excluded from all MBE and SBR reporting.

CREDIT CARD

- OBTAIN FROM VIEW DIRECT (R*STARS) OR ADPIC REPORTS FROM P-CARD COORDINATOR
Preferred Report is the Level 3 Report
- MBE NON MATCH REPORT
- MBE DETAIL REPORT
- MBE SUMMARY REPORT
- MANUAL PROCESS

SOURCE DOCUMENTS

- PROCUREMENT AND ACCOUNTING SYSTEMS
- FMIS USERS use ANSWERS
- ELECTRONIC (preferably Excel)

BPW AGENDA ITEMS

- **Please be mindful to include in awards, Form 1 &2, your late June 2015 BPW items that were approved!** Check your records to make sure they have been posted, if not you must add them in manually
- This is very important and collectively has a major impact

SBR Goal

10%

FY14

Achievement

11.8%



TOP 5 SBR REPORTING MISTAKES

1. Use of wrong GOMA Template
2. FMIS agencies, not using the ANSWERS 067 report, or not showing your work
3. Non-FMIS agencies, failing to start from the system-generated payment totals to arrive at the final totals reported

TOP 5 SBR REPORTING MISTAKES

4. Not including reportable payments made against DGS, DOIT, and DBM statewide contracts; not excluding non-reportable payments
 - a) All DGS statewide and agency-specific contract payments are SBR reportable except those that are exempt from all reporting, e.g., fuel purchases (Mansfield).
 - b) All purchases from DBM statewide contracts are SBR reportable
 - c) All DOIT statewide contract purchases are reportable except for a few telecommunications contracts (Toll-free services, long distance services, local phone services).

TOP 5 SBR REPORTING MISTAKES

5. Inadequate backup for adjustments made to credit card totals

Signatures are required! (agency head, CFO, and report preparer)



A FRIENDLY
Reminder

GOAL SETTING REMINDERS

- New Aspirational Goal 29%
- Does NOT apply to DBE Contracts
- Link to [Announcement](#)
- <http://goma.maryland.gov/MiscDocs/Enactment%20of%20MBE%20Goal%20Increase.pdf>

VLT FUND MANAGERS

- Familiarize yourself with “Business Resources”
Link on DBED website
www.choosemaryland.org
- PDF DOCUMENT to circulate to MBE and SB
community
<http://www.choosemaryland.org/businessresources/documents/vltcontacts030514.pdf>



