

**CITY OF FREDERICK DISADVANTAGED
BUSINESS ENTERPRISE (DBE) PLAN**

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
REQUIREMENT**

All bidders shall make good faith efforts to subcontract a portion of the prime contract to small business concerns owned and controlled by socially and economically disadvantaged individuals (i.e. DBEs) as required by the City of Frederick Disadvantaged Business Enterprise (DBE) Plan. In the event that the bidder for this solicitation qualifies as a DBE, this effort shall be deemed to have been met. Individuals who are unquestionably presumed to be socially and economically disadvantaged include Women, African-Americans, Hispanics, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans. The apparent successful competitor will be required to submit information concerning the DBEs who will participate in this contract. The information will include the names and address of each DBE, a description of the work to be performed by each firm, and the dollar value of the contract. If the bidder fails to provide DBE participation in the contract, documentation will be required from the bidder demonstrating that good faith efforts were attempted by the bidder. This information must be provided on a Disadvantaged Business Enterprise Participation Form. In addition, the bidder must complete and provide a City of Frederick Affirmative Action Data Form with its bid. A bid that fails to meet these requirements will be considered nonresponsive.

CITY OF FREDERICK DISADVANTAGED BUSINESS ENTERPRISE (DBE) PLAN

1. POLICY STATEMENT

The City of Frederick recognizes the importance and responsibility of awarding contracts to those businesses socially and/or economically disadvantaged and it is the policy of the City of Frederick to utilize Disadvantaged Business Enterprises in all aspects of contracting.

This commitment is clarified in the following procedural plan, and this plan will be published in its entirety to the community and businesses.

2. DESIGNATION OF SPONSOR'S LIAISON OFFICER

The following person has been assigned the responsibility to develop, manage, and implement the Disadvantaged Business Enterprise Plan:

Purchasing Manager
City of Frederick Purchasing Department
111 Airport Drive East
Frederick, Maryland

3. LIST OF PROCEDURES TO BE IMPLEMENTED TO INVITE PARTICIPATION AND ENSURE AN OPPORTUNITY TO DISADVANTAGED BUSINESS ENTERPRISES

- Invite attendance and participation by Disadvantaged Business Enterprises (hereinafter "DBEs") at "How to do Business with the City of Frederick" seminars
- Distribute "How to do Business with the City of Frederick" Brochures to DBEs
- Invite attendance and participation by DBEs at prebid meetings
- Advertise twenty (20) days, more or less, before bids or proposals are requested
- Provide written notice to DBEs that their interest in a proposed contract is solicited
- Maintain a list of DBEs to be contacted
Provide DBEs with notice of all publicly advertised competitively bid contracts if the contract is within the specialty area of the DBE
- Provide DBEs with information on plans and specifications as provided to all bidders
- Offer assistance in obtaining bonding and insurance requirements, which shall include providing information to DBEs as to companies and/or businesses to provide bonding and insurance for DBEs
- Prepare annual report for the Mayor and Board of Alderman detailing the results of this Plan.

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4. ANNUAL REPORT REVIEW

Regular reviews of this Plan will be conducted every six (6) months for the first two (2) years the plan is in place and annually thereafter to ensure compliance. Such reviews will include, but not to be limited to, regulatory effectiveness, DBE participation, impact, dollar value of contracts awarded to DBEs and compliance. Reports of review findings will be issued after each review. The Mayor shall appoint a review panel to assist in the review of this Plan and the development of reports. The review panel shall include at least one citizen minority representative.

5. POLICY ON THE REQUIREMENT FOR BID BONDS

The City of Frederick will not require bid bonds for contracts of less than \$20,000.

6. AVAILABILITY OF DISADVANTAGED BUSINESS ENTERPRISE DIRECTORY

An up-to-date DBE directory will be available on the City website and will be provided to all bidders and proposers upon request. Certification of the DBE will be done on a case-by-case basis.

7. PROCEDURES TO DETERMINE ELIGIBILITY OF DISADVANTAGED BUSINESS ENTERPRISES

Proof of MBE/DBE Certification from the State of Maryland will be conclusive of City DBE eligibility.

8. PROCEDURE USED TO REQUIRE CONTRACTORS TO IDENTIFY DISADVANTAGED BUSINESS ENTERPRISES

All bids shall include a Disadvantaged Business Enterprise Regulation Bid Solicitation Form, which is attached hereto.

All bids shall also include a City of Frederick Affirmative Action Data Form, which is attached hereto.

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9. SELECTION CRITERIA USED TO ENSURE THAT PRIME CONTRACTS ARE AWARDED TO COMPETITORS WHO INCLUDE DISADVANTAGED BUSINESS ENTERPRISES

Selection will be based on the determination of whether the competitor offering the lowest responsible bid also includes DBE(s) or has demonstrated that good faith efforts were attempted to include DBE(s). This analysis will be made using the information presented in the Regulations.

10. METHODS TO REQUIRE SUB-RECIPIENTS, CONTRACTORS, AND SUBCONTRACTORS TO COMPLY WITH DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

The contract agreement will require that the prime contractor make every effort to include DBE(s) in the contract.

If upon review the City, or its representative, determines that any contractor/bidder has not acted in good faith with regard to his/her obligations under this regulation, then said contractor/bidder shall be precluded from participation in contracts with the City of Frederick. However, the non-complying contractor/bidder may be allowed to resume participation in City of Frederick contracts upon a demonstration of rehabilitative measures that address the specific non-compliance.

This policy was approved by the Mayor and Board of Alderman on the 13th day of June, 1996. Signed and authorized by, Frances G. Baker, President Pro Tem of the Board of Alderman

**CITY OF FREDERICK DISADVANTAGED
BUSINESS ENTERPRISE (DBE) PLAN**

**INFORMATION FOR DETERMINING DISADVANTAGED BUSINESS
ENTERPRISE**

1. NAME OF FIRM _____
2. ADDRESS OF FIRM _____
3. PHONE NUMBER OF FIRM _____
4. INDICATE WHETHER FIRM IS SOLE PROPRIETORSHIP, PARTNERSHIP, JOINT VENTURE, CORPORATION, OR OTHER BUSINESS ENTITY (PLEASE SPECIFY) _____
5. NATURE OF FIRM'S BUSINESS _____
6. YEARS FIRM HAS BEEN IN BUSINESS _____
7. OWNERSHIP OF FIRM: IDENTIFY THOSE WHO OWN FIVE (5) PERCENT OR MORE OF THE FIRM'S OWNERSHIP. COLUMNS E AND F NEED TO BE FILLED OUT ONLY IF THE FIRM IS LESS THAN 100 PERCENT MINORITY OWNED.

A	B	C	D	E	F
NAME	RACE	SEX	YEARS OF OWNERSHIP	OWNERSHIP PERCENTAGE	VOTING PERCENTAGE
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

WITH FIRMS LESS THAN 100 PERCENT MINORITY OWNED, LIST THE CONTRIBUTIONS OF MONEY, EQUIPMENT, REAL ESTATE, OR EXPERTISE OF EACH OF THE OWNERS.

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8. CONTROL OF FIRM: (A) IDENTIFY BY NAME, RACE, SEX, AND TITLE IN THE FIRM THOSE INDIVIDUALS (INCLUDING OWNERS AND NON-OWNERS) WHO ARE RESPONSIBLE FOR DAY-TO-DAY MANAGEMENT AND POLICY DECISION-MAKING, INCLUDING, BUT NOT LIMITED TO, THOSE WITH PRIME RESPONSIBILITY FOR:

(1) FINANCIAL DECISIONS _____

(2) MANAGEMENT DECISIONS, SUCH AS

A. ESTIMATING _____

B. MARKETING AND SALES _____

C. HIRING AND FIRING OF MANAGEMENT PERSONNEL _____

D. PURCHASES OF MAJOR ITEMS OR SUPPLIES _____

(3) SUPERVISION OF FIELD OPERATIONS _____

9. FOR EACH OF THOSE LISTED IN QUESTION 8, PROVIDE FOR A BRIEF SUMMARY OF THE PERSON'S EXPERIENCE AND NUMBER OF YEARS WITH THE FIRM, INDICATING THE PERSON'S QUALIFICATIONS FOR THE RESPONSIBILITIES GIVEN HIM/HER.

(ATTACH SUMMARY)

10. DESCRIBE OR ATTACH A COPY OF ANY STOCK OPTIONS OR OTHER OWNERSHIP OPTIONS THAT ARE OUTSTANDING, AND ANY AGREEMENTS BETWEEN OWNERS OR BETWEEN OWNERS AND THIRD PARTIES WHICH RESTRICT OWNERSHIP OR CONTROL DISADVANTAGED BUSINESS ENTERPRISE (DBE) OWNERS.

11. IDENTIFY ANY OWNER (SEE ITEM 7) OR MANAGEMENT OFFICIAL (SEE ITEM 8) OF THE NAMED FIRM WHO IS OR HAS BEEN AN EMPLOYEE OF ANOTHER FIRM THAT HAS AN OWNERSHIP INTEREST IN OR A PRESENT BUSINESS RELATIONSHIP WITH THE NAMED FIRM. PRESENT BUSINESS RELATIONSHIPS INCLUDE SHARED SPACE, EQUIPMENT, FINANCING, OR EMPLOYEES AS WELL AS BOTH FIRMS HAVING SOME OF THE SAME OWNERS.

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12. WHAT ARE THE GROSS RECEIPTS OF THE FIRM FOR EACH OF THE
LAST TWO (2) YEARS?

YEAR ENDING _____ \$ _____
YEAR ENDING _____ \$ _____

13. NAME OF BONDING COMPANY, IF ANY: _____
BONDING LIMIT: _____
SOURCE OF LETTERS OF CREDIT, IF ANY: _____

14. ARE YOU AUTHORIZED TO DO BUSINESS IN THE STATE AS WELL AS
LOCALLY, INCLUDING ALL NECESSARY BUSINESS LICENSES?

15. INDICATE IF THIS FIRM OR OTHER FIRMS WITH ANY OF THE SAME
OFFICERS HAVE PREVIOUSLY RECEIVED OR BEEN DENIED
CERTIFICATION OR PARTICIPATION AS A DBE AND DESCRIBE THE
CIRCUMSTANCES. INDICATE THE NAME OF THE CERTIFYING
AUTHORITY AND THE DATE OF SUCH CERTIFICATION OR DENIAL.

**CITY OF FREDERICK DISADVANTAGED
BUSINESS ENTERPRISE (DBE) PLAN
CITY OF FREDERICK AFFIRMATIVE ACTION DATA FORM**

The City of Frederick is pursuing an Affirmative Action program to insure equal opportunity in its project bidding and awards practice. We are asking you to help us in this effort by completing the Applicant Affirmative Action Data Form below. Completing the Data Form will assist us in monitoring the effectiveness of our program. **THIS FORM WILL BE FILED SEPARATELY FROM YOUR BID PROPOSAL AND WILL NOT BE USED TO DISCRIMINATE IN ANY WAY IN THE PROJECT BIDDING OR AWARD PROCESS.** The completion of this form is required for your participation and consideration. Your cooperation is appreciated. Thank you.

PROJECT BIDDED ON: _____

DATE: _____

NAME OF BIDDER: _____

TYPE OF BUSINESS ENTITY:

- _____ Individual
- _____ Sole Proprietorship
- _____ General Partnership
- _____ Limited Partnership
- _____ Limited Liability Company
- _____ S-Corporation
- _____ C-Corporation
- _____ Professional Corporation

PERCENTAGE OF OWNERSHIP INTEREST:

(i.e. 1% - 100%)

BASED ON ETHNIC ORIGIN:

- _____ % White
- _____ % Black/African-American
- _____ % Hispanic
- _____ % Asian
- _____ % American Indian or Alaska Native

BASED ON GENDER:

- _____ % Male
- _____ % Female

NOTE: Ethnic origin is defined by the Federal Equal Employment Opportunity Commission as follows:

White -- (Not of the Hispanic Origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Black -- (Not of the Hispanic Origin) All persons having origins in any of the black racial groups of Africa.

Hispanic -- All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

Asian or Pacific Islanders -- All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Somoa.

**CITY OF FREDERICK DISADVANTAGED
BUSINESS ENTERPRISE (DBE) PLAN
PROPOSAL AFFIDAVIT**

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title) and the duly authorized representative of (name of business) _____ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies (as is defined in Section 16-101(f) of the State Finance and Procurement Article of the Annotated Code of Maryland), has been convicted of, or has had probation before judgment imposed pursuant to Article 27, Section 641 of the Annotated Code of Maryland, or has pleaded *nolo contendere* to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows:

(Indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

C. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows:

(List each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension)

D. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The above business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows: (Indicate the reasons why the affirmation cannot be given without qualification):

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**E. AFFIRMATION REGARDING COLLUSION
I FURTHER AFFIRM THAT:**

Neither I, nor to the best of my knowledge, information, and belief, the agents, servants and/or employees of the above business have:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or contractor or of any competitor, or otherwise taken any action in restraint of free competition in connection with the contract for which the accompanying bid or offer is submitted.

**F. FINANCIAL DISCLOSURE AFFIRMATION
I FURTHER AFFIRM THAT:**

I am aware of, and the above business will comply with, the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

**G. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION
I FURTHER AFFIRM THAT:**

I am aware of, and the above business will comply with the provisions of Article 33, Sections 30-1 through 30-4 *et seq.* of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year under which the person receives in the aggregate \$100,000 or more shall, on or before February 1, of the following year, file with the Secretary of State of Maryland certain specified information to include disclosure of political contributions in excess of \$500 to a candidate for elective office in any primary or general election.

**H. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT
I FURTHER AFFIRM THAT:**

(1) The business named above is a (Check one) Maryland (domestic) corporation

foreign (non-Maryland) corporation

registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name:

Address:

(If not applicable, so state).

(2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Employment Security Administration, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

**CITY OF FREDERICK DISADVANTAGED
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I. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of the Contract.

J. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is furnished to the Purchasing Agent and that nothing in this Affidavit or in any contract arising from this bid or proposal shall be construed to supersede, amend, modify or waive the exercise of any statutory right or remedy with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: By _____ (Authorized Representative and Affiant)

Federal Employer Identification Number (FEIN):

**CITY OF FREDERICK DISADVANTAGED
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DISADVANTAGED BUSINESS ENTERPRISE (DBE) PLAN

PROCEDURE USED TO REQUIRE CONTRACTORS TO IDENTIFY DBE'S

All bids shall include a Disadvantaged Business Enterprise Regulation Bid Solicitation Form, which is attached hereto.

DISADVANTAGED BUSINESS ENTERPRISE
REGULATION

BID SOLICITATION

The bidder shall make good faith efforts to subcontract a portion of the prime contract to small business concerns owned and controlled by socially and economically disadvantaged individuals (i.e. DBEs). In the event that the bidder for this solicitation qualifies as a DBE, this effort shall be deemed to have been met. Individuals who are unquestionably presumed to be socially and economically disadvantaged include Women, African-Americans, Hispanics, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans. It is a requirement of this bid to submit information concerning the DBE's who will participate in this contract. The information will include the name and address of each DBE, a description of the work to be performed by each named firm, and the dollar value of the contract. If the bidder fails to provide DBE participation in the contract, documentation will be required from the bidder demonstrating that good faith efforts were attempted by the bidder. A bid that fails to meet these requirements will be considered nonresponsive.

Acknowledgment Signature

Date

**CITY OF FREDERICK DISADVANTAGED
BUSINESS ENTERPRISE (DBE) PLAN
DISADVANTAGED BUSINESS ENTERPRISE
PARTICIPATION FORM INCLUDED WITH SOLICITATIONS**

The City of Frederick has adopted a Disadvantaged Business Enterprise (DBE) Plan in recognition of the importance and responsibility of awarding contracts to those businesses socially and/or economically disadvantaged. The DBE Plan requires the bidder to make good faith efforts to subcontract a portion of the prime contract to small business concerns owned and controlled by socially and economically disadvantaged individuals (i.e., DBEs). A copy of the City of Frederick's Disadvantaged Business Enterprise (DBE) Plan is available on the City website or at the offices of the Purchasing Manager, 111 Airport Drive East, Frederick, Maryland 21701.

In accordance with the requirements of the DBE Plan, please provide the following requested information. Completion of this form is required for your participation and consideration in the contract award process.

- (1) PROJECT BIDDING ON: _____
- (2) DATE: _____
- (3) NAME OF BIDDER: _____
- (4) IS BIDDER A CITY CERTIFIED DBE?: _____
- (5) NAME AND ADDRESS OF EACH DBE WHO WILL PARTICIPATE IN THIS CONTRACT:

- (6) DESCRIBE THE WORK TO BE PERFORMED BY EACH OF THE DBEs:

- (7) DOLLAR AMOUNT OF YOUR BID: _____

- (8) DOLLAR AMOUNT OF EACH DBEs CONTRACT:

- (9) IF A DBE IS NOT PARTICIPATING IN THIS CONTRACT, YOU MUST STATE WHAT GOOD FAITH EFFORTS WERE ATTEMPTED TO INCLUDE DBE PARTICIPATION.

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(Additional documentation may be attached to this form documenting that the bidder had made good faith efforts to include DBE participation.)

AFFIDAVIT

The undersigned swears that the foregoing statements are true and correct. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statements.

Signature: _____

Name: _____

Title: _____

Date: _____

State of Maryland

County of _____

On this _____ day of _____, 20____, before me appeared _____, to me personally known, who, being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by

_____ (Name of firm) to execute the affidavit and did so as his or her free act and deed.

Notary Public

My Commission Expires: _____