

220-RICR-70-00-3

TITLE 220 - DEPARTMENT OF ADMINISTRATION

CHAPTER 70 - CAPITAL ASSET MANAGEMENT AND MAINTENANCE

SUBCHAPTER 00 - N/A

PART 3 - MBE CAPITAL PAYMENT PILOT PROGRAM

3.1 Purpose

The purpose of this Part is to govern the certified MBE Capital Payment Pilot Program (Program), for the sole purpose of facilitating weekly payments to Rhode Island certified minority business enterprise (MBE) subcontractors for completed work on public projects.

3.2 Authority

This Part is promulgated pursuant to the authority granted in R.I. Gen. Laws § 42-11-2.9.

3.3 Applicability

- A. This Part shall be applicable to all vendors, including contractors and subcontractors, participating in the Program.
- B. The Department of Administration will select no less than five (5) projects of varying size and complexity as part of this pilot program. Participation in the pilot program will be listed in the solicitation for each such project.
- C. The Program will expire on December 31, 2021. Notwithstanding the expiration of the Program, any vendor contractually bound to participate in the Program shall participate in the Project until the date of final project completion.

3.4 Definitions

- A. "Program Payments" means weekly payments made at the completion of a work week to certified MBE's by a contractor participating in the Program.
- B. "Minority Business Enterprise" (MBE) shall have the same meaning as set forth in R.I. Gen. Laws § 37-14.1-3.

3.5 Eligibility

- A. Subcontractors

1. Only subcontractors certified as MBE's pursuant to R.I. Gen. Laws Chapter. 37-14 and that maintain a principal office or headquarters within the State of Rhode Island shall be eligible to participate in the Program.
- B. Only contractors in good standing with the Division of Purchases may participate in the Program.

3.6 Program Payments and Contractor Invoicing

A. Program Payments

1. Contractors shall make Program payments to participating MBE's on a weekly basis with respect to the contract between the contractor and subcontractor, commencing after the MBE's first week of completed work on the subcontract.

B. Contractor Invoicing

1. Each participating contractor shall submit invoicing in accordance with its contract with the State.
2. Contractors participating in the Program must submit a request for Program Payments to the State at least sixty (60) days, but no more than one hundred and twenty (120) days prior to the anticipated date that the MBE subcontractor will start its subcontract work. If the subcontract work is scheduled to start within sixty (60) days from commencement of the project the contractor must submit the request as soon as practicable after the issuance of the award.
3. The request must:
 - a. State that the requested payment will be utilized by the contractor for the sole purpose of making weekly Program Payments within a calendar month to a certified MBE as part of the Program;
 - b. Provide itemization of the MBE subcontractor's scope of work, anticipated cash flow for the MBE subcontractor, value of work and schedule of values; and
 - e. Identify, based on a percentage of the subcontractor's scope of work, value of work and schedule of values, how the amount requested in the Invoice represents weekly Program Payments for the requested calendar month.
4. Each subsequent request for Program Payments must be made sixty (60) days in advance as a line item on the contractor's monthly Application for Payment. The Application for Payment must be accompanied by a separate report, including the following information:

- a. The amount of funds that the State has already paid to the contractor for the purpose of making Program Payments;
 - b. The amount of Program Payments that the contractor has paid to the Subcontractor as of the date of the invoice, including the dates that each Program Payment was made;
 - c. A copy of the partial waiver of lien signed by the MBE subcontractor certifying that the Program Payments have been made along with copies of supporting cancelled checks, wire transfers, or other forms of receipt of payment; and
 - d. The balance of funds, if any, held by the contractor for Program Payments received from the State but not yet paid to the MBE subcontractor.
5. Each contractor must hold any excess funds that it receives from the State for Program Payments for the sole purpose of making Program Payments and may not use the funds for any other purpose.
6. The contractor must report to the State any Program Payments that it did not pay to the MBE subcontractor and provide the reason for nonpayment within seven (7) days of nonpayment. Future payments to the contractor should be adjusted in accordance with the amount reported.

3.7 Sanctions

Any contractor who fails to abide by this Part shall be subject to termination of its contract with the State and suspension, pursuant to Vendor Suspension and Debarment, 220-RICR-30-00-14.

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SUBCHAPTER 00 - GENERAL PROVISIONS

PART 3 - MBE CAPITAL PAYMENT PILOT PROGRAM

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