



MBE Capital Payment Pilot Program

Guidance Document Relating to: 220-RICR-70-00-3

This Guidance Document applies to the "MBE Capital Payment Pilot Program" regulation (220-RICR-70-00-3). Pursuant to R.I. Gen. Laws §§ 42-35-1(a)(9) and 42-35-12.2, this Guidance Document states the agency's current approach to and interpretation of the "MBE Capital Payment Pilot Program" regulation. This Guidance Document is not a regulation and creates no new legal obligations, it is a tool to assist the public's compliance with the regulation. Note that this Guidance Document should be read *with* the entirety of 220-RICR-70-00-3 and participants are required to abide by all regulatory requirements, even if not mentioned in this Guidance Document.

Who does 220-RICR-70-00-3 apply to?

The MBE Capital Payment Pilot Program will include no less than five (5) state-awarded construction projects of varying size and complexity. The solicitation for all qualifying projects will list participation in the MBE Capital Payment Pilot Program to notify interested vendors. Contractors who bid on a project participating in the MBE Capital Payment Pilot Program must abide by 220-RICR-70-00-3. As with all bidding opportunities, only contractors in good standing with the Division of Purchases can participate.

Note that the requirements of the MBE Capital Payment Pilot Program as outlined in 220-RICR-70-00-3 only apply to subcontractors who are (1) certified as MBE's pursuant to R.I. Gen. Laws Chapter 37-14 and (2) who maintain a principal office/headquarters in the State of Rhode Island.

Who must comply with 220-RICR-70-00-3?

Contractors awarded a project participating in the MBE Capital Payment Pilot Program must comply with 220-RICR-70-00-3.

Step-By-Step Guide to Compliance with 220-RICR-70-00-3

STEP ONE: Contractor submits initial documentation along with MBE Capital Payment Pilot Addendum (attached in PDF form to this Guidance Document and in fillable Excel format upon request) to the Department of Administration Office of Accounts and Control and a copy to the DCAMM project manager at least sixty (60) days prior to date of first scheduled payment to MBE Subcontractor.

Initial documentation includes:

- a. A copy of the MBE Utilization Plan Approval Letter
- b. AIA Schedule of Values - with MBE values broken out as a separate line item(s)
- c. Completed Addendum form:
 - i. Itemized Subcontractor's scope of work, value of work, and schedule of values
 - ii. Including the percentage of the scope of work and value of schedules that represents 4 weeks of the pilot payments

STEP TWO: DCAMM will review/approve of initial documentation and advance sum. DCAMM at this point may require further information from the contractor if the information provided was insufficient for approval.

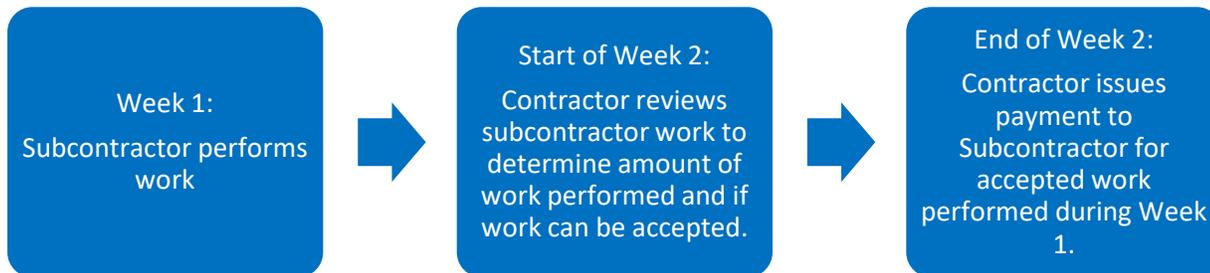


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STEP THREE: DOA Office of Accounts and Control issues payment (via direct deposit or check) for invoiced sum and MBE payment pilot request.

STEP FOUR: Contractor holds advance funds for payment of participating MBE subcontractors. Any excess funds that that contractor has after payment must be held for the sole purpose of making future payments and the contractor may not use the funds for any other purpose.



STEP FIVE: Continue payments as described in Step Four throughout the calendar month.

STEP SIX: 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 on the MBE Capital Payment Pilot Addendum sheet (attached in PDF form to this Guidance Document and in fillable Excel format upon request), 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.

STEP SEVEN: If a dispute arises between the contractor and MBE subcontractor relative to payment, both the contractor and MBE subcontractor should report this dispute to ODEO Minority Business Enterprise Compliance Office as soon as possible. The contractor must report to DCAMM Project Manager and Accounts and Control 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 will be adjusted in accordance with the amount reported.



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CHANGE ORDERS: When a Change Order impacts the scope of work of an MBE subcontractor, the contractor should submit an MBE Capital Payment Pilot Addendum sheet (to requisition funds needed to cover MBE subcontractor(s) work anticipated in the Change Order) as soon as practicable and no later than five (5) days after the Contractor receives an updated Purchase Order reflecting the approval of the Change Order by the Division of Purchases and/or directive from DCAMM to begin the Change Order work (when DCAMM is utilizing delegated authority), whichever occurs first. The contractor should attach all relevant documentation to the MBE Capital Payment Pilot Addendum Sheet and identify the amount of funds that the contractor anticipates will be performed by the MBE subcontractor(s) for Change Order work. If the Change Order work has already been performed by the MBE subcontractor(s), the contractor should pay the MBE subcontractor(s) as soon as practicable and no later than five (5) days after receipt of pilot payment funds from the State. If the Change Order work has not yet been performed by the MBE subcontractor(s), the contractor should pay the MBE subcontractor(s) in accordance with Step Four, outlined above.

EXAMPLE Request and Tracking Form for MBE Pilot Payments
 Addendum to AIA Documents G702 & G703 - 2019

| | | |
|--|---------------------------------------|------------------|
| Instructions: Information included in this sheet should cover the period from the date of the last invoice and must be filed 60 days in advance of payment date to subcontractor, but no more than 120 days in advance. Application number and information below should be consistent with the AIA G702 and G703 forms. The following back-up documentation must be attached to this form for any pilot payments made to sub contractor reported for this period: contractors must attach a partial waiver of lien signed by the MBE contractor, certifying payments have been made along with copies of supporting cancelled checks, wire transfers, or other receipts of payment. This form was developed based on state regulations governing the MBE Capital Payment Pilot Program (220-RICR-70-00-3), effective November 13, 2019. | APPLICANT NAME: | Prime contractor |
| | APPLICATION NO: | ##### |
| | APPLICATION DATE: | 11/7/2019 |
| | CALENDAR MONTH FOR REQUESTED PAYMENT: | Jan-20 |

ABC Construction
 MBE Subcontractor #1

| ITEM NO. | DESCRIPTION OF WORK | SCHEDULED VALUE (TOTAL AMOUNT IN CONTRACT) | CASH FLOW REQUESTED FOR CALENDAR PERIOD | TOTAL AMOUNT OF PILOT PAYMENTS PREVIOUSLY RECEIVED FROM THE STATE | TOTAL AMOUNT OF PILOT PAYMENTS MADE TO SUB | WEEK OF WORK (Based on overall project schedule) | ANTICIPATED AMOUNT OF WEEKLY PAYMENT | ANTICIPATED DATE OF PAYMENT TO SUB | ACTUAL AMOUNT OF WEEKLY PAYMENT | ACTUAL DATE OF PAYMENT TO SUB |
|------------------------------|---------------------|--|---|---|--|--|--------------------------------------|------------------------------------|---------------------------------|-------------------------------|
| 02000 | Demolition | \$ 10,000.00 | \$ 1,000.00 | \$ - | \$ - | Week 1 (1/1 - 1/3) | \$ 150.00 | 1/10/2020 | \$ - | |
| | | | | | | Week 2 (1/6 - 1/10) | \$ 200.00 | 1/17/2020 | \$ - | |
| | | | | | | Week 3 (1/13 - 1/17) | \$ 200.00 | 1/24/2020 | \$ - | |
| | | | | | | Week 4 (1/20 - 1/24) | \$ 200.00 | 1/31/2020 | \$ - | |
| | | | | | | Week 5 (1/27 - 1/31) | \$ 250.00 | 2/7/2020 | \$ - | |
| 08000 | Rough carpentry | \$ 10,000.00 | \$ 2,000.00 | \$ - | \$ - | Week 1 (1/1 - 1/3) | \$ 250.00 | 1/10/2020 | \$ - | |
| | | | | | | Week 2 (1/6 - 1/10) | \$ 500.00 | 1/17/2020 | \$ - | |
| | | | | | | Week 3 (1/13 - 1/17) | \$ 500.00 | 1/24/2020 | \$ - | |
| | | | | | | Week 4 (1/20 - 1/24) | \$ 500.00 | 1/31/2020 | \$ - | |
| | | | | | | Week 5 (1/27 - 1/31) | \$ 250.00 | 2/7/2020 | \$ - | |
| XX000 | Description | \$ 1.00 | \$ - | \$ - | \$ - | Week 1 (1/1 - 1/3) | \$ - | 1/10/2020 | \$ - | |
| | | | | | | Week 2 (1/6 - 1/10) | \$ - | 1/17/2020 | \$ - | |
| | | | | | | Week 3 (1/13 - 1/17) | \$ - | 1/24/2020 | \$ - | |
| | | | | | | Week 4 (1/20 - 1/24) | \$ - | 1/31/2020 | \$ - | |
| | | | | | | Week 5 (1/27 - 1/31) | \$ - | 2/7/2020 | \$ - | |
| Total - MBE Subcontractor #1 | | \$ 20,001.00 | \$ 3,000.00 | \$ - | \$ - | | \$ 3,000.00 | | \$ - | |

XYZ Construction
 MBE Subcontractor #2

| ITEM NO. | DESCRIPTION OF WORK | SCHEDULED VALUE (TOTAL AMOUNT IN CONTRACT) | CASH FLOW REQUESTED FOR CALENDAR PERIOD | TOTAL AMOUNT OF PILOT PAYMENTS PREVIOUSLY RECEIVED FROM THE STATE | TOTAL AMOUNT OF PILOT PAYMENTS MADE TO SUB | WEEK OF WORK (Based on overall project schedule) | ANTICIPATED AMOUNT OF WEEKLY PAYMENT | ANTICIPATED DATE OF PAYMENT TO SUB | ACTUAL AMOUNT OF WEEKLY PAYMENT | ACTUAL DATE OF PAYMENT TO SUB |
|--------------------------------|---------------------|--|---|---|--|--|--------------------------------------|------------------------------------|---------------------------------|-------------------------------|
| XX000 | Description | \$ 1.00 | \$ - | \$ - | \$ - | Week 1 (1/1 - 1/3) | \$ - | 1/10/2020 | \$ - | |
| | | | | | | Week 2 (1/6 - 1/10) | \$ - | 1/17/2020 | \$ - | |
| | | | | | | Week 3 (1/13 - 1/17) | \$ - | 1/24/2020 | \$ - | |
| | | | | | | Week 4 (1/20 - 1/24) | \$ - | 1/31/2020 | \$ - | |
| | | | | | | Week 5 (1/27 - 1/31) | \$ - | 2/7/2020 | \$ - | |
| XX000 | Description | \$ 1.00 | \$ - | \$ - | \$ - | Week 1 (1/1 - 1/3) | \$ - | 1/10/2020 | \$ - | |
| | | | | | | Week 2 (1/6 - 1/10) | \$ - | 1/17/2020 | \$ - | |
| | | | | | | Week 3 (1/13 - 1/17) | \$ - | 1/24/2020 | \$ - | |
| | | | | | | Week 4 (1/20 - 1/24) | \$ - | 1/31/2020 | \$ - | |
| | | | | | | Week 5 (1/27 - 1/31) | \$ - | 2/7/2020 | \$ - | |
| XX000 | Description | \$ 1.00 | \$ - | \$ - | \$ - | Week 1 (1/1 - 1/3) | \$ - | 1/10/2020 | \$ - | |
| | | | | | | Week 2 (1/6 - 1/10) | \$ - | 1/17/2020 | \$ - | |
| | | | | | | Week 3 (1/13 - 1/17) | \$ - | 1/24/2020 | \$ - | |
| | | | | | | Week 4 (1/20 - 1/24) | \$ - | 1/31/2020 | \$ - | |
| | | | | | | Week 5 (1/27 - 1/31) | \$ - | 2/7/2020 | \$ - | |
| Total - MBE Subcontractor #2 | | \$ 3.00 | \$ - | \$ - | \$ - | | \$ - | | \$ - | |
| Total - All MBE Subcontractors | | \$ 20,004.00 | \$ 3,000.00 | \$ - | \$ - | | \$ 3,000.00 | | \$ - | |

General Contractor Signature

DCAMM Project Manager

By signing this form I hereby certify that the requested payment will be utilized for the sole purpose of making weekly Program Payments within a calendar month to a certified MBE as part of the Program.