

- (3) Provide for minority business participation through subcontracting;
- (4) Except as provided in paragraph (5) of this subsection, provide for a system of granting a preference of up to the lesser of 5% or \$50,000 to minority business enterprises in evaluating bids and proposals;
  - (5) (i) Subject to the provisions of subparagraphs (ii), (iii), and (iv) of this paragraph, establish a sheltered market program in which bidding on procurement contracts designated by the WSSC as appropriate is restricted to certified minority business enterprises;
    - (ii) The sheltered market program under this paragraph may not be utilized until all less restrictive remedies under this subsection and race-neutral remedies such as assistance with bonding requirements, financing, or bidding procedures for small firms have been used and found to be ineffective;
    - (iii) Upon the bid of at least 3 certified minority business contractors, a contract shall be awarded under this paragraph to the lowest of those bidders; and
    - (iv) If fewer than 3 certified minority business enterprises bid on a contract under this paragraph, the contract shall be awarded under the general provisions of paragraph (4) of this subsection;
  - (6) Provide for the graduation of a minority business enterprise from the program after 5 years; however, if a minority business enterprise was not awarded at least 3 contracts or a total of \$50,000 in awarded contracts from the WSSC during the 5-year period, the business may apply for and receive one 2-year extension of participation in the program;
  - (7) Require the solicitation document accompanying each solicitation to set forth the rules and regulations of the minority business utilization program;
  - (8) Require the geographic location and the principal place of business of the minority business enterprise to be a consideration for participation in this program. Montgomery County businesses and Prince George's County businesses shall each have a targeted percentage of at least 40% of any contracts;
  - (9) Provide for the WSSC to refuse to recognize the certification of any business found to be in violation of the purposes of the program and to permanently bar any active principals of a violating business from future participation in the program; and
  - (10) Permit the waiver of all or part of the provisions of the program for a specific contract if the WSSC determines that the application of the program to the contract conflicts with the WSSC's overall objectives and responsibilities, and provide for the WSSC to report annually to the Montgomery County and Prince George's County House and Senate Delegations on those waivers.
- (d) Before accepting a certification program under subsection (c)(2) of this section, the WSSC shall examine the program to ensure that:
  - (1) It adheres to the guidelines set forth in § 3-102(f)(4) of this article; and