



MINORITY AND WOMEN'S BUSINESS ENTERPRISE REQUIREMENT

To Prospective Bidders:

Consistent with the SUNY's commitment and in accordance with Article 15-A of the New York State Executive Law, contractors are required to ensure that good faith efforts are made to include meaningful participation by Minority and Women-Owned Businesses in SUNY's MWBE program. The requirements apply to all SUNY contracts in excess of \$25,000 for commodities and services and in excess of \$100,000 for construction. The intent of the program is to encourage and assist in developing business relationships between prime contractors and MWBE subcontractors and suppliers. Contractors must be diligent and creative in order to develop a plan that complies with the program.

Receipt of MWBE documentation is required with submittal of the bid or proposal for commodities, services and construction related consultants service contracts. The MWBE forms identified below shall be submitted by the three apparent low bidders.

Commodities and Services

- a. MWBE Utilization Plan ([7557-107](#))
- b. MWBE-EEO Staffing Plan ([7557-108](#))
- c. Vendor/Contractor EEO Policy ([7557-104](#))

Construction Related Consultants Services

- a. Receipt of the Sub-consultant/MWBE Staffing List
 - i. Architecture/Engineering Design Sub-consultant/MWBE Staffing List ([7555-15](#))
 - ii. Construction Management Sub-consultant/MWBE Staffing List ([7555-16](#))
 - iii. Commissioning Services Sub-consultant/MWBE Staffing List ([7555-17](#))
- b. Vendor/Contractor EEO Policy Statement ([7557-104](#))

The campus MWBE Program Coordinator will forward copies of the lowest apparent bidder to the University-wide MWBE Program Office at MWBEProgram@suny.edu and the Consultant for the three (3) lowest bidders. This requirement applies to service, commodities and construction consultant contracts in excess of \$25,000.

Receipt of the MWBE utilization plan is required within seven (7) calendar days after the bid opening, for construction contracts only. The MWBE Plan Form (107) shall be submitted by the three apparent low bidders to the campus contract administrator.

The firms proposed are businesses the bidder seriously expects to include in the project activity.

For many projects, it is necessary to include the cooperation of principal subcontractors for a meaningful utilization plan. In order for good faith efforts to be effective, contractors should begin plan development during pre-bid. A matter of special consequence is SUNY's contract requirement that principal subcontractors nominated within 48 hours of the bid opening. In the selection of principal subcontractors, the prime contractor should consider subcontractors who demonstrate efforts to assist with program requirements. Consequently, we recommend that the prime contractor evaluate the level of MWBE participation and the good faith efforts to be provided by their principal subcontractors. Although ultimate responsibility for program compliance is with the prime contractor, the Contract Documents require that all subcontractors

also comply with the contract provisions. **An inability to meet goals when subcontractor cooperation is not present does not excuse the prime contractor from the responsibility.**

Firms must be certified by New York State Department of Economic Development as a Minority or Women-Owned Business to comply with program requirements. Certified firms are included in a Directory of Certified Minority and Women-Owned Business Enterprises. This Directory is available on the internet at <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>. You may contact SUNY's University-wide MWBE Program Office at (518) 320-1340 or MWBEProgram@suny.edu for assistance concerning the directory.

Contractors utilizing MWBE firms for supplies/materials/equipment whose NYS certification profile designates them as Broker will receive 25% of the value of the purchase.

The actual services provided by the MBE or WBE must be essential in the performance of the scope of work for the applicable contract. Utilization of a certified MBE or WBE as a conduit or pass through for participation credit is strictly prohibited. It is the discretion of the University-wide MWBE Program Office to determine whether services are essential in the performance of the scope of work and offer a determination of the appropriateness of work allowed for lower tier subcontracting in accordance with practices generally accepted in the industry. The services the MBE or WBE will provide must be among those explicitly identified in the profile (codes) of firm as listed in the NYS Empire State Development Directory of Certified M/WBEs. Firms submitted or who participate in the project outside of these conditions and without specific prior approval by the University-wide MWBE Program Office will not be credited toward the MWBE Utilization Plan and goals for the contract.

STATE UNIVERSITY OF NEW YORK MWBE UTILIZATION PLAN

A letter of explanation and documentation of efforts should accompany any MBE/WBE Utilization Plan that falls short of the stated goals. Without an approved MBE/WBE Utilization Plan, SUNY's Notice of Award and Contract may be withheld.

If you have questions or need assistance related to the SUNY's Minority and Women's Business requirements call the University-wide MWBE Program Office at 518-320-1340 or email MWBEprogram@suny.edu.

1. The three low bidding contractors are required to submit a Utilization Plan (107) to the MWBE Program Coordinator within seven (7) calendar days after the opening of bids for construction contracts exceeding \$100,000.
2. The MWBE Program Coordinator is required to submit the mandatory MWBE documentation to the University-wide MWBE Program Office after the opening of bids for commodity, service and construction related consultant service contracts exceeding \$25,000 for the lowest bidding contractor.
3. The MBE and WBE goals are separate and not to be treated as one combined goal.
4. The MBE and WBE firms included are businesses the bidder seriously expects to include in the project activity.
5. The contractor reasonably commits to the values included in the plan for participation by MBE and WBE subcontractors and suppliers.
6. MBE and WBE firms must be certified by the New York State Department of Economic Development, Division of Minority and Women Business Development. A directory of certified minority and women-owned business enterprises is available on the internet at <https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>.
7. Contractors utilizing MWBE firms for supplies/materials/equipment whose NYS certification profile designates them as Broker will receive 25% of the value of the purchase.
8. MBE and WBE Participation:

The actual services provided by the MBE or WBE must be essential in the performance of the scope of work for the applicable contract. Utilization of a certified MBE or WBE as a conduit or pass through for participation credit is strictly prohibited. It is the discretion of the SUNY to determine whether services are essential in the performance of the scope of work and offer a determination of the appropriateness of work allowed for lower tier subcontracting in accordance with practices generally accepted in the construction industry. The services the MBE or WBE will provide must be among those explicitly identified in the profile (codes) of firm as listed in the NYS Empire State Development Directory of Certified MWBEs. Firms submitted or who participate in the project outside of these conditions and without specific prior approval by SUNY will not be credited toward the MWBE Utilization Plan and goals for the contract.

STATE UNIVERSITY OF NEW YORK MWBE UTILIZATION PLAN

9. Prior to submitting the Plan, the bidders should confirm the following:
 - a. MBE and WBE firms are NYS certified;
 - b. MBE **or** WBE designation ~ Dual certified firms may be used as *either* but **not** both;
 - c. MBE and WBE firms are being used for item(s) within their certification product codes;
 - d. MBE and WBE firms will perform work for which they have been submitted; and
 - e. 2nd tier subcontractors and/or suppliers are noted as such and the purchaser of the product identified (i.e. purchase by electrical sub)

Prime contractor is responsible for ensuring participation provided by subcontractors for 2nd and 3rd tier MBE and WBE participation.

Submission of a Plan which fails to meet or exceed each goal shall be accompanied by documentation of specific efforts undertaken both pre and post bid. The campus MWBE Program Coordinator will review and notify contractor of its assessment.

The University-wide MWBE Program Office in collaboration with the campus MWBE Program Coordinator will review the Utilization Plan and notify the contractor of any deficiencies and determine necessary actions to bring the Plan into compliance. The University-wide MWBE Program Office reserves the right to require the contractor to provide sufficient documentation of the efforts made in the development of the Plan. The documentation should be responsive to good faith efforts and demonstrate the contractor's commitment to providing opportunities for MBE and WBE firms in the development of the plan.

A copy of the approved Plan will be provided to the contractor after issuance of Notice of Award.

STATE UNIVERSITY OF NEW YORK MWBE UTILIZATION PLAN

MWBE FORM (107) INSTRUCTIONS

Requested information must be completed and submitted within seven (7) days after the bid opening.

Subcontractor Name & Address

Name & Address of each MBE/WBE subcontractor or supplier

MBE or WBE

Minority (MBE) or Women (WBE) Designation

Federal ID

Provide accurate Federal ID number of each MBE/WBE subcontractor or supplier

Dollar Value of Subcontract or Purchase Order

This is the total value of the signed subcontract. If this value is different from the amount in the approved MBE/WBE utilization plan, an explanation should be provided.

Description of Work or Supplies

Brief description of work performed or supplies provided by the MBE/WBE subcontractor or supplier

Schedule

This is the anticipated start and completion dates for each MBE/WBE subcontractor or supplier. Do not include the construction schedule for the life of the entire project.

Signature

To be signed by an Officer of the Company

- The information included on the form is subject to verification by the University-wide MWBE Program Office.
- The University-wide MWBE Program Office must be notified prior to changes made to the approved MBE/WBE Utilization Plan.

Questions regarding this form should be directed to the University-wide MWBE Program Office at (518) 320- 1340 or via e-mail: MWBEprogram@suny.edu.

Submit To:

State University of New York
Office of Diversity, Equity and Inclusion University-wide MWBE Program
353 Broadway
Albany, NY 12246
or MWBEProgram@suny.edu

