

MWBE and SDVOB BUSINESS REQUIREMENTS FOR PROSPECTIVE BIDDERS

Consistent with the Fund's commitment and in accordance with Article 15-A and Article 17-B 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 (MWBE) and Service Disabled Veteran-owned Businesses (SDVOB) in the Fund's construction program. The requirements apply to all Fund contracts in excess of \$100,000. The intent of the program is to encourage and assist in developing business relationships between prime contractors, MWBE and SDVOB subcontractors and suppliers. Contractors must be diligent and creative in order to develop a plan that complies with the program.

Receipt of the MWBE and SDVOB Utilization Plan is required within seven (7) calendar days after the bid opening. The MWBE and SDVOB firms listed on the Plan (s) are businesses the bidder intends to utilize on the project and are subject to verification by the Fund.

For many projects, it may be necessary to solicit the cooperation of principal subcontractors to assist in developing 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 the Fund's contract requirement that principal subcontractors are nominated within 48 hours of the bid opening therefore, 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 and SDVOB 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 the contractual goals when subcontractor cooperation is not present, does not excuse the prime contractor from the responsibility.**

MWBE firms must be currently certified by New York State Department of Economic Development Corp. (ESDC) as a Minority or Women-Owned Business to comply with the program requirements. Certified firms are included in the Directory of Certified Minority and Women-Owned Business Enterprises. The Directory is available on the Internet at <https://ny.newnycontracts.com/>. It is the responsibility of the contractor to ensure firms are included in the Directory at the time of submission.

SDVOB firms must be certified by the Office of General Services, Division of Service-Disabled Veterans' Business Development to comply with the program requirements. Certified firms are included in a Directory of New York State Certified Service-Disabled Veteran-Owned Businesses. The Directory is available on the Internet at <https://online.ogs.ny.gov/SDVOB/search>

MWBE and SDVOB goals are separate and cannot be substituted one for the other. However, firms that hold both MWBE and SDVOB certifications may be included in both the MWBE and SDVOB Utilization Plans toward satisfaction of both goals.

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

If you have questions or need assistance related to the Fund's Minority and Women's Business requirements call the Opportunities Program Unit at (518) 320-1650 or email SUCF.OpportunityAdmin@suny.edu