

## MWBE and SDVOB BUSINESS REQUIREMENTS FOR PROSPECTIVE BIDDERS

Consistent with the State University Construction Fund's (the Fund) commitment and in accordance with Article 15-A of the New York State Executive Law and Article 3 of the Veterans Services 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 and NYS certified MWBE and SDVOB subcontractors and suppliers.

Following the project bid opening, the Fund will forward the three lowest bidders an email containing instructions for submitting their MWBE and SDVOB Utilization Plan. The email will provide each firm with a link to complete their Plans electronically via the Fund's online Utilization Plan application. Utilization Plans are accepted in the ONLINE FORMAT ONLY; any other form submittal will be rejected. **Contractor submission of the MWBE and SDVOB Utilization Plans is required within seven (7) calendar days after the bid opening.** If you are one of the three low bidders and have not received an email within 24 hours, please contact [SUCF.ConstructionBids@suny.edu](mailto:SUCF.ConstructionBids@suny.edu).

Contractors must be diligent and creative in the development of a plan that complies with the program. For many projects, it may be necessary to solicit the cooperation of principal subcontractors to assist in developing a meaningful utilization plan. 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 be 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 certified by the New York State Department of Economic Development Corporation as a Minority or Women-Owned Business to comply with the program requirements.** It is the responsibility of the contractor to ensure firms proposed for utilization have an active certification with NYS and are included in the directory at the time of submission. The NYS directory of certified MWBE firms is available on the Internet at <https://ny.newnycontracts.com/>

**SDVOB firms must be certified by the Office of General Services, Division of Service-Disabled Veterans' Business Development to comply with the program requirements.** It is the responsibility of the contractor to ensure firms proposed for utilization have an active certification with NYS and are included in the directory at the time of submission. The NYS directory of certified Service-Disabled Veteran-Owned Businesses is available on the Internet at <https://sdves.ogs.ny.gov/>

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 firm 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 at 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 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 that participate in the project outside of these conditions and without specific prior approval by the Fund will not be credited toward the participation goals for the contract.

If you have questions or need assistance related to the Fund's MWBE and/or SDVOB business requirements call the Opportunities Program unit at (518) 320-1650 or email [SUCF.OpportunityAdmin@suny.edu](mailto:SUCF.OpportunityAdmin@suny.edu)