

## 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](mailto:SUCF.OpportunityAdmin@suny.edu)

## MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

### “GOOD FAITH EFFORTS” GUIDELINES

#### Construction contracts covered by Executive Law Article 15-A

Contractors are required to ensure that good faith efforts are made to include meaningful participation by Minority and Women-Owned Business Enterprises (MWBE) in the Fund’s construction program. Contractors must be diligent and creative in order to develop a plan that complies with the program. If your firm incurs difficulty, these Guidelines will assist in preparing the documentation required to support your efforts. Responses to the information in the Guidelines must be provided to the Fund’s Opportunities Programs Office in an item-by-item format following the numerical sequence as presented. If you need assistance, please contact the office at: (518) 320-1650.

#### **GUIDELINES:**

1. Provide a brief statement of any special circumstances which are preventing NYS certified MWBE firms from participating. Include any documentation you deem relevant which may help us in evaluating your efforts.
2. The names of general circulation, trade association, and MWBE-oriented publications in which you solicited certified MWBEs for the purposes of complying with your participation goals related to this contract. Include a list identifying the date(s) that all solicitations for certified MWBE participation were published in any of the above publications.
3. A list of all certified MWBEs appearing in the NYS Directory of Certified Firms <https://ny.newnycontracts.com/> that were solicited for purposes of complying with your certified MWBE participation levels.
4. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations.
5. Telephone logs with details including date, person(s) communicated with and outcome.
6. Provide copies of responses to your solicitations received by you from certified MWBEs.
7. Provide a description of any contract documents, plans, or specifications made available to certified MWBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.
8. Provide documentation of any negotiations between you and the MWBEs undertaken for purposes of complying with the certified MWBE participation goals.
9. Provide documentation to substantiate quotes that were submitted by NYS certified MWBE firms that were deemed as too high or not cost effective.
10. List efforts made to reasonably structure the scopes of work for purposes of subcontracting with NYS certified MWBEs.
11. Provide a list and include the dates of any pre-bid, pre-award, or other events attended with NYS certified MWBE firms

## **MWBE UTILIZATION PLAN FORM (UP-1) INSTRUCTIONS**

The MWBE Utilization Plan (UP-1) is required to be submitted by the three low bidders within seven (7) calendar days after the bid opening. The ideal Plan should include a mix of MBE and WBE subcontractor and supplier participation. However, if either goal includes more than one third in supplies/material a compelling explanation should be attached. Submission of a Plan which fails to at least meet each goal shall be accompanied by documentation of specific efforts undertaken both pre and post bid. (see “good faith efforts” guidelines)

The Contractor will be required the contractor to provide sufficient documentation of the efforts made in the development of the MWBE Plan. The documentation should be responsive to “good faith efforts” guidelines and demonstrate the contractor’s commitment to providing opportunities for MBE and WBE firms in the development of the Plan.

The Fund will review the MWBE Utilization Plan and notify the contractor of any deficiencies and determine necessary actions to bring the Plan into compliance. The firms listed will be contacted for verification of participation. A copy of the approved Plan will be provided to the contractor after issuance of the Fund’s Notice of Award. **Be advised, The Fund does not issue its Notice of Award without an approved MWBE Plan and the Construction Contract may be withheld.**

For assistance with the directory and/or questions regarding the Utilization Plan (UP-1) contact the Opportunities Program Office at (518) 320-1650 or via e-mail:  
[SUCF.OpportunityAdmin@suny.edu](mailto:SUCF.OpportunityAdmin@suny.edu).

Submit Initial Plan to: Peggy McSorley, Confidential Assistant  
[Peggy.McSorley@suny.edu](mailto:Peggy.McSorley@suny.edu)

Submit Plan Modifications to: [SUCF.OpportunityAdmin@suny.edu](mailto:SUCF.OpportunityAdmin@suny.edu).

## MWBE UTILIZATION PLAN FORM (UP-1) INSTRUCTIONS

**Only firms holding “current” New York State certification status are acceptable for participation credit.**

<b>INITIAL PLAN</b>	Initial Utilization Plan submittal
<b>PLAN MODIFICATION</b>	Update to the Approved Plan
<b>CONTRACT INFORMATION</b>	Project Number, Contract Number, Bid Date, Contract Award Value, MWBE Contract Goals
<b>CONTRACTOR INFORMATION</b>	Company Name, Company Address, Contact Name, Contact Title, Phone, Fax, Email
<b>SUBCONTRACTOR INFORMATION</b>	<p>List the MBE and WBE firms your firm intends to utilize on the project. Include the Company Name, Street Address, Contact Name, and Email Address. Check the appropriate box: MBE <u>or</u> WBE.</p> <p>*Dual certified firms may be used as either but <u>not</u> both within their certification product code. MBE and WBE firms must be certified by the NYS Department of Economic Development, Division of Minority and Women Business Development. The directory of certified Minority and Women-owned Business Enterprises is available on the internet at <a href="http://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp">http://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp</a>.</p>
<b>CONTRACT WITH</b>	Indicate if the participation is via a subcontractor and not direct from prime. <b>Prime contractor is responsible for ensuring participation included in the Plan by subcontractors is executed.</b>
<b>MODIFICATION TYPE (if applicable)</b>	<p><b>*Prior approval must be obtained from the Fund for decrease in participation or deletion of a firm. A letter of explanation is required on page 2. Supporting documentation of efforts must be submitted to the Fund, with the explanation.</b></p> <ul style="list-style-type: none"> <li>▪ <b>NO CHANGE</b> - for firms on the approved plan with no modifications to report.</li> <li>▪ <b>ADD</b> – for firms that you are adding to the plan.</li> <li>▪ <b>DELETE</b> – for firms you are removing from the original approved plan. For any deletions or decreases in subcontract value, <b>an explanation is required on page 2.</b></li> <li>▪ <b>UPDATE</b> – for firms whose value is being modified from original utilization plan, decreases to original plan value, <b>an explanation is required on page 2.</b></li> </ul>
<b>FEDERAL I.D. NUMBER</b>	Provide an <u>accurate</u> federal identification number for each MBE / WBE subcontractor or supplier.
<b>DESCRIPTION OF WORK</b>	<p>Provide a brief, but specific description of work to be performed or supplies to be purchased from the MBE or WBE subcontractor or supplier.</p> <p>Check the appropriate box Subcontractor, Supplier, or Broker</p> <p><u>Construction Supplier</u> - 60% credit: Firms that sell goods out of their revolving inventory.</p> <p><u>Brokers/Construction Manufacturers’ Representatives</u> – Credit is the monetary value for fees, or the markup percentage, charged by the MWBE. Firms serving as a third-party intermediary between consumers of items and manufacturers, suppliers, or other entities.</p> <p><b>The services the MBE or WBE will provide must be among those explicitly identified in the firm’s profile (codes) as listed in the NYS MWBE Directory of Certified Firms (<a href="https://ny.newnycontracts.com">https://ny.newnycontracts.com</a>). Firms who participate in the project outside of these conditions <u>will not</u> be credited toward the MWBE Utilization Plan and goals for the contract.</b></p>
<b>INITIAL PLAN VALUE</b>	Total value of the signed Subcontract
<b>MODIFIED PLAN VALUE</b>	Total value of the revision to the signed Subcontract. <b>Prior approval must be obtained from the Fund for a decrease in participation or deletion of a firm. A letter of explanation is required on page 2. Supporting documentation of efforts must be submitted to the Fund, with the explanation.</b>
<b>SUBCONTRACTOR/SUPPLIER SCHEDULE</b>	<p>The anticipated start and completion dates for each MBE   WBE subcontractor or supplier.</p> <p><b>*Do not include the overall construction schedule for the life of the entire project.</b></p>
<b>SIGNATURE</b>	Provide the Name, Title and Email address and <b>Signature of a Company Officer.</b>

**OPPORTUNITIES PROGRAM OFFICE  
MWBE UTILIZATION PLAN (UP-1)**

SUCF Project No.: \_\_\_\_\_

Initial Plan    Plan Modification

Contract No.: \_\_\_\_\_ Bid Date: \_\_\_\_\_ Contract Award Value (base bid + alternates): \_\_\_\_\_ Goals: MBE% \_\_\_\_\_ WBE% \_\_\_\_\_

Contractor: \_\_\_\_\_ Address: \_\_\_\_\_

Contact Name & Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Subcontractor Name, Address & E-mail	Check One (if applicable)	Federal ID No.	Description of Work or Supplies	Initial Plan Value	Modified Plan Value*	Subcontractor/Supplier Schedule	
						Start Date	End Date
Company Name: _____ Street Address: _____ Contact Name: _____ E-mail address: _____  <input type="checkbox"/> MBE <input type="checkbox"/> WBE <b>Contract with:</b> _____	<input type="checkbox"/> NO CHANGE <input type="checkbox"/> ADD <input type="checkbox"/> DELETE <input type="checkbox"/> UPDATE		<input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier <input type="checkbox"/> Broker				
Company Name: _____ Street Address: _____ Contact Name: _____ E-mail address: _____  <input type="checkbox"/> MBE <input type="checkbox"/> WBE <b>Contract with:</b> _____	<input type="checkbox"/> NO CHANGE <input type="checkbox"/> ADD <input type="checkbox"/> DELETE <input type="checkbox"/> UPDATE		<input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier <input type="checkbox"/> Broker				
Company Name: _____ Street Address: _____ Contact Name: _____ E-mail address: _____  <input type="checkbox"/> MBE <input type="checkbox"/> WBE <b>Contract with:</b> _____	<input type="checkbox"/> NO CHANGE <input type="checkbox"/> ADD <input type="checkbox"/> DELETE <input type="checkbox"/> UPDATE		<input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier <input type="checkbox"/> Broker				
Company Name: _____ Street Address: _____ Contact Name: _____ E-mail address: _____  <input type="checkbox"/> MBE <input type="checkbox"/> WBE <b>Contract with:</b> _____	<input type="checkbox"/> NO CHANGE <input type="checkbox"/> ADD <input type="checkbox"/> DELETE <input type="checkbox"/> UPDATE		<input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier <input type="checkbox"/> Broker				

In accordance with the Fund's Contract Documents and Executive Law Article 15-A, my firm intends to utilize the NYS certified MBE/WBE firms listed above for the services and/or supplies indicated on the Plan. I understand the firms listed may be contacted for verification of participation. False representations may result in penalties including but not limited to, withholding of payments and/or termination of this agreement. I understand that I must immediately notify the Opportunities Program Office and request approval prior to any changes to this Plan.

Print Name & Title \_\_\_\_\_

Company Officer's Signature \_\_\_\_\_

Director, Opportunities Program \_\_\_\_\_

Date \_\_\_\_\_

E-mail \_\_\_\_\_

Date \_\_\_\_\_

SUCF Project No.: \_\_\_\_\_ Contract No.: \_\_\_\_\_ Contractor: \_\_\_\_\_

**\*If the Utilization Plan Modification reflects a decrease in value from the original plan or if a firm is substituted, please provide a detailed explanation below and attach supporting documentation.**

<u>Subcontractor Name</u>	<u>Certification Type</u>	<u>Explanation</u>
<u>Subcontractor Name</u>	<u>Certification Type</u>	<u>Explanation</u>
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\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Company Officer's Signature

\_\_\_\_\_  
Director, Opportunities Program

\_\_\_\_\_  
Date

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
Date