

**PROSPECTIVE BIDDERS NOTICE**

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE REQUIREMENTS:**

**COMMODITY AND SERVICE CONTRACTS**

To Prospective Bidders:

Consistent with the State University of New York (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 Business Enterprises (MWBE). These requirements apply to all SUNY commodity and service contracts in excess of $25,000.

**Bidders must submit MWBE documentation *with all of the bids or proposals* for commodities and services contracts when MWBE goals apply.** The MWBE forms identified below shall be submitted by all bidders.

1. MWBE Utilization Plan ([7557-107)](http://www.suny.edu/sunypp/lookup.cfm?lookup_id=618)
2. MWBE-EEO Staffing Plan [(7557-108)](http://www.suny.edu/sunypp/documents.cfm?doc_id=611#forms)
3. MWBE-EEO Policy [(7557-104)](http://www.suny.edu/sunypp/documents.cfm?doc_id=611#forms) or the vendor/contractor’s own EEO Policy Statement

If the Bidder’s MWBE participation rate shown on its MWBE Utilization Plan is below 30%, the campus MWBE Program Coordinator will provide a written notice of deficiency of the Utilization Plan within twenty (20) business days of its submission to the contractor, as required under 5 NYCRR §142.4.

The notice will include but not be limited to the following:

1. A list of NYS certified MWBEs that the contractor could potentially use within the contract scope of work;
2. The name of any MWBE which is not acceptable for the purpose of complying with the MWBE participation goals; and
3. Any other information which the MWBE Program Coordinator determines to be relevant to develop an approvable MWBE Utilization Plan.

The contractor shall respond to the notice of deficiency by submitting a revised MWBE Utilization Plan within seven (7) business days, as required by 5 NYCRR Part §142.6 (e) to the MWBE Program Coordinator.

If the deficiency is not corrected and the MWBE participation rate on the MWBE Utilization Plan is still below 30%, the contractor should request a waiver.

The Waiver Request Form submitted by the contractor will include, but not be limited to, the following:

1. A request for partial or total waiver of MWBE goals as required by 5 NYCRR Part §142.6 (f) on Request for Waiver ([Form 7557-114](http://www.suny.edu/sunypp/documents.cfm?doc_id=772)) provided by the University-wide Program Office.
2. Copy of the deficient Utilization Plan.
3. Work Scope of this contract. If there are subcontracting opportunities, please provide documentation d, e, and f.
4. Screenshot of searching results for available MWBEs in [NYS M/WBE Directory](https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=4687).
5. Copy of email messages containing the request for quote along with the responses from MWBEs.
6. Forms recommended to obtain information on MWBE vendor solicitation efforts are:

[7557-101](http://www.suny.edu/sunypp/lookup.cfm?lookup_id=612)  – MWBE Contractor Solicitation Letter

[7557-102](http://www.suny.edu/sunypp/lookup.cfm?lookup_id=613) – MWBE Participation Quote

[7557-103](http://www.suny.edu/sunypp/documents.cfm?doc_id=614) – MWBE Contractor Unavailability Certification

Please submit the above documentations by mail, fax, or email:

State University of New York at Fredonia

Shannon Moore, Campus MWBE Program Coordinator

280 Central Avenue

406 Maytum Hall

Fredonia, NY 14063

Email: univserv@fredonia.edu

* OR - IF APPLICABLE

Please submit the above documentation to the University-wide MWBE Program Office:

SUNY System Administration at State University Plaza, Office of Diversity, Equity and Inclusion

University-wide MWBE Program

Albany, NY 12246 Fax: (518)-320-1548 Tel: (518)-320-1452

Email: MWBEProgram@suny.edu

Information regarding this legislation may be found at:  [Participation by Minority Group Members and Women (MWBEs) with Respect to State University of New York Contracts](http://www.suny.edu/sunypp/documents.cfm?doc_id=611#authority) on the [State University of New York](http://www.suny.edu/) web site.

**STATE UNIVERSITY OF NEW YORK**

**MWBE UTILIZATION PLAN INSTRUCTIONS**

***[FOR ALL CONTRACT TYPES]***

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 518-320-1189 or email MWBEprogram@suny.edu.

1. The three low bidding contractors (“Contractor”) 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 web based contract management system for commodity, service and construction related consultant service contracts exceeding $25,000 and for construction projects exceeding $100,000 upon contract execution.
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 dollar 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 an MWBE utilization credit for the actual monetary value of the broker fees or the actual markup percentage of the items brokered.
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 University-wide MWBE Program 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.

1. Prior to submitting the Plan, the Contractors should confirm the following:
	* 1. MBE and WBE firms are NYS certified;
		2. MBE **or** WBE designation ~ Dual certified firms may be used as *either* but **not** both;
		3. MBE and WBE firms are being used for item(s) within their certification product codes;
		4. MBE and WBE firms will perform work for which they have been submitted; and
		5. 2nd tier subcontractors and/or suppliers are noted as such and an MWBE Utilization credit shall be given for 60% of the total contract value of supply purchases or services rendered (for example, when an electrical subcontractor purchases from a 3rd party supplier an MWBE utilization credit will be given for 60% of the total contract value).

The prime Contractor is responsible for ensuring participation provided by subcontractors for 2nd and 3rd tier MBE and WBE participation.

Submission of a Utilization 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 Utilization 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 meet the good faith efforts standard under 5 NYCRR Part §141.6, and demonstrate the contractor’s commitment to providing opportunities for MBE and WBE firms in the development of the Utilization Plan.

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

**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 campus MWBE Program Coordinator.
* The campus MWBE Program Coordinator must be notified prior to changes made to the approved MBE/WBE Utilization Plan.

Questions regarding this form should **first** be directed to the [campus MWBE Program Coordinator](http://www.suny.edu/meansbusiness/mwbe/mwbe-contacts/) (click the link and be directed to the SUNY MWBE Campus Contacts directory on the University-wide MWBE web site).

Questions regarding this form should be directed to the University-wide MWBE Program Office at (518) 320- 1189 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**