To Prospective Bidders:

Consistent with the Fund’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 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 MBE/WBE subcontractors and suppliers. Contractors must be diligent and creative in order to develop a plan that complies with the program.

**Receipt of the MBE/WBE utilization plan is required within seven (7) calendar days after the bid opening.** The MBE/WBE Plan Form (UP-1) shall be submitted by the three apparent low bidders. 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 the Fund’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 MBE/WBE 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](https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp). You may contact the Fund’s Opportunities Program Unit at (518) 320-1650 or SUCF.OpportunityAdmin@suny.edu for assistance concerning the directory.

Contractors utilizing MBE/WBE 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 Fund 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 M/WBEs. 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 MWBE Utilization Plan and goals for the contract.
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, the Fund’s Notice of Award and Construction Contract may be withheld.**

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.

1. The three low bidding contractors are required to submit a Utilization Plan (UP-1) to the State University Construction Fund within seven (7) calendar days after the opening of bids for construction contracts exceeding $100,000.

2. The MBE and WBE goals are separate and not to be treated as one combined goal.

3. The MBE and WBE firms included are businesses the bidder **seriously expects to include** in the project activity.

4. The contractor reasonably **commits to the values** included in the plan for participation by MBE and WBE subcontractors and suppliers.

5. 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.

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

7. MBE and WBE Participation:

   a. **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 Fund 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 M/WBEs.  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 MWBE Utilization Plan and goals for the contract.

8. 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
   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 fund will review and notify contractor of its assessment.
STATE UNIVERSITY CONSTRUCTION FUND
MBE and WBE UTILIZATION PLAN

The Fund will review the Utilization Plan and notify the contractor of any deficiencies and determine necessary actions to bring the Plan into compliance. The Fund 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.
SUCF Project No. ____________________________  Bid Date: ____________________________  Agreement/Contract Value: ____________________________

Contractor: ____________________________  Primary Contact: ____________________________

Address: ____________________________

Phone: ____________________________  Fax: ____________________________  E-Mail: ____________________________

Goals: MBE% _____ WBE% _____ (As specified in project advertisement and/or documents)

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<th>Subcontractor Name and Address</th>
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<th>Dollar Value of Contract or Purchase Order</th>
<th>Description of Work or Supplies</th>
<th>Subcontractor/Supplier Schedule</th>
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In accordance with the Fund's Contract Documents and Executive Law Article 15-A, my firm seriously expects to use the NYS certified MBE/WBE certified firms listed above. The Contractor shall request approval of any changes to this plan from the SUCF Opportunities Program Office.

__________________________  ____________________________
Company Officer’s Signature  Date

__________________________  ____________________________
(Print Name)  Title

Approved: ____________________________  ____________________________
Director, Opportunities Program  Date

(UP-1)
STATE UNIVERSITY CONSTRUCTION FUND
MBE and WBE UTILIZATION PLAN

UP-1 FORM 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 SUCF.
➢ The Opportunities 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 Opportunities Program Office at (518) 320-1650 or via e-mail: SUCF.OpportunityAdmin@suny.edu.

Submit To:

State University Construction Fund
Office of Design & Construction Management
353 Broadway
Albany, NY 12246
or peggy.mcsorley@suny.edu