MINORITY AND WOMEN’S BUSINESS REQUIREMENTS
FOR 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 firms listed on the UP-1 are businesses the bidder seriously expects to include in the project activity.

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 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 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. The Directory is available on the internet at https://ny.newnycontracts.com/Default.aspx.

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/or 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 firms 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 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.