

# APPENDIX B

## Requirements for State Aided Transportation Project

### MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

#### M/WBE AND EEO POLICY STATEMENT

I, \_\_\_\_\_, the representative for the Municipality/Sponsor/Grantee certify the referenced entity adopted, or agrees to adopt, the following policies with respect to the project being developed or services rendered for \_\_\_\_\_.

(Insert name of Municipality/Sponsor/Grantee)

#### M/WBE

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Obtain a list of State-certified M/WBEs from <https://ny.newnycontracts.com/> and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. This organization will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that, if legally permissible, bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation, as approved by the State.

#### EEO

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, disability or marital status.

(c) At the request of the Sponsor, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) This organization shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. This organization and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

By \_\_\_\_\_  
Signature

Print: \_\_\_\_\_ Title: \_\_\_\_\_  
Responsible Local Official

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\_\_\_\_\_ (Name of Designated Liaison) is designated as this organization's Minority and Women-Owned Business Enterprise Liaison responsible for administering the Minority and Women-Owned Business Enterprises-Equal Employment Opportunity (M/WBE-EEO) program.

The Municipality/Sponsor/Grantee agrees that the Standard M/WBE Contract Goals for projects let and funded (in whole or in part) with proceeds of this Agreement (Contract # \_\_\_\_\_) are provided below.

#### STANDARD GOALS

CATEGORY/CONTRACT TYPE	MBE	WBE
C: Commodities	7.00%	16.00%
CC: Construction Consultants (Architectural/Engineering)	24.00%	6.00%
CN: Construction	10.00%	15.00%
SC: Services/Consultants (Non-Architectural/Engineering)	8.00%	16.00%

These Standard Goals are based on the New York State Department of Transportation's (NYSDOT's) Agency M/WBE Goal Plan, as a result of programmatic analysis. The plan is available at: [https://www.dot.ny.gov/main/business-center/civil-rights2/civil-rights-repository/Tab/20180502\\_MWBE\\_Goal\\_Plan.pdf](https://www.dot.ny.gov/main/business-center/civil-rights2/civil-rights-repository/Tab/20180502_MWBE_Goal_Plan.pdf). In furtherance of these goals, the Municipality/Sponsor/Grantee agrees to consider the following statutory factors (See 5 NYCRR 142.2) and establish an appropriate contract goal in all related contracts executed by the Sponsor/Municipality/Grantee:

- (1) the contract and subcontract scope(s) of work;
- (2) the potential subcontract opportunities available in the prime contract;
- (3) the relevant availability data contained within the disparity study with respect to the scope of the contract and potential subcontracting opportunities; (Disparity Study: <https://esd.ny.gov/doing-business-ny/mwbe/mwbe-reports>)
- (4) the number and types of certified minority-owned and women-owned business enterprises found in the directory of certified minority-owned and women-owned businesses available to perform the related contract work;
- (5) the geographic location of the contract performance;
- (6) the extent to which geography is material to the performance of the contract;
- (7) the ability of certified minority-owned and women-owned enterprises located outside of the geographic location of contract performance, notwithstanding the regional location of the certified enterprise, to perform on the Municipality/Sponsor/Grantee's contract;
- (8) the total dollar value of the work required by the Municipality's/Sponsor's/Grantee's contract in relation to the dollar value of the subcontracting opportunities; and
- (9) the relationship of the monetary size and term of the Municipality's/Sponsor's/Grantee's contract to the monetary size and term of the project for which the contract is awarded.

**Pre-Advertisement:** As a result of Municipality's/Sponsor's/Grantee's analysis of the statutory factors in relation to a contract's work scope and circumstances, if the Municipality/Sponsor/Grantee believes a non-standard goal is appropriate and supportable, the Municipality/Sponsor/Grantee agrees to obtain NYSDOT approval by submitting a M/WBE Pre-Advertisement Goal Modification Request, with justification, prior to public advertisement of the contract.

**Pre-Award:** If the Municipality/Sponsor/Grantee receives proposals or bids that do not provide commitments that meet or exceed the advertised goals, the Municipality/Sponsor/Grantee agrees to obtain NYSDOT approval by submitting a M/WBE Waiver Request *demonstrating the Contractor's Good Faith Efforts to meet the goals, along with supporting justification, prior to awarding the contract.*

**Post Award:** If any consultant/contractor fails to attain its M/WBE commitment on a contract, the Municipality/Sponsor/Grantee agrees to obtain NYSDOT approval by submitting a M/WBE Waiver Request, *demonstrating Good Faith Efforts to meet the goals, along with supporting justification before NYSDOT will distribute final payment of grant proceeds.*

All forms referenced above are available at: <https://www.dot.ny.gov/main/business-center/civil-rights/>. Nothing stated within this, or associated, document(s) guarantees NYSDOT's approval of a goal modification or goal waiver.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Responsible Local Official