

**NEW YORK STATE DEPARTMENT OF AGRICULTURE & MARKETS
DIVISION OF FISCAL MANAGEMENT**

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Minority and Women Business Enterprise (MWBE)-Instructions and Requirements

Certain MWBE forms must be submitted for review and approval with the Scope and Budget. Forms are located in this packet and here: <http://www.agriculture.ny.gov/MWBE.html>. Questions may be directed to the Department's MWBE Liaison at 518-457-4619 or mwbe@agriculture.ny.gov.

Required for all contracts:

Form EEO 1: Equal Employment Opportunity Policy Statement, Business Liaison and Contract Goals

The Governor has set a 30% MWBE utilization goal for all contracts. The 30% goal is applied to the portion of the prime contract that is "discretionary" – i.e., non-personal service costs including but not limited to supplies, materials, construction, construction materials, printing, and advertising. Costs of personnel, fringe benefits, utilities, indirect costs, postage, telephones, taxes and leases are examples of categories that are "exempt" from the calculation of the goal, as clearly there is no opportunity for a MWBE.

To identify M or W contracting opportunities for the required deliverables that are determined to be discretionary, the prime contractor must search the Empire State Development Corporation's MWBE Directory of Certified Vendors at <https://ny.newnycontracts.com/Default.asp?TN=ny&XID=5320MWBE>.

Certified MWBE Vendor Found:

The following forms must be completed and submitted by the prime contractor, to be completed by the certified MWBE vendor:

Form EEO 4: Utilization Plan

Form EEO 2: Equal Employment Opportunity Staffing Plan

Once the contract is executed, the following report forms must be completed:

Form EEO 3: Workforce Employment Utilization Quarterly Report. Completed by the certified vendor, and submitted by the 10th of April, July, October and January

Form EEO 6: Quarterly Report. Completed by the prime contractor to report payment of the subcontractor

Certified MWBE Vendor Not Found:

If a MWBE certified vendor cannot be found, or the prime contractor can only meet a portion of the goal, a total or partial waiver of the 30% goal may be requested. There are some goods, materials or services that, based on current industry knowledge or availability of firms to do the work, may offer no MWBE subcontracting opportunities. If it has been determined that no MWBE firms exist or are available that are capable of providing the particular goods, materials, or services, you may submit a request for a waiver.

The Waiver Request Form and Good Faith forms must clearly illustrate the attempts to identify an M or W certified vendor. Exemptions and exclusions must be approved by the State, as it is continually working to identify MWBE vendors that can provide services.

Form EEO 5: Request for Waiver (EE05-1), Good Faith Effort Certification (EE05-3), and Contractor Unavailability Certification (EE05-5)

Your MWBE Utilization and Reporting Responsibilities Under Article 15-A

The New York State Contract System (“NYSCS”) is your one stop tool compliance with New York State’s MWBE Program. It is also the platform New York State uses to monitor state contracts and MWBE participation.

GETTING STARTED

To access the system, you will need to login or create a user name and password at <https://ny.newnycontracts.com>. If you are uncertain whether you already have an account set up or still need to register, please send an email to the customer service contact listed on the Contact Us & Support page, or reach out to your contract’s project manager. For verification, in the email, include your business name and contact information.

VENDOR RESPONSIBILITIES

As a vendor conducting business with New York State, you have a responsibility to utilize minority- and/or women-owned businesses in the execution of your contracts, per the MWBE percentage goals stated in your solicitation, incentive proposal or contract documents. NYSCS is the tool that New York State uses to monitor MWBE participation in state contracting. Through the NYSCS you will submit utilization plans, request subcontractors, record payments to subcontractors, and communicate with your project manager throughout the life of your awarded contracts.

There are several reference materials available to assist you in this process, but to access them, you need to first be registered within the NYSCS. Once you log onto the website, click on the **Help & Support >>** link on the lower left hand corner of the Menu Bar to find recorded trainings and manuals on all features of the NYSCS. You may also click on the **“Help & Tools”** icon at the top right of your screen to find videos tailored to primes and subcontractors. There are also opportunities available to join live trainings, read up on the “Knowledge Base” through the Forum link, and submit feedback to help improve future enhancements to the system. Technical assistance is always available through the **Contact Us & Support** link on the NYSCS website (<https://ny.newnycontracts.com>).

For more information, contact your project manager.