

ONONDAGA COUNTY WATER AUTHORITY
MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE POLICY

I. Policy

It is the policy of the Onondaga County Water Authority (OCWA or Authority) to foster and encourage minority and women-owned business enterprise participation in the construction contracts of the Authority. Through the setting of minority/women business enterprise goals and careful monitoring of CONTRACTOR compliance, the Authority will ensure the fullest possible participation in construction activities by qualified minority and women-owned firms.

A. Applicability

This policy shall apply to all contracts, or orders for work, material, or supplies, performed or furnished in connection with construction executed by OCWA which are estimated to exceed \$100,000.00.

B. Definitions

Minority or Women-Owned Business Enterprise - a business at least fifty-one percent (51%) of which is owned and controlled by minority group members and/or women.

Minority Group Member – a citizen of the United States who is Black, Hispanic, Native American, Asian or Pacific Islander.

C. Goals

The Authority has determined that a combined goal of fifteen percent (15%) of the total contract value represents a fair share of minority/women business utilization on each construction contract awarded. Further, neither the MBE or WBE participation should be less than 7% of the total contact amount.

If the prime contract is with a MBE, the participation requirement shall be 7% for WBE only and vice versa if the prime contract is with a WBE. If an outside funding agency has special MWBE requirements, the Authority will follow those requirements.

D. MWBE Requirements

MWBEs must be certified by New York State in order to be credited toward the 15% goal. A list of certified MWBEs can be obtained at ny.newycontracts.com/FrontEnd/VendorSearchPublic.asp. In addition, the minority and/or women ownership interest must be real, substantial and continuing.

II. Contractor Responsibilities and Guidelines

A. Applicable MWBE Services

Recipients of applicable Authority construction contracts must utilize MWBEs for supplies, services and professional services, allowing these sources the maximum feasible opportunity to compete for contracts, subcontracts and third-tier contracts to be performed.

B. Positive Steps

All prime CONTRACTORS awarded applicable Authority contracts must take positive steps to afford fair opportunities to MWBEs. Positive steps shall include, but not be limited to, (a) utilizing a source list of bona fide minority/women business enterprises, (b) solicitations of bids from MWBEs, particularly of those located in OCWA's service territory (Onondaga, Oswego, Madison, Oneida and Cayuga counties), (c) giving minority/women firms sufficient time to submit proposals in response to solicitations, and (d) maintaining records showing minority/women business enterprises and specific efforts to identify and award contracts to these companies.

C. Submissions

The CONTRACTOR is to supply the Authority with information regarding contracts for services and products with minority/women business enterprises and the dollar amount of each contract on the following attached forms:

1. MWBE Utilization Plan

A successful bidder shall submit to the Authority a MWBE Utilization Plan within 10 calendar days of receipt of a Notice of Award. The Utilization Plan shall include a list of MWBEs with whom the CONTRACTOR is negotiating a contract or has signed a binding contractual agreement. The Authority will not issue a Notice to Proceed where the CONTRACTOR fails to submit this Plan or where an examination

of the Plan evidences failure by the CONTRACTOR to comply with the affirmative action requirements of the contract.

At the same time it submits its Utilization Plan, the successful bidder shall submit letters of intent to enter into subcontracts or purchase agreements signed by minority/women businesses, contingent upon the contract award, indicating the agreed upon price and scope of work. The prime CONTRACTOR shall not substitute or delete the listed minority/women business enterprise(s) without the written consent of the Authority. A Notice to Proceed with construction shall not be issued until acceptable documentation is received.

2. Joint Venture Disclosure Affidavit

In the event a joint venture is the successful bidder, the Joint Venture Disclosure Affidavit must be submitted with the Utilization Plan by all parties involved. Only to the extent that a minority/women business enterprise contributes to and is paid for its participation in a joint venture will that dollar be credited towards the 15% goal of minority participation in the OCWA MWBE Program.

3. Application for Waiver of MWBE Participation Goal

An Application for Waiver of MWBE Participation Goal may be completed and submitted along with the MWBE Utilization Plan within 10 calendar days of Notice of Award. Waivers shall be granted only where the availability of MWBEs in the market area of the project is less than the 15% goal.

Sufficient information must be provided on the Waiver Application to ascertain whether a waiver should be approved, conditionally approved or rejected by the Authority.

A waiver approval limits the CONTRACTOR's obligation to solicit MWBEs only for the particular project in question. It does not relieve the CONTRACTOR of MWBE utilization for any other OCWA project on which it submits a bid.

Conditional approval of the waiver request makes it necessary for the CONTRACTOR to continue soliciting MWBEs for contracting purposes, after it has been issued a Notice to Proceed.

A MWBE Waiver Application will be rejected if the CONTRACTOR:

- i. Fails to provide information on the MWBE Utilization Plan with its bid;
- ii. Provides fraudulent information on any of its MWBE reports;
- iii. Fails to make an honest, good faith effort to recruit and contract with MWBEs; or
- iv. Takes any other action which is contrary to the spirit and intent of the law or this policy.

THE INFORMATION PROVIDED ON THE MWBE WAIVER APPLICATION AND THE MWBE UTILIZATION PLAN WILL BE CONSIDERED CONCURRENTLY TO DETERMINE IF A WAIVER SHOULD BE APPROVED, CONDITIONALLY APPROVED OR REJECTED.

4. Minority Business Enterprise Utilization Report - Part A

With every invoice or application for payment or when the project is 30% complete as determined by OCWA, the CONTRACTOR shall submit to the Authority the Minority Business Enterprise Utilization Report - Part A. Part A lists the MWBEs on the project, the dollar amounts paid to that date and the estimated amount remaining to be spent. The Authority reserves the right to request this report sooner than specified.

5. Minority Business Enterprise Utilization Report - Part B

The Minority Business Enterprise Utilization Report - Part B certifies the actual dollar amount expended to MWBEs. Part B must be completed by the prime CONTRACTOR and submitted at the seventy-five (75%) percent payment level. The Authority reserves the right to request this report sooner than the specified percentage complete.

6. Minority Business Enterprise Utilization Report - Part C

The Minority Business Enterprise Utilization Report - Part C certifies the total dollar amount expended to MWBEs. Part C is to be submitted with the request for final payment.

III. Noncompliance

A. Effect of Failure to Meet Participation Goal

In the event that the MWBE goal for the contract is not met, the CONTRACTOR shall provide sufficient documentation to establish that every positive effort was made to identify, solicit and negotiate with MWBEs in pursuit of the goal. Such documentation includes, but is not limited to, advertisement in minority-focused media, written contract

with minority businesses indicating sufficient bidder's price along with evidence showing the work to be performed is the same, and not a reduced portion thereof.

B. Effect of failure to comply with this policy

In the event a CONTRACTOR fails to comply with these provisions, it shall constitute a breach and the Authority may, among other things:

1. Summon the CONTRACTOR to a hearing;
2. Withhold progress payments in part or in full;
3. Cancel the contract;
4. Bar award of future Contracts until the CONTRACTOR can demonstrate that it will comply;
5. Execute a full or partial forfeiture of the Bid Bond; and/or
6. Exercise any other remedies that may be affected in the Agreement, the General Conditions of the contract and/or the law.

Listing of **FORMS ATTACHED:**

<u>NAME OF FORM</u>	<u>PAGE NUMBER(S)</u>
Contractor's MWBE Utilization Plan	7
Minority/Women Business Enterprise Joint Venture Disclosure Affidavit	8
Application for Waiver of MWBE Participation Goal	9-10
Minority/Women Business Enterprise Utilization Report - Part A	11-12
Minority/Women Business Enterprise Utilization Report - Part B	13-14
Minority/Women Business Enterprise Utilization Report - Part C	15-16

CONTRACTOR'S MWBE UTILIZATION PLAN

Revised Plan

Contract No.: _____

REMINDER: Making false representations or including information evidencing a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Firms that do not perform commercially useful functions may not be counted toward MWBE utilization.

Contractor's Name, Address and Federal ID No.:	Contract Description/Location:	Bid Date:	MWBE GOALS	
		Contract Amount:	MBE%	WBE%
Federal ID No.:				

Certified MBE/WBE Name, Address and Phone No.	MBE	WBE	Description of Subcontracting/Supplies	Anticipated performance/purchase date(s)	Dollar Value of Subcontract/Supplies	FOR OCWA USE ONLY	
Federal ID No.:	<input type="checkbox"/>	<input type="checkbox"/>					<input type="checkbox"/>
Federal ID No.:	<input type="checkbox"/>	<input type="checkbox"/>					<input type="checkbox"/>
Federal ID No.:	<input type="checkbox"/>	<input type="checkbox"/>					<input type="checkbox"/>
Federal ID No.:	<input type="checkbox"/>	<input type="checkbox"/>					<input type="checkbox"/>

<p><i>Pursuant to OCWA MWBE Policy, my firm will engage in good faith efforts to achieve the MWBE goals on this contract. I understand that failure to make good faith efforts can result in the contract being awarded to another contractor. I understand that all listed sub-contractors may be contacted for verification of solicitation.</i></p>		Contractor's Comments:		
Contractor's Signature:		For OCWA Use Only: Accepted Accepted as Noted Notice of Deficiency Issued MBE% _____ MBE \$ _____ WBE% _____ WBE \$ _____		
Enter Name:				
Title:				
Email Address:	Date:	OCWA Authorized Signature:	Name:	Date:

**ONONDAGA COUNTY WATER AUTHORITY
MINORITY/WOMEN BUSINESS ENTERPRISE
JOINT VENTURE DISCLOSURE AFFIDAVIT**

To Be Submitted With Part A
Where Applicable

Joint Venturers: _____

Name of Joint Venture: _____

Address: _____

Principal Office: _____

Office Phone: _____

Email: _____

Percent of minority ownership in terms of profit and loss sharings:

Capital contributions by each joint venture and accounting therefore:

Equipment and supply contributions by each joint venturer and accounting therefore:

Any ownership options for ownership or loans between the joint venturers - identify terms thereof:

How and by whom the on-site work will be supervised and administered:

I, _____, as representative of _____ Company, do hereby swear or affirm that I am authorized to act on its behalf and that in this capacity and to the best of my knowledge and belief, the information provided herewith relevant to the joint venture of _____ is accurate, complete and current, and fairly represents the joint venture; further, that I have personally reviewed the material and assured myself of its accuracy. It is recognized and acknowledged that the statements herein are being given under oath and any material misrepresentation will be grounds for terminating any contract which may be awarded in reliance hereon.

SIGNATURE

APPLICATION FOR WAIVER OF MWBE PARTICIPATION GOAL

(must be submitted with MWBE Utilization Plan)

Section 1: Basic Information			
Contractor's Name:		Federal Identification Number:	
Street Address:		E-Mail Address:	
City, State, Zip Code:		Telephone: () -	
Contract Number:	MWBE CONTRACT GOALS		
	MBE %	WBE %	
Section 2: Type of MWBE Waiver Requested			
MBE Waiver <input type="checkbox"/> Total	<input type="checkbox"/> Partial	If partial waiver, please enter the revised MBE percentage:	
WBE Waiver <input type="checkbox"/> Total	<input type="checkbox"/> Partial	If partial waiver, please enter the revised WBE percentage:	
Please explain the reason for the waiver request:			
Section 3: Supporting Documentation			
Provide the following documentation as evidence of your good faith efforts to meet the MWBE goals set forth in the contract and in support of your waiver application:			
<input type="checkbox"/> Attachment A. List of the general circulation, trade and MWBE-oriented publications and dates of publications soliciting for certified MWBE participation as a subcontractor/supplier and copies of such solicitation.			
<input type="checkbox"/> Attachment B. List of the certified MWBEs appearing in the Empire State Development MWBE directory that were solicited for this contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.			
<input type="checkbox"/> Attachment C. Descriptions of the contract documents/plans/specifications made available to certified MWBEs by the contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs.			
<input type="checkbox"/> Attachment D. Description of the negotiations between the contractor and certified MWBEs for the purposes of complying with the MWBE goals of this contract.			
<input type="checkbox"/> Attachment E. Identify dates of any pre-bid, pre-award or other meetings attended by contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the contract			
<input type="checkbox"/> Attachment F. Other information deemed relevant to the request.			
Section 4: Signature and Contact Information			
By signing and submitting this form, the contractor certifies that a good faith effort has been made to promote MWBE participation pursuant to the MWBE requirements set forth under the contract. Failure to submit complete and accurate information may result in a finding of noncompliance, non-responsibility, and a suspension or termination of the contract.			
Prepared By: (Signature)			Date:
Name and Title of Preparer (Print or Type)			

For OCWA Use Only

Reviewed By:

Date:

Decision:

- Full MBE waiver granted
- Partial MBE waiver granted; revised MBE goal: _____ %
- MBE waiver denied
- Full WBE waiver granted
- Partial WBE waiver granted; revised WBE goal: _____%
- WBE waiver denied

Approved By:

Date:

Date Notice of Determination Sent:

Comments

**ONONDAGA COUNTY WATER AUTHORITY
MINORITY/WOMEN BUSINESS ENTERPRISE
UTILIZATION REPORT - PART A**

CONTRACTOR _____ CONTRACT NAME _____

- I. List all bona fide minority/women business enterprises, subcontractors, suppliers, professional personnel, or joint venture firms, with whom you have entered into a binding agreement in accordance with the MWBE Utilization Goal set forth by the Onondaga County Water Authority. This information must be submitted to OCWA when the project is 30% complete.

MINORITY/WOMEN OWNED FIRM	TYPE OF WORK	DATE CONTRACT EXECUTED AND AMOUNT	TOTAL EXPENDED TO DATE	AMOUNT REMAINING	MBE OR WBE
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					

- Onondaga County Water Authority reserves the right to require documentation including, but not limited to, canceled checks to verify these amounts:

II. Total Dollar Amount to be subcontracted to/supplied from minority/women business enterprise(s):
\$ _____

III. Total dollar amount expended to date: \$ _____

IV. Total amount of bid: \$ _____

V. MWBE Percent (%) of project bid: \$ _____

I, _____ as an official representative of _____, do hereby certify that the information listed above is correct and complete.

NAME

TITLE

DATE

**ONONDAGA COUNTY WATER AUTHORITY
MINORITY/WOMEN BUSINESS ENTERPRISE
UTILIZATION REPORT - PART B**

(To be completed by the prime CONTRACTOR and submitted
at the 75% payment level)

CONTRACTOR: _____

CONTRACT: _____

MINORITY/WOMEN OWNED FIRM	TYPE OF WORK	DATE CONTRACT EXECUTED AND AMOUNT	TOTAL EXPENDED TO DATE	AMOUNT REMAINING	MBE OR WBE
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					

- Onondaga County Water Authority reserves the right to require documentation including, but not limited to, canceled checks to verify these amounts:

III. Total Dollar Amount to be subcontracted to/supplied from minority/women business enterprise(s):

\$ _____

III. Total dollar amount expended to date: \$ _____

VI. Total amount of bid: \$ _____

VII. MWBE Percent (%) of project bid: \$ _____

I, _____ as an official representative of _____, do hereby certify that the information listed above is correct and complete.

NAME

TITLE

DATE

**ONONDAGA COUNTY WATER AUTHORITY
 MINORITY/WOMEN BUSINESS ENTERPRISE
 UTILIZATION REPORT - PART C
 FINAL CERTIFICATION OF EXPENDITURES TO MWBEs**

(to be completed by the prime CONTRACTOR and submitted with the request
 for final payment)

CONTRACTOR: _____

CONTRACT: _____

MINORITY/WOMEN OWNED FIRM	TYPE OF WORK	DATE CONTRACT EXECUTED AND AMOUNT	TOTAL EXPENDED TO DATE	AMOUNT REMAINING	MBE OR WBE
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					
Name: _____ Address: _____ _____ IRS #: _____					

TOTAL OF ALL MWBE
SUB-CONTRACTS \$ _____

AMOUNT OF
CONTRACT \$ _____

FINAL MWBE
PERCENTAGE _____

Explanation for variance from goal: _____

I, _____,
as an official representative of _____,
do hereby certify that the information listed above is correct and complete.

NAME

TITLE

DATE