



Office of Children and Family Services

Minority- and Women-Owned Business Enterprises (MWBE) Equal Employment Opportunity (EEO)

Understanding Compliance

March 2017

Agenda

- What is MWBE – EEO?
- History of the MWBE Program
- MWBE Spending Goals
- Discretionary Budget
- Compliance Process
- Need Assistance?
- Questions?



What is M/WBE – EEO?

- ❑ MWBE - Minority- and Women-Owned Business Enterprises
 - MBE – Minority-Owned Business Enterprises
 - WBE – Women-Owned Business Enterprises

- ❑ EEO - Equal Employment Opportunity

- ❑ Article 15-A of the New York State Executive Law and its associated regulations outline the requirements of this agency's MWBE-EEO program.

History of the MWBE Program

- ❑ 1988
 - Article 15-A Section 310 (13)(a) of the Executive Law was established:
 - This law promotes employment and business opportunities on state contracts for minority and women owned businesses.
 - State agencies are charged with establishing participation goals for minority and women owned businesses.
- ❑ 2010
 - The 2010 Disparity Study provided statistical evidence of business discrimination and a rationale to continue setting participation goals for minority and women owned businesses in state contracting.
- ❑ 2016
 - The 2016 Disparity Study found statistical evidence of continued underutilization of minority and women owned businesses.



MWBE Spending Goals

- ❑ The spending goal is currently 30 percent of the discretionary budget. While it is recommended that, whenever practicable, contractors attempt to equally utilize MBE and WBE participation in the performance of the contract, strict adherence to the suggested MBE and WBE utilization is not mandatory as long as the overall 30% goal is met.
- ❑ For more information, refer to Appendix [MWBE](#).



MWBE Spending Goals

- ❑ **For-Profit contractors** must apply the OCFS goal to their entire contract. 30 percent of their budget must be spent with vendors that are MWBE-certified.
- ❑ **Not-for-Profit contractors and government entities** must consider the OCFS goal of 30 percent on all goods and services purchased with discretionary funds in their budget.



Discretionary Budget

- ❑ In terms of MWBE, discretionary spending are those budgetary items for which the contractor has discretion in the purchasing of goods and services **and** may obtain those items through a NYS certified MWBE.
- ❑ The Personal Services portion of the budget is non-discretionary and excluded from the MWBE spending goal.
- ❑ Certain portions of the Non-Personal Services (NPS) budget are non-discretionary and excluded from the MWBE spending goal.
- ❑ All other portions of the NPS budget are subject to the 30 percent spending goal.



Discretionary Budget

❑ Examples of NPS budgetary items that are non-discretionary and excluded from the MWBE spending goal:

- Rent
- Utilities
- Telephone/internet
- Travel expenses
- Postage
- Administrative costs
- Federal Indirect Rate costs
- Membership dues
- Entrance/Admission fees for events and venues



Discretionary Budget

❑ Examples of NPS budgetary **commodity** items that are *usually discretionary* and included in the MWBE spending goal:

- Program and office supplies
- Arts and crafts
- Furniture
- Awards/Promotional items
- Computer equipment/supplies
- Educational supplies
- Recreational and sports equipment
- Printing
- Advertising costs



Discretionary Budget

- ❑ Examples of NPS budgetary **service** items that are *usually discretionary* and included in the MWBE spending goal:
 - Consultants for the provision of program services
 - Janitorial services
 - Computer/IT services
 - Accounting services
 - Transportation costs for program participants



Compliance Process

- ❑ Several MWBE forms are required during contract development:
 - Discretionary Budget Narrative Worksheet
 - OCFS-4631, *MWBE Utilization Plan Form*
 - OCFS-3460, *MWBE - EEO Policy Statement*
 - OCFS-4629, *Project Staffing Plan Form*

- ❑ MWBE forms can be found in the Appendix [MWBE](#) of your contract, in addition to the following link: <http://ocfs.ny.gov/main/bcm/>

- ❑ Required forms are submitted to: mwbeinfo@ocfs.ny.gov



Compliance Process

- ❑ Discretionary Budget Narrative Worksheet:
 - This worksheet is used to develop your utilization plan.
 - Identify all discretionary non personal service (NPS) items in the approved budget by using the Discretionary Budget Narrative Worksheet.
 - Calculate the MWBE Participation Goal Amount - Currently OCFS requires its contractors set a goal amount equal to 30 percent of discretionary NPS.



Compliance Process

- ❑ OCFS-4631 *MWBE Utilization Plan Form*:
 - Develop purchasing strategies that maximize MWBE utilization and meet or exceed the participation goal calculated using the Discretionary Budget Narrative Worksheet.
 - Identify the discretionary NPS items to be purchased.
 - Use the Directory of NYS-Certified MWBEs to identify appropriate vendors to make the purchases.
<https://ny.newnycontracts.com>



Compliance Process

- ❑ OCFS-3460, *MWBE – EEO Policy Statement*.
 - Your organization agrees to undertake or continue existing MWBE and EEO policies to ensure that minority group members and women are afforded equal employment opportunities
 - Required by Article 15-A of the NYS Executive Law
 - Due 72 hours after award date



Compliance Process

- ❑ OCFS-4629, *Project Staffing Plan Form*:
 - Documents the composition of the proposed workforce to be utilized in the performance of the contract
 - Required for contract awards in excess of \$250,000 over the contract term
 - Due 72 hours after award date
 - Must be updated annually or when changes occur

Compliance Process

- ❑ Reporting Requirements after Contract Approval:
 - State-funded contracts will receive a Compliance Audit Request via email directly from the New York State Contract System (NYSCS) to report MWBE spending for the reporting period.
 - A Compliance Audit Request is generated each time a payment of a claim is made against the contract.
 - It is mandatory to report spending even if you had no MWBE spending during the reporting period. Audits are locked after 90 days. You must contact OCFS to unlock an audit.



Compliance Process

- ❑ Other items to remember:
 - 100 percent federally-funded contracts must report MWBE spending using the OCFS-4441, *MWBE Quarterly Report Form*. These reports are emailed to mwbeinfo@ocfs.ny.gov and are not submitted through the NYS Contract System.
 - An updated OCFS-4631, *MWBE Utilization Plan Form* must be provided upon contract renewal or if you make any changes to the discretionary NPS in your budget.



Need Assistance?

NYS Office of Children and Family Services

Bureau of Contract Management

Contract Compliance Unit

Email: mwbeinfo@ocfs.ny.gov

Call: 518-486-7224

Web: <http://ocfs.ny.gov/main/bcm/>

NYS M/WBE Directory and NYS Contract System (NYSCS)

Web: <https://ny.newnycontracts.com>

Empire State Development

Web: <https://esd.ny.gov/>



Questions

