MINORITY and WOMEN-OWNED BUSINESS ENTERPRISE (M/WBE GOALS):  Appropriate M/WBE participation goals will be required to be assigned to each project prior to advertisement for bids. The State’s M/WBE overall participation goal is thirty percent 30%. In general, the applicability of MWBE goals for State-funded grants (with NO federal funding) is as follows:

FOR CONSTRUCTION CONTRACTS:  State grants which fund projects that involve the acquisition, construction, demolition, replacement, major repair or improvements of real property and improvements thereon:

- YES. If Contract amount is $100,000 or more and project is for standard construction activities
- NO. If the construction Contract is less than $100,000 or the construction type is non-standard. Construction contracts may not, however, be split with the intent of making the cost less than the stated threshold for M/WBE requirements.

See NYSDOT Highway Design Manual, Chapter 21 for setting M/WBE goals on construction projects.

FOR ARCHITECTURAL, ENGINEERING AND SURVEYING CONTRACTS:  State grants which fund contracts primarily for professional services for architectural, engineering, and surveying contracts (“A&E contracts”) which are awarded on a “highest-qualified” basis:

- YES. If the A&E contract amount is $25,000 or more.
- NO. If the A&E contract is less than $25,000.

For A&E contracts, the overall participation goal of is achieved thru evaluation factors.

Firms whose proposal commits to meeting the expected M/WBE participation level of 30% of the direct technical labor portion of the contract would receive the maximum allocated points for this evaluation factor.

FOR NON-A&E SERVICE and COMMODITIES CONTRACTS:  State grants which fund contracts primarily for services (including professional services other than Architectural, Engineering and Surveying services), supplies, equipment, materials or any combination of the foregoing:

- YES. If the non-A&E service or commodity contract amount is $25,000 or more.
- NO. If the non A&E service or commodity contract is less than $25,000.

The standard state M/WBE goal for Non-A&E Service and Commodities Contracts is 30%; which is broken into a Minority-Owned Business Enterprise Goal of 12% and a Women-Owned Business Enterprise Goal of 18%. Requests for waiver and/or reduction of this standard M/WBE goal prior to advertisement, for special circumstances and factors as described in Article 15-A, MUST have prior written approval from NYSDOT’s Office of Civil Rights.

Contracts for non-A&E services awarded on the basis of best value must also include an evaluation factor for diversity practices where practical feasible and appropriate. (See 5 NYCRR 142.3).

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PRE-AWARD REQUIREMENTS: If the apparent low bidder did not meet one or both of the goals, the low bidder must submit evidence of good faith efforts to obtain the goal(s). Submitting a complete and accurate utilization plan with bid documents is a condition of award, as well as meeting the goals or demonstrating good faith efforts to do so. Bidders must submit M/WBE utilization plans to Project Sponsors between letting and award. The utilization plans include but are not limited to:

- **AAP 10LL NYS - M/WBE Solicitation Log** – paper form at this time. **GFE Paperwork supporting documentation for the AAP-10 as required.**

- Designation of AA Representatives - This is completed in the VENDOR>OFFICERS portion of EBO and is required for the prime and each subcontractor. No Paper Required.

- **AAP 19 - M/WBE Schedule of Utilization** – Once M/WBE subs/vendors and item assignments are entered into EBO, this form will auto-fill with the firm, commitments and status on goal attainment. (AAP 19LL NYS for paper form.)

- **AAP 20 – M/WBE Utilization Worksheet** – Once the M/WBE subs/vendors and item assignments are entered into EBO, this form will auto-fill as well showing the items assigned and amount of commitments for each item and sub/vendor firms. No Paper Required. (AAP 20LL NYS for paper form.)

- **AAP 22LL NYS - M/WBE Material Supplier Commitment Information**, paper form.

- **AAP 23LL NYS - M/WBE Trucking Commitment Information**, paper form.

- **AAP 35LL NYS - Workforce Participation Plan**, paper form required. There is an excel spreadsheet that automatically calculates the information for the prime.

GOOD FAITH EFFORTS:

If the Contractor requests a waiver or partial waiver of the M/WBE goal after contract bid document (PS&E) submission due to special circumstances and factors described in Article 15-A, such requested waiver must be reviewed and evaluated for approval by NYSDOT.

Good faith efforts should be submitted to NYSDOT’s Regional Planning Office

POST AWARD REQUIREMENTS: Upon award, Prime Contractor will enter all Sub Contractors into EBO. The Sponsor and/or representative will review required vendor eligibility and if acceptable process the approval in EBO.

**Once the project commences, the Prime Contractor is required to provide the following information:**

- **AAP 33 - Employment Utilization Report** – this form is generated by the certified payrolls entered into EBO by the Prime and all active Sub Contractors.

- **Certified Payrolls** – are to be entered into EBO for tracking using the AAP33 form.

These forms are available online on NYSDOT’s website [here](#).

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