ATTACHMENT 5

NEW YORK STATE DOH M/WBE REQUIRED FORMS FOR RFPs OR MISCELLANEOUS PROCUREMENT

All DOH procurements have a section entitled **"MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE REQUIREMENTS."** This section of procurement sets forth the established DOH goal for that particular procurement and also describes the forms that must be completed with their bid. Below is a summary of the forms used in the DOH MWBE Participation Program by a bidder.

Form #1: Bidder MWBE Utilization Plan - This document should be completed by all bidders responding to RFPs with an MWBE goal greater than zero. The bidder must demonstrate how it plans to meet the stated MWBE goal. In completing this form, the bidder should describe the steps taken to establish communication with MWBE firms and identify current or future relationships with certified MWBE firms. The second page of the form should list the MWBE certified firms that the vendor plans to engage with on the project and the amount that each certified firm is projected to be paid. Plans to work with uncertified firms or women and minority staffed firms do not meet the criteria for participation. The firm must be owned and operated by a Woman and/or Minority and must be certified by NYS Empire State Development to be eligible for participation. If the plan is not submitted or is deemed deficient**,** the bidder may be sent a notice of deficiency. It is mandatory that all awards with goals have a utilization plan on file.

Form #2: MWBE Utilization Waiver Request - This document should be filled out by the bidder if the utilization plan (Form #1) indicates less than the stated participation goal for the procurement. In this instance, Form #2 must accompany Form #1 with the bid. If Form #2 is provided and goal was initially set higher, revised goal approval will be necessary. When completing Form #2, it is important that the bidder thoroughly document the steps that were taken to meet the goal and provide evidence in the form of attachments to the document. The required attachments are listed on Form #2 and will document the good-faith efforts taken to meet the desired goal. A bidder can also attach additional evidence outside of those referenced attachments. Without evidence of good-faith efforts, in the form of attachments or other documentation, the Department of Health may not approve the waiver and the bidder may be deemed non-responsive.

New MWBE firms are being certified daily and new MWBE firms may now be available to provide products or services that were historically unavailable. If Form #2 is found by DOH to be deficient, the bidder may be sent a deficiency letter which will require a revised form to be returned within 7 business days of receipt to avoid a finding of non-compliance. DOH may work directly with firm to resolve minor deficiencies via e-mail.

Form #3: Replaced by Online Compliance System - https://ny.newnycontracts.com. Contractors will need to login and submit payments to MWBE Firms in this on-line system once payments to these vendors commence.

Form#4 – MWBE Staffing Plan

This form should be completed based on the composition of staff working on the project. Enter the numbers or counts in the corresponding boxes and add up the totals in each column. This form is for diversity research purposes only and has no bearing on MWBE goal achievement.

Form#5 – EEO and MWBE Policy Statement

This is a standard EEO policy that needs to be signed and dated and submitted. If Bidder has their own EEO policy it may be submitted instead of endorsing this document.

DETAILED MWBE FORMS INSTRUCTIONS
Miscellaneous Procurement

Form#1 – MWBE Utilization Plan

Page#1 of Form#1:

Description of Plan - Describe any steps/details that support Bidder/Contractor plan to meet the MWBE goals stated in the procurement/contract.

Line#1 - **Total Dollar Value of Proposal Bid –** This line should represent the total dollar amount of bid. The total value is eligible for MWBE goal setting.

Line#2 - MBE Goal Applied to the Contract– Bidder/Contractor lists the amount to be paid/subcontracted to Certified Minority-owned Business Enterprise(s) and the percentage this amount represents of the Total Dollar Value of Proposal Bid listed on Line #1.

Example: If paying two MBE firms $100,000 & $50,000 each and Total Dollar Value of Proposal Bid listed on line#1 is $1,000,000 list 15% and $150,000 on Line#2.

Line#3 - WBE Goal Applied to the Contract– Bidder/Contractor lists the amount to be paid to a Certified Woman-owned Business Enterprise and states the percentage this amount is of the Total Value listed on Line #1.

Example: If Bidder/Contractor is paying two WBE firms $50,000 & $100,000 each and the Total Dollar Value of Proposal Bid listed on line#1 is $1,000,000 Bidder/Contractor would list 15% and $150,000 on Line#2 of the Utilization Plan.

Line#4 - **MWBE Combined totals -** Bidder/Contractor totals Line #2 and Line #3 for both Percentage and Amount to state the Combined M&W percentages and Combined M&W amount.

Example: Using the above Line #2 and Line #3 examples for payment data, Bidder/Contractor achieves a combined MWBE % of 30% and a combined MWBE amount of $300,000. (15%M and 15%W; $150,000M + $150,000W). MWBE combined Total/Total Dollar Value Eligible = the MWBE % (300,000/1,000,000 = 30%).

Page#2 of Form#1:

The first column (left column): Bidder/Contractor lists any Minority-owned Business Enterprises (MBE) that Bidder/Contractor is subcontracting with or purchasing from and the MBE contact/company information.

The second column (center column): Bidder/Contractor describes what type of work certified MBE will be providing or what product certified MBE will be supplying to Bidder/Contractor.

The third column (right column): Bidder/Contractor states the amount to be paid to the certified MBE during the term of the contract. The amount totaled from Page #2 should equal the amount listed on Line#2 of Page#1.

Page#3 of Form#1:

The first column (left column)**:** Bidder/Contractor lists any Woman-owned Business Enterprises (WBE) that Bidder/Contractor will be subcontracting with or purchasing from and WBE contact/company information.

The second column (center column): Bidder/Contractor describes what type of work certified WBE will be providing or what product certified WBE will be supplying to Bidder/Contractor.

Third column (right column): Bidder/Contractor states the amount to be paid to the certified WBE during the term of the contract. The amount totaled from Page#3 should equal the amount listed on Line#3 of Page#1.

Form#2 – MWBE Utilization Waiver Request

"Form#1 MWBE Utilization Plans" that commit to a goal % less than the stated MWBE goal percentage in procurement must be accompanied by a "Form#2 MWBE Utilization Waiver Request". A Bidder/Contractor may qualify for a partial or total waiver of the MWBE goal requirements established on a State contract only upon the submission of a waiver form by a Bidder/Contractor, documenting good-faith efforts by the Contractor to meet the goal requirements of the state contract and a consideration of applicable factors. The ability to subcontract with M/WBEs and separately the ability to purchase from M/WBEs must be addressed in attachments on all waiver requests.

Fill out the header with the name of the Bidder/Contractor requesting the waiver under Offeror/Contractor Name, include your Federal Identification ID, Address, Solicitation/Contract Number, and M/WBE Goals. Check off the appropriate box for the type of waiver that is being requested and whether it is a total or partial waiver. If the Waiver is Pending ESD Certification, meaning the subcontractor has applied for certification with Empire State Development, check off that box and state the date that they applied for certification. Directly below the Pending ESD Certification area, sign and date the waiver. Provide the name of the preparer as well as a telephone number and email address (Bidder/Contractor direct contact number of person authorized to discuss submission).

The following attachments should be provided:

1. A statement setting forth your basis for requesting a partial or total waiver. The statement should at a minimum include the services being subcontracted out and why a portion of those services cannot be subcontracted to certified MWBE(s). In addition, statement must also include what purchases of equipment and supplies are being made and why those purchases cannot be provided by certified MWBE(s).

2. The names of general circulation, trade association, and M/WBE-oriented publications in which you solicited certified M/WBEs for the purposes of complying with your participation goals related to this contract.

3. A list identifying the date(s) that all solicitations for certified M/WBE participation were published in any of the above publications.

4. A list of all certified M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE participation levels.

5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all certified M/WBEs.

6. Provide copies of responses to your solicitations received by you from certified M/WBEs.

7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.

8. Provide documentation of any negotiations between you, the Bidder/Contractor, and the M/WBEs undertaken for purposes of complying with the certified M/WBE participation goals.

9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.

*** All attachments are created by the entity requesting the waiver. These are self-generated attachments and are not provided by the agency.**

- M/WBE Form #1 -

New York State Department of Health
M/WBE UTILIZATION PLAN

Bidder/Contractor Name:	
Vendor ID:	**Email:** **Phone:**
RFP/Contract Title:	**RFP/Contract No.**

Description of Plan to Meet M/WBE Goals

PROJECTED M/WBE USAGE

	%	Amount
1. Total Dollar Value of Proposal Bid	**100**	**$**
2. MBE Goal Applied to the Contract		**$**
3. WBE Goal Applied to the Contract		**$**
4. M/WBE Combined Totals	0	**$** 0.00

"Making false representation 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."

New York State Department of Health
M/WBE UTILIZATION PLAN

MINORITY OWNED BUSINESS ENTERPRISE (MBE) INFORMATION

In order to achieve the MBE Goals, bidder expects to subcontract with New York State certified MINORITY-OWNED entities as follows:

MBE Firm (Exactly as Registered)	Description of Work (Products/Services) [MBE]	Projected MBE Dollar Amount
Name Address City, State, ZIP Employer I.D.(FEIN) Telephone Number ( ) -		$_____
Name Address City, State, ZIP Employer I.D.(FEIN) Telephone Number ( ) -		$_____
Name Address City, State, ZIP Employer I.D. Telephone Number ( ) -		$_____

New York State Department of Health
M/WBE UTILIZATION PLAN

WOMEN OWNED BUSINESS ENTERPRISE (WBE) INFORMATION

In order to achieve the WBE Goals, bidder expects to subcontract with New York State certified WOMEN-OWNED entities as follows:

WBE Firm (Exactly as Registered)	Description of Work (Products/Services) [WBE]	Projected WBE Dollar Amount
Name Address City, State, ZIP Employer I.D. Telephone Number ( ) -		$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number ( ) -		$ _____
Name Address City, State, ZIP Employer I.D. Telephone Number ( ) -		$ _____

- M/WBE Form #2 -

New York State Department of Health
Waiver Request

Bidder :	**Federal Identification No.:**
Address:	**Solicitation/Contract No.:**
City, State, Zip Code:	**M/WBE Goals: MBE % WBE %** (From Lines 2&3 of Form 1)

By submitting this form and the required information, the officer or/contractor certifies that every Good Faith Effort has been taken to promote M/WBE participation pursuant to the M/WBE requirements set forth under the contract.

Contractor is requesting a :

☐**MBE Waiver – A waiver of the MBE Goal for this procurement is requested.** ☐ **Total** / ☐ **Partial**

☐**WBE Waiver – A waiver of the WBE Goal for this procurement is requested.** ☐ **Total** / ☐ **Partial**

☐**Waiver Pending ESD Certification –** (Check here if subcontractors or suppliers of Contractor are not certified M/WBE, but an application for certification has been filed with Empire State Development.)

Date of such filing with Empire State Development:

If a total or partial waiver is requested, appropriate supporting documentation as outlined in the Detailed MWBE Form Instructions is required.

_____ _____

PREPARED BY (Signature) **Date:**

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A AND 5 NYCRR PART 143. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.

Name and Title of Preparer (Printed or Typed):	**Telephone Number:**	**Email Address:**

Submit with the bid or proposal or if submitting after award submit to: mwbe@health.ny.gov	********** FOR BOC-MWBE USE ONLY **********	
	REVIEWED BY:	**DATE:**
	Waiver Granted: ☐YES ☐NO **MBE: ☐ WBE: ☐** **☐Total Waiver** **☐Partial Waiver** **☐ESD Certification Waiver** **☐*Conditional** **☐Notice of Deficiency Issued** _____	

- M/WBE Form #4 -

New York State Department of Health
M/WBE STAFFING PLAN

For project staff, consultants and/or subcontractors working on this grant complete the following plan. This has no impact on MWBE utilization goals, or the submitted Utilization Plan - Form#1. This is for diversity research purposes.

Contractor Name_____

Address_____

_____

STAFF	Total	Male	Female	Black	Hispanic	Asian/ Pacific Islander	Other
Executive/Senior level Officials	0						
Managers/Supervisors	0						
Professionals	0						
Technicians	0						
Administrative Support	0						
Craft/Maintenance Workers	0						
Laborers and Helpers	0						
Service Workers	0						
Totals	0						

_____
(Name and Title)

_____
(Signature)

_____
Date

- M/WBE Form #5 –

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

M/WBE AND EEO POLICY STATEMENT

I, _____, the (awardee/contractor)_____ agree to adopt the following policies with respect to the project being developed or services rendered at _____

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:

Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
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.
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.
Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

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 contracting agency, 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) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor 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.

_____
Name & Title

_____
Signature & Date