

ATTACHMENT F
MWBE
REQUIREMENTS
AND FORMS
Revised 10/15/18

**CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY
NEW YORK STATE CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS
ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY
GROUP MEMBERS AND WOMEN**

New York State Law: Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations DOCCS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of DOCCS contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, DOCCS hereby establishes an overall goal of **0** percent for MWBE participation, **0** percent for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and **0** percent for New York State-certified Women-owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs). A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this RFP, the bidder agrees that DOCCS may withhold payment pursuant to any Contract awarded as a result of this RFP pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how DOCCS will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The bidder understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal.

The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

In accordance with 5 NYCRR § 142.13, the bidder further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this solicitation, such finding constitutes a breach of contract and DOCCS may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a bidder agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a bidder may arrange to provide

such evidence via a non-electronic method by contacting the designated contact(s) for this procurement. Additionally, a bidder will be required to submit the following documents and information as evidence of compliance with the foregoing:

1. An MWBE Utilization Plan with their bid or proposal. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to DOCCS for review and approval.

DOCCS will review the submitted MWBE Utilization Plan and advise the bidder of DOCCS acceptance or issue a notice of deficiency within 30 days of receipt.

2. If a notice of deficiency is issued, the bidder will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to DOCCS, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by DOCCS to be inadequate, DOCCS shall notify the bidder and direct the bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

DOCCS may disqualify a bidder as being non-responsive under the following circumstances:

- a) If a bidder fails to submit an MWBE Utilization Plan;
- b) If a bidder fails to submit a written remedy to a notice of deficiency;
- c) If a bidder fails to submit a request for waiver; or
- d) If DOCCS determines that the bidder has failed to document good faith efforts.

The successful bidder will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to DOCCS, but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful bidder will be required to submit a quarterly M/WBE Contractor Compliance & Subcontractor Payment Report to DOCCS, by the 10th day following each end of quarter as applicable over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the bidder agrees with all of the terms and conditions of Appendix A – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women. The bidder is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the bidder, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities

without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The bidder will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement to DOCCS with its bid or proposal.

If awarded a Contract, bidder shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by DOCCS on a quarterly basis as required during the term of the Contract.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will 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.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

MINORITY/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 _____

This organization will require its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participation goals and provide Equal Employment Opportunities set by NYS DOCCS for the State-funded project by taking the following steps:

M/WBE

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Utilize ESD Directory of State certified M/WBEs and solicit bids from them directly.
- (3) 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.
- (4) Where feasible, divide the work into smaller portions to increase participation by M/WBEs and encourage the formation of joint ventures and other partnerships among M/WBE contractors to encourage their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain, or, where appropriate, require its subcontractors to maintain and submit, as required by DOCCS, records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that project payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and/or other credit requirements may be waived and/or appropriate alternatives are developed to encourage M/WBE participation.

EEO

- _____ military status, marital status, domestic violence victim status, arrest or conviction record, or predisposing genetic characteristics, and 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, religion/creed, color, national origin, sex, age, disability, sexual orientation, military status, marital status, domestic violence victim status, arrest or conviction record, or predisposing genetic characteristics.
- (c) At the request of the contracting agency, this organization shall request that each employment agency, labor union, or authorized representative will not discriminate on the basis of race, religion/creed, color, national origin, sex, age, disability, sexual orientation, military status, marital status, domestic violence victim status, arrest or conviction record, or predisposing genetic characteristics, and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.
- (d) This organization will include the provisions of sections (a) through (c) 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.

(a) This organization will not discriminate against any employee or applicant for employment because of race, religion/creed, color, national origin, sex, age, disability, sexual orientation,

Agreed to this _____ day of _____, 20_____

Sign: _____

Print: _____ Title: _____

Minority/ Women Business Enterprise Liaison

_____ is designated as the Minority/Women Business Enterprise Liaison
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises-Equal Employment Opportunity (M/WBE-EEO) program.

M/WBE Contract Goals

_____ % Minority and Women’s Business Enterprise Participation

_____ % Minority Business Enterprise Participation

_____ % Women’s Business Enterprise Participation

(Authorized Representative)

Title: _____

Date: _____

Contact:

**Department of Corrections and Community Supervision
Support Operations / Contract Procurement Unit
The Harriman State Campus
1220 Washington Ave
Albany, NY 12226**



**NEW YORK STATE
DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION**

**EEO STAFFING PLAN
(EQUAL EMPLOYMENT OPPORTUNITY)**

SUBMIT WITH BID OR PROPOSAL

Solicitation No.:	Reporting Entity: <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	Report includes Contractor's: <input type="checkbox"/> Contractor's workforce to be utilized on this contract <input type="checkbox"/> Contractor's total workforce <input type="checkbox"/> Subcontractor's workforce to be utilized on this contract <input type="checkbox"/> Subcontractor's total workforce
Contractor/Subcontractor's Name:		Submit completed form to: Department of Corrections and Community Supervision Support Operations / Contract Procurement Unit The Harriman State Campus 1220 Washington Ave Albany, NY 12226
Contractor/Subcontractor's Address:		
FEIN:	Telephone NO.:	

Enter the total number of employees for each classification.

EEO Job Category	Total Workforce	Workforce by Gender		Workforce by Race/Ethnic Identification										Disabled		Veteran	
		Total Male	Total Female	White (Not Hispanic/Latino)		Black (Not Hispanic/Latino)		Hispanic or Latino		Asian (Not Hispanic/Latino)		American Indian or Alaskan Native(Not Hispanic/Latino)		(M)	(F)	(M)	(F)
		(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Executive/Senior Level Officials & Managers																	
First/Mid Level Officials & Managers																	
Professionals																	
Technicians																	
Sales Workers																	
Administrative Support Workers																	
Craft Workers																	
Operatives																	
Laborers and Helpers																	

Service Workers																	
Totals																	
PREPARED BY (Signature):								TELEPHONE NO.:				DATE:					
								E-MAIL ADDRESS:									
NAME AND TITLE OF PREPARER (Print or Type):										FOR AGENCY USE ONLY							
										REVIEWED BY:				DATE:			

General instructions: All Offerors must complete an EEO Staffing Plan (EEO 100) and submit it as part of the bid or proposal package to the address provided. Where the workforce to be utilized in the performance of the State contract can be separated out from the Contractor's total workforce, the Offeror shall complete this form only for the anticipated workforce to be utilized on the State contract. Where the workforce to be utilized in the performance of the State contract cannot be separated out from the Contractor's total workforce, the Offeror shall complete this form for the Contractor's current total workforce. Subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "work") except where the "work" is for the beneficial use of the Contractor must complete this form upon request of DOCCS.

Instructions for completing:

1. Enter the Solicitation Number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the Contractor or a Subcontractor.
3. Check off the appropriate box to indicate type of workforce being reported.
4. Enter the total workforce by EEO job category.
5. Break down the total workforce by gender and enter under the heading "Workforce by Gender."
6. Break down the total workforce by race/ethnic background and enter under the heading "Workforce by Race/Ethnic Identification."
7. Enter the name, title, phone number, and E-mail address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

WHITE - (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa or the Middle East.

BLACK - (Not of Hispanic origin) A person who has origins in any of the black racial groups of Africa.

HISPANIC or LATINO - All persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race

ASIAN & PACIFIC ISLANDER - All persons having origins in any of the original peoples of the Far East, Southeast Asia or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.

AMERICAN INDIAN or ALASKAN NATIVE - A person having origins in any of the original peoples of North or South America (including Central America), and who maintains tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** - Any person who:
 - Has a physical or mental impairment that substantially limits one or more major life activity (ies)
 - Has a record of such an impairment; or
 - Is regarded as having such impairment.
- **VETERAN** - An individual who served in the military during time of war.



**NEW YORK STATE
DEPARTMENT OF CORRECTIONS
AND COMMUNITY SUPERVISION**

M/WBE UTILIZATION PLAN

INSTRUCTIONS: This form must be submitted with any bid proposal or proposed negotiated contract. This Utilization Plan must contain a detailed description of the supplies, purchases, and/or services to be provided by each certified Minority and Women-Owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary.

Contactor's Name: _____
 Address: _____
 City, State, Zip Code: _____

Federal Identification Number: _____
 Solicitation/Contract Number: _____
 Telephone Number: _____

Region/Location of Work: _____

M/WBE Goals in the Contract: MBE _____% WBE _____%

1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, and Telephone No.	2. Classification	3. Detailed Description of Work/Purchase (Attach additional sheets, if necessary)	4. Dollar Value of Subcontracts/Supplies/Services and intended performance dates of each component of the contract.
A.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE Federal ID No. _____		
B.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE Federal ID No. _____		
C.	NYS ESD CERTIFIED <input type="checkbox"/> MBE <input type="checkbox"/> WBE Federal ID No. _____		

IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, CONTRACTOR MUST SUBMIT A REQUEST FOR WAIVER. TO THE CONTRACTING UNIT.

Submission of this form constitutes the 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 142. Failure to submit complete and accurate information may result in a finding of noncompliance or rejection of the bid/proposal and/or suspension or termination of the contract.

NAME AND TITLE OF PREPARER (Print or Type):

SUBMIT COMPLETED FORM TO:
 Department of Corrections and Community Supervision
 Support Operations / Contract Procurement Unit
 The Harriman State Campus
 1220 Washington Ave
 Albany, NY 12226

SIGNATURE AND DATE:

FOR AGENCY USE ONLY

REVIEWED BY:

DATE:

UTILIZATION PLAN APPROVED: YES NO **Date:** _____

Contract No: _____

Contract Award Date: _____

Estimated Date of Completion: _____

Amount Obligated Under the Contract: _____

NOTICE OF DEFICIENCY ISSUED: YES NO **Date:** _____

NOTICE OF ACCEPTANCE ISSUED: YES NO **Date:** _____

Instructions:

1. Contractor Information: Enter contractor name, address, and federal employer identification number (FEIN).
2. Region/Location of Work: Enter region/location of work or facility name.
3. Project M/WBE Goals: Enter M/WBE Project Goals. These goals are to be accomplished by subcontracting with NYS certified M/WBE's.
4. Subcontractor: NYS Certified M/WBE Information: Enter name of certified M/WBE, address, telephone number, and Federal ID number. Verify in the Directory of Certified Minority and Women-Owned Businesses available at: www.esd.ny.gov/mwbe.html that they are a NYS certified minority or women-owned business.
5. Indicate certification type: MBE, WBE or both by checking the appropriate boxes, Y (Yes) or N (No).
6. Describe the type of services the M/WBE vendors will provide in relation to the contract, and estimate the amount the contractor will spend with these vendors.

Special Note: This section does not need to be completed if the contractor is a certified minority and women-owned business enterprise (dual certified) and responsible for one hundred percent of the contract performance. If this is the case, proceed to the signature section and attach a printout from the Directory of Certified Minority and Women-Owned Businesses available at: www.esd.ny.gov/mwbe.html showing the Contractor is a dual New York certified M/WBE. If the contractor is a NYS certified minority-owned business enterprise (MBE) or women-owned business enterprise (WBE), this section needs to be completed to satisfy the goal for which the Contractor is not certified. For example, if the Contractor is a NYS certified MBE, the Contractor is required to subcontract with a NYS certified WBE to achieve the WBE project goals.

7. Signature Section: Sign, print name, and date.

**ENCOURAGING USE OF NEW YORK STATE BUSINESSES IN CONTRACT PERFORMANCE
RFP 2018-15 -- Infant Nursery and Family Services Programs - Revised 10/15/18**

New York State businesses have a substantial presence in State Contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the Contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders need to be aware that all authorized users of this Contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, Bidders are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State Contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the Contractor and its New York State business partners. New York State businesses will promote the Contractor's optimal performance under the Contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its Contractors. The State therefore expects Bidders to provide maximum assistance to New York businesses in their use of the Contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Bidders can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this Contract?

_____ **Yes** _____ **No**

If yes, identify New York State Business(es) that will be used; (attach identifying information).