

Initiatives for **MWBE** Economic Growth



New York State MWBE Team Report





*I signed Executive Order #8 establishing a team to explore ways to expand Minority- and Women-Owned Business Enterprises (MWBEs) participation in state contracting. New York's strength lies in the **diversity, innovation, and entrepreneurship** of all its residents. By breaking down barriers to growth for MWBEs, we are putting that strength to work for all New Yorkers, building a more diverse and competitive business climate. The initiatives presented in this report will level the playing field and open up doors for greater economic opportunity and job growth in communities that need it most. For too long, outdated policies and practices have been an obstacle to the growth of businesses in our state. Minority- and women-owned businesses, in particular, have been underutilized.*

By working together, we will change that.

Governor Andrew M. Cuomo

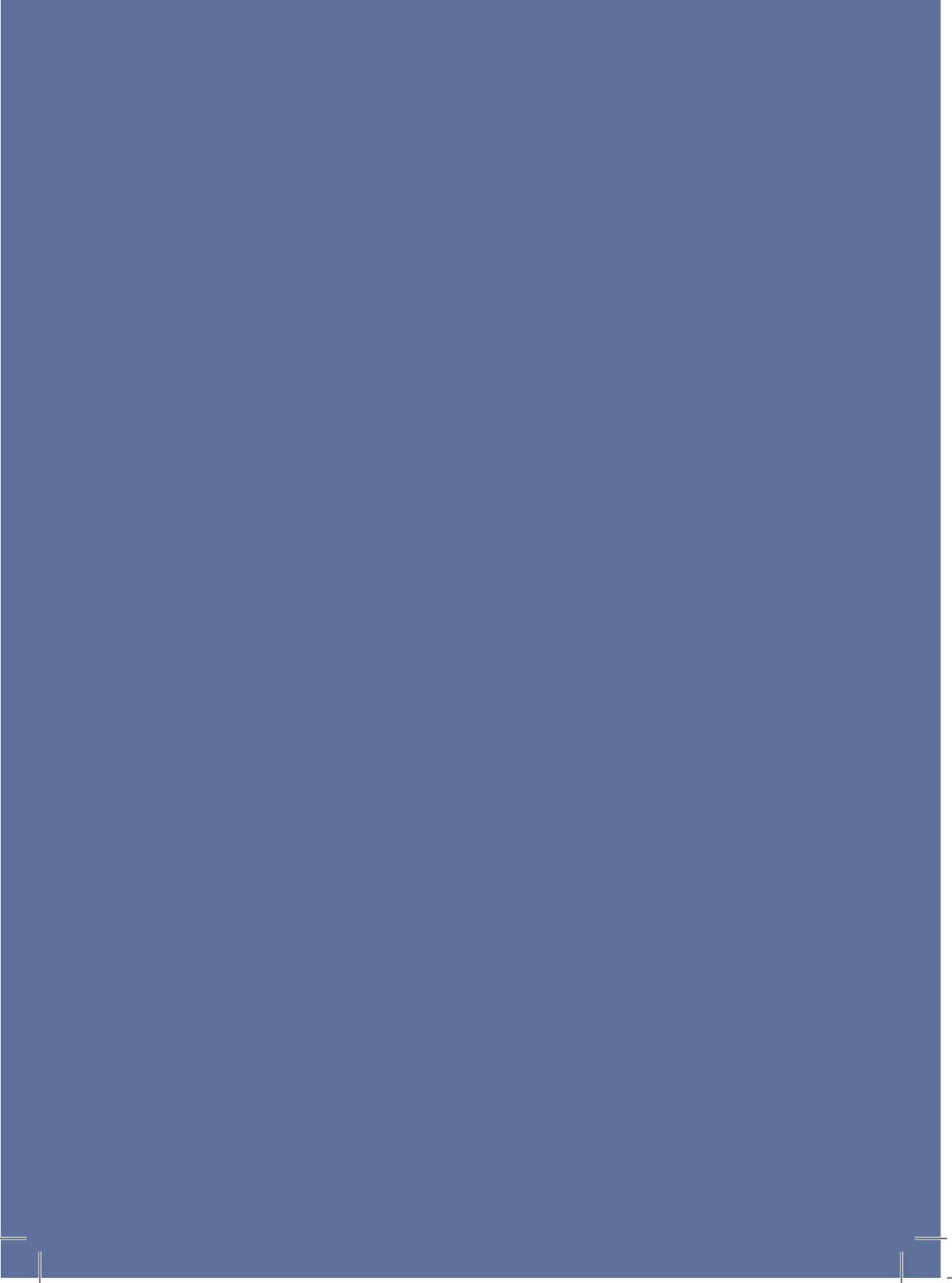


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New York State MWBE TEAM

The Governor's MWBE Team includes the following elected officials, business and academic leaders, and members of the Governor's cabinet and administration.



William Thompson, *former Comptroller of New York City*



Senator Martin Malave-Dilan, *District 28*



Senator Adriano Espaillat, *District 31*



Senator Ruth Hassell-Thompson, *District 36*



Senator Betty Little, *District 45*



Senator Bill Perkins, *District 30*



Senator Patty Ritchie, *District 48*



Assembly member Earlene Hooper, *District 18*

MWBE



Assembly member
Grace Meng, *District 22*



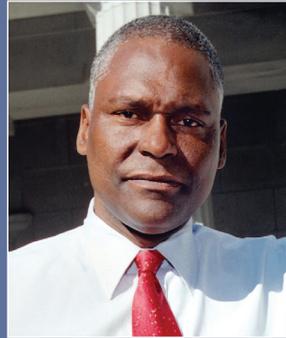
Assembly member
Nick Perry, *District 58*



Assembly member
Crystal Peoples-Stokes,
District 141



Assembly member
Peter Rivera, *District 76*



Assembly member
Keith Wright, *District 70*



Assembly member
Robert Rodriguez,
District 68



Sandra Wilkin, *President,*
Women Builders Council, Inc.



Jacqueline Williams,
Coordinator, MWBE Coalition



James Francis, *Board Chair,*
Council of Urban Professionals
(CUP)

New York State MWBE TEAM



Walter Broadnax, *Distinguished Professor of Public Administration, the Campbell Public Affairs Institute, Maxwell School of Syracuse University*



William Castle, *Chief Diversity Officer, Xerox Corporation*



Nancy Zimpher, *Chancellor of the State University of New York*



Mylan Denerstein, *Counsel to the Governor*
Dave Cross Photography



Yrthya Dinzey-Flores, *Chief Diversity Officer, Governor's Office, Christopher Auger-Dominguez, Photographer, Studio 4B Photography*



Alphonso B. David, *Deputy Secretary for Civil Rights, Governor's Office*



Leecia Eve, *Deputy Secretary for Economic Development, Governor's Office*



Robert L. Megna, *Budget Director, Department of Budget*



Joan McDonald, *Commissioner, Department of Transportation*

MWBE



RoAnn Destito, *Commissioner,
Office of General Services*



Darryl Towns, *Commissioner,
Housing and Community
Renewal*



Michael Garner, *Chief Diversity
Officer, Metropolitan Transit
Authority*



Valerie Grey, *Chief Operating
Officer, State Education
Department*



Paul Williams, *President and
CEO, Dormitory Authority of
New York*

Increasing Utilization of MWBE Firms

New York State Surety Bond Assistance Program

As Governor Cuomo outlined in his 2012 State of the State Address, one of the biggest challenges facing small and MWBE contractors is securing credit. The failure to secure credit limits their ability to obtain State contracts. To eliminate this barrier to growth, New York State has launched the New York State Surety Bond Assistance Program. This program will provide training, technical assistance and credit support to help small and minority- and women-owned businesses secure surety bonds and State contracts. The program provides irrevocable letters of credit, up to 30 percent of the base contract amount on a project-specific basis, and is expected to facilitate \$200 million in new bonding authority over five years. The State is also collaborating with intermediary lenders to facilitate working capital loans to New York State contractors.

In the span of a few years, it is estimated that a total of 2,200 jobs will be created in New York State. This growth is expected to increase personal income by \$137 million and increase economic output by \$328 million. Two surety bond companies, Travelers and ACE, which are both highly regarded with A-plus ratings, will participate in the program, as well as the NYS Small Business Development Center.

Many MWBEs mentioned obtaining surety bonds as a major impediment to acquiring work as prime contractors.

“The biggest problem we find is getting bonding. [T]he State [should] have a program to ensure or give better access to the bonding and banking for each individual company.”

2010 New York State Disparity Study

Modernizing the Process

Implementing a State-of-the-Art Electronic Monitoring and Reporting System

In the past, there was no standard method of reporting MWBE participation within New York's statewide procurement process. To streamline the MWBE certification process and create efficiency through technology, the State issued a contract to create an electronic monitoring and compliance system. The system makes the MWBE certification process more user friendly, enabling businesses to easily interact with the State contracting process, obtain information about requests for proposals, and market their services to agencies and authorities through one web portal. The system will also allow the State, for the very first time through a state-wide electronic database, to closely and effectively monitor how and whether state agencies are spending state dollars with minority- and women-owned businesses and utilizing their best efforts to achieve the Governor's goals.

Increasing the Pool of Certified MWBE Firms

New York State's ability to certify MWBE firms across local municipalities and the federal government was subject to a slow and complex process that hindered business growth. To remove this barrier, the State has developed a fast-track option for certifying MWBE firms.

The State entered into agreements with New York City and the Port Authority of New York and New Jersey, and engaged the U.S. Department of Veterans Affairs to quickly move firms through the State certification process.

Ensuring Accountability

Securing MWBE Compliance from All State Agencies and Authorities

In the past due to a lack of enforcement some State agencies and authorities were not meeting their obligation to submit Master Goal Plans, a document required by Article 15-A, in which agency and authority MWBE programs and MWBE utilization goals are outlined. After months of detailed engagement and monitoring, the State has secured – for the first time ever – Master Goal Plans from 100 percent of State agencies and authorities subject to Article 15-A. Through this unparalleled commitment to enforcement and reporting, the State has now laid the foundation to achieve its goals of greater MWBE participation.

Ensuring Contractor and MWBE Accountability

A substantial challenge impeding access by MWBEs to State contracting activities has been the lack of clarity and consistency in State contract language to hold all contractors responsible for meeting their MWBE goals. To remove this barrier to contracting opportunities, the State has implemented, for the first time, model MWBE language that is designed to standardize MWBE provisions in Request for Proposals and contracts across all State agencies and for the awards made by the Regional Councils. Now, agencies and authorities will be able to more effectively hold their vendors accountable for reaching MWBE goals.

The State is also working with the Office of the Inspector General to stamp out instances of fraud among firms willfully claiming MWBE status and providing other fraudulent information to the State.

Commissioner and Authority Leadership Commitment

Successful MWBE utilization among agencies and authorities necessitates strong leadership from commissioners and authority heads. Commissioners are actively promoting a “creative-thinking” atmosphere that will give each level of staff an opportunity to contribute to a strong MWBE program. Since September 2011, the Governor’s Chief Diversity Officer, the Deputy Secretary for Civil Rights, and the Division of Minority-and Women-Owned Business Development have held several meetings to assist agency and authority heads to understand the importance of creating a strong MWBE program and provide tools to maximize procurement opportunities.



Building Opportunities for MWBE Participation and Economic Growth

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Business Support for MWBEs

The State is building opportunities to enhance MWBE economic growth by developing a consistent and comprehensive network of opportunities for MWBEs to exchange information, ideas and available resources for business support. The State hosted and participated in 124 outreach events since 2011 and hosted the first quarterly MWBE Open House. The Division of Minority- and Women-Owned Business Development certified 59 firms at the event.

“My experience today at the certification Open House has been very beneficial to me and my business. I’ve been in this process for a while. I feel that all my questions have been answered. I’ve been offered contracts in my field of work that required certification. Certification is crucial to my business and every little step helps. This has been the biggest step thus far in my journey to being certified thanks to Empire State Development.”

*Stanley Miles, Sr.
Certification Open House
February 7, 2012*

Annual New York State MWBE Forum

Over 1,000 agencies, MWBE firms, prime contractors, elected officials and members of the Governor’s cabinet participated in the first and largest statewide MWBE Forum in October 2011. The New York State MWBE Team held a panel discussion and provided a road map to help businesses navigate the state procurement system and to learn more about the Governor’s initiatives for MWBEs.

Building Opportunities for MWBE Participation and Economic Growth

Connecting MWBE Firms with Contract Opportunities

On February 2, 2012, Governor Cuomo announced \$82 million in construction contracts available for MWBEs as part of the \$373 million CUNY Advanced Science Research Center project. The MWBE Team sponsored an outreach event to bring firms and over 100 prime contractors together to reach the 22 percent MWBE utilization goal for the project. Like the first annual New York State MWBE Forum held in October, this event created invaluable networking opportunities allowing business owners to showcase their skills and provide prime contractors and State decision-makers an opportunity to visit a wide variety of MWBE exhibits.

Free Training

Construction firms participating in government projects are required to complete specialty training before bidding on a project. For example, prior to participation in public construction projects valued at \$250,000 and greater, contractors must complete a compulsory Occupational Safety and Health Administration (OSHA) training. Private entities provide this training but they are often costly, sometimes reaching over a thousand dollars. These costs present an additional hurdle for small-scale MWBE contractors to compete in the marketplace. DASNY provided OSHA training classes at no charge over the course of the Annual Legislative



APPENDIX A

No. 8 REMOVING BARRIERS TO MINORITY AND WOMEN BUSINESS ENTERPRISES' PARTICIPATION IN STATE CONTRACTING

WHEREAS, New York State has enacted Article 15-A of the Executive Law, to promote equal opportunity in contracting for all persons, without discrimination for minority group members and women and business enterprises owned by them, and to eradicate the barriers that have impaired access by minority and women-owned business enterprises to State contracting opportunities;

WHEREAS, despite New York State's law to promote the continuing development of minority and women-owned businesses, in 2010 a statewide disparity study showed significant disparities between (1) the number of minority and female businesses in New York State available and qualified for contracting opportunities, and (2) the number of state contracts awarded to those businesses;

WHEREAS, legislation was enacted in 2010 to strengthen Article 15-A, and it is crucial that the State take active measures to ensure that these provisions are effectively implemented;

WHEREAS, it is of significant public importance that New York State conduct a critical, systematic, and comprehensive review to remove the barriers that have impaired access by minority and women-owned business enterprises to New York State contracting opportunities; and

WHEREAS, this review should be tailored to increasing the participation of minority and women-owned businesses in state contracting and providing equal opportunities in employment without discrimination;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York do hereby order as follows:

A. Definitions

As used herein, the following terms shall have the following meanings:

1. "Minority and Women-Owned Business Enterprise" or "M/WBE" shall mean those businesses defined as "Minority-Owned Business Enterprises" and "Women-Owned Business Enterprises" in Executive Law § 310.

2. "Public authority" or "authority" shall mean a public authority or public benefit corporation created by or existing under any New York State law, with one or more of its members appointed by the Governor or who serve as members by virtue of holding a

civil office of New York State, other than an interstate or international authority or public benefit corporation, including any subsidiaries of such public authority or public benefit corporation.

3. “SAGE Commission” shall mean the Spending and Government Efficiency Commission created by Executive Order 4 of 2011 and tasked with redesigning the organizational structure of state government.

4. “State agency” or “agency” shall mean any state agency, department, office, board, bureau, division, committee, council or office.

5. “State officer or employee” shall have the meaning given in Section 73 of the Public Officers Law.

B. M/WBE Team

1. There is hereby established the M/WBE Team (“Team”) that shall exist to provide guidance for, and advice to, the Governor.

2. The Governor shall appoint up to 30 voting members of the Team. The members of the Team shall include: state officers or employees with relevant experience; members of the New York State Legislature; members of state academic institutions; and stakeholders with experience in supplier diversity contracting, diversity and inclusion practices and workforce diversity programs.

3. Vacancies shall be filled by the Governor, and the Governor may appoint additional voting and non-voting members to the Team as necessary. Members of the Team shall serve at the pleasure of the Governor.

4. The Governor shall designate a Chair from among the members of the Team.

5. A majority of the total members of the Team who have been appointed shall constitute a quorum, and all recommendations of the Team shall require approval of a majority of its total members.

6. The Team shall attempt to engage and solicit the input of a broad and diverse range of groups, organizations and individuals.

C. Cooperation with the Team

1. Every agency and authority of New York State shall provide to the Team every assistance and cooperation, including use of New York State facilities, which may be necessary or desirable to fulfill the purposes of this Executive Order.

2. Staff support necessary for the conduct of the Team’s work shall be furnished by agencies and authorities (subject to the approval of the boards of directors of such authorities).

3. The Chief Diversity Officer shall serve as a liaison between the Team and agencies to facilitate the exchange of data and information.

D. Duties and Purpose

1. The Team shall review the 2010 disparity study, as well as data and information produced by state agencies and collected by the Chief Diversity Officer regarding individual agency performance and contracting practices.

2. The Team shall work with the Executive Chamber, the Empire State Development Corporation, and the SAGE Commission and identify opportunities for collaboration with other relevant entities.

3. The Chair shall notify stakeholders of the purposes of the Team, the opportunities for stakeholder participation and the means and schedule for such participation.

4. The Chair shall provide parameters for the submission of proposals and recommendations by stakeholders and other interested parties.

5. The Team's review and recommendations shall address existing barriers to M/WBE participation in State contracting opportunities including but not limited to:

- a. commitment from agency leadership to meeting M/WBE goals;
- b. access to information;
- c. specificity in contracts regarding M/WBE participation;
- d. assistance and supportive services programs;
- e. obstacles in credit and bonding that lead to difficulty in securing state contracts; and
- f. inconsistent and infrequent monitoring and compliance during contract period.

6. The Team shall also review the manner in which state agencies are implementing the 2010 amendments to Article 15-A of the Executive Law, and any problems with such implementation; and any gaps in the current statutory and regulatory regime governing M/WBE contracting.

7. The Team shall commence its work no later than March 1, 2011. On or before May 1, 2011, the Team shall identify a work plan and work with the Executive Chamber to implement the plan.

8. The Team shall fully implement its work plan by or before June 1, 2012. Thereafter, the Team shall terminate its work and be relieved of all responsibilities and duties hereunder.

