

EXECUTIVE ORDER 10

No 10: ESTABLISHING A TASK FORCE TO INCREASE THE UTILIZATION OF MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE UNDERWRITERS FOR STATE DEBT OFFERINGS

WHEREAS, in 1988 New York State enacted a law establishing a comprehensive, statewide Minority and Women-Owned Business Enterprise (“M/WBE”) program; and

WHEREAS, that law mandated that public authorities consider hiring M/WBE underwriters in section 136-b of the State Finance Law;

WHEREAS, of the \$22 billion of bonds the State has sold since April 1, 2004, M/WBE firms have participated in the role of senior manager or co-senior manager on only 4 percent of these transactions;

WHEREAS, Executive Order No. 8 issued on February 8, 2007, established the M/WBE Executive Leadership Council and the MWBE Corporate Roundtable to seek to improve participation of M/WBE businesses in the State’s procurement process;

WHEREAS, the State has an interest in increasing the pool of qualified investment banking firms for State debt offerings;

WHEREAS, transparent performance metrics should govern the selection of lead underwriters for State debt and will ensure all qualified investment banks have an opportunity to fairly compete for the State’s underwriting business;

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

A. Definitions

1. “Public authority” or “authority” shall mean a public authority or public benefit corporation created by or existing under any State law, a majority of whose members are appointed by the Governor (including any subsidiaries of such public authority or public benefit corporation), other than an interstate or international authority or public benefit corporation, that issues debt.
2. “State-supported debt issuer” shall mean any public benefit corporation which issues debt on behalf of the State, including but not limited to the Dormitory Authority of the State of New York, the New York State Urban Development Corporation, the New York State Housing Finance Agency, the Environmental Facilities Corporation and the New York State Thruway Authority.
3. “Minority and Women-Owned Business Enterprise” and “M/WBE” shall mean any investment bank which is more than 50% by women, minorities or a combination thereof.

B. Task Force to Increase Participation of M/WBE Firms in Debt Issuances

1. There is hereby established a Task Force to increase participation by M/WBE investment banking firms in the issuance of State debt sold on a negotiated basis.
2. The Task Force shall be comprised of the following members: three members appointed by the Governor, who shall also select the Chair; the Presidents or Executive Directors of the Dormitory Authority of the State of New York, the Environmental Facilities Corporation, the New York State Housing Finance Agency and the New York State Thruway Authority; and the Chair of the New York State Urban Development Corporation.
3. Members of the Task Force may designate an executive level staff member to represent them and participate in the Task Force on their behalf. A majority of the members of the Task Force shall constitute a quorum. The Task Force may meet in person or by telephone, and may hold meetings to discuss

issues even in the absence of a quorum, but all final actions and recommendations of the Task Force shall require approval of a majority of the total members of the Task Force.

4. Every public authority of this state shall cooperate with the Task Force and furnish such information and assistance as the Task Force determines is reasonably necessary to accomplish its purposes.

5. The Task Force also shall consider ways to increase utilization of the W/MBE businesses in the financial industry, such as bond counsel, and note such recommendations as it deems appropriate.

C. Duties and Purpose

1. On or before July 15, 2008, the Task Force shall ask each public authority to provide its current practices for:

a. selecting investment banks as underwriters on debt issuances; and

b. utilizing M/WBE firms as underwriters on debt issuances. This information shall include, to the extent available, a discussion on current procurement guidelines used for the development and issuance of new solicitations for underwriting services. Responses to that request shall be submitted to the Task Force no later than August 1, 2008.

2. By September 1, 2008, the Task Force shall develop recommended:

a. procurement guidelines to be used for the development and issuance of new solicitations for underwriting services;

b. underwriting performance measures to evaluate all investment banks awarded bond underwriting contracts.

3. In developing guidelines to increase the utilization of qualified M/WBE investment banking firms, especially at the senior manager or co-manager level, the Task Force shall consider:

a. improving the request for proposals process;

b. establishing opportunities for M/WBE firms to partner with large investment banks as co-senior managers to increase their ability to be sole senior managers in future transactions;

c. identifying and eliminating inappropriate barriers to entry; and

d. recommending revisions to designation policies to encourage participation of M/WBE firms in state debt offerings.

4. Each state-supported debt issuer's Board shall consider implementation of new practices for selecting M/WBE firms as underwriters and evaluating performance, which shall be consistent with the Task Force's guidelines, no later than October 15, 2008.

D. Reporting

1. Each State-supported debt issuer shall submit two progress reports to the Task Force: one on March 1, 2009 and one on December 1, 2009, in such form and containing such information as specified by the Task Force.

2. The Task Force shall issue, to the Governor, a preliminary report evaluating each State-supported debt issuer's performance practices on April 15, 2009; and a final report on January 31, 2010.

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twenty-sixth of June in the year two thousand eight.

David A. Paterson
Governor

Charles O'Byrne
Secretary to the Governor