



Waiver Applicant	
Contractor Name:	Fed ID No.:
Full Address:	Contract / RFP Number:
Project Details (Contract Name, Project Location):	Have you Previously submitted a Waiver Request? (YES/NO)

By submitting this form and the required information, the Contractor certifies that every "Good Faith Effort" has been taken to promote MWBE participation pursuant to the MWBE requirements set forth under the contract. Review 5 NYCRR §142.8, Contractor's Good Faith Efforts, on pages three and four of this form for the precise definition of "Good Faith Effort". Failure to adequately demonstrate Good Faith Efforts will result in a denial of your Waiver Request. It is the Contractor's responsibility to ensure that adequate, clear and complete information is presented to the Office of Contractor and Supplier Diversity (OCSD).

***CURRENT CONTRACT VALUE: \$**

***CURRENT MBE & WBE GOALS:**

MBE: _____ % + WBE: _____ % = **OVERALL MWBE GOAL:** _____ %

INDICATE ONLY THE OVERALL MWBE GOAL IF SPECIFIC MBE AND WBE GOALS WERE NOT ASSIGNED.

***CONTRACTOR IS REQUESTING :**

1. **MBE Waiver** – A waiver of the MBE Goal for this procurement is requested.
 CURRENT MBE GOAL: _____ %
 REQUESTED MBE GOAL: _____ %
2. **WBE Waiver** – A waiver of the WBE Goal for this procurement is requested.
 CURRENT WBE GOAL: _____ %
 REQUESTED WBE GOAL: _____ %
3. **OVERALL MWBE Waiver** – A waiver of the MWBE Goal for this procurement is requested.
 CURRENT OVERALL MWBE GOAL: _____ %
 REQUESTED MWBE GOAL: _____ %

PREPARED BY (Signature): _____ Date: _____

SUBMISSION OF THIS FORM CONSTITUTES THE CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT THAT IT HAS MADE GOOD FAITH EFFORTS, PURSUANT TO 5 NYCRR §142.8, TO INCLUDE THE PARTICIPATION OF NEW YORK STATE CERTIFIED MINORITY AND WOMEN OWNED BUSINESSES IN THE ABOVE PROJECT OR CONTRACT. CONTRACTOR HEREBY AGREES TO PROVIDE ANY AND ALL RELEVANT DOCUMENTATION IN SUPPORT OF THE DEMONSTRATION OF ITS GOOD FAITH EFFORTS AND ACKNOWLEDGES THAT IT HAS PROVIDED WITH THIS WAIVER REQUEST ALL AVAILABLE DOCUMENTATION SUPPORTING ITS GOOD FAITH EFFORTS.

*Name and Title of Preparer:	*Telephone Number:	*Email:
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<p>Submit with the bid or proposal or if submitting after award submit to:</p> <p>Empire State Development Corporation Office of Contractor and Supplier Diversity 633 Third Avenue, 33rd Floor New York, New York 10017</p>	***** FOR M/WBE USE ONLY *****	
	REVIEWED BY:	DATE:
	<p>Waiver Granted: <input type="checkbox"/> YES MBE: <input type="checkbox"/> WBE: <input type="checkbox"/></p> <p><input type="checkbox"/> Total Waiver <input type="checkbox"/> Partial Waiver</p> <p><input type="checkbox"/> ESD Certification Waiver <input type="checkbox"/> *Conditional</p> <p><input type="checkbox"/> Notice of Deficiency Issued _____</p> <p>* <u>Comments:</u></p> <hr/> <hr/> <hr/> <hr/> <hr/>	



5 NYCRR §142.8 - Contractor's Good Faith Efforts

- (a) Contractors must document their good faith efforts toward utilizing certified minority- and women-owned business enterprises, including but not limited to, those identified within a utilization plan. Such documented efforts, shall include, at a minimum:
- (1) Copies of its solicitations of certified minority- and women-owned business enterprises and any responses thereto;
 - (2) If responses to the contractor's solicitations were received, but a certified minority- or woman-owned business enterprise was not selected, the specific reasons that such enterprise was not selected;
 - (3) Copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publication of such advertisements;
 - (4) The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the State agency awarding the State contract, with certified minority- and women-owned business enterprises which the State agency determined were capable of performing the State contract scope of work for the purpose of fulfilling the contract participation goals;
 - (5) Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified minority- and women-owned business enterprises.
- (b) In addition to the information provided by the contractor in subdivision (a) above, the State agency may also consider the following to determine whether the contractor has demonstrated good faith efforts:
- (1) where applicable, whether the contractor submitted an amended utilization plan consistent with the subcontract or supplier opportunities in the contract;
 - (2) the number of certified minority- and women-owned business enterprises in the region listed in the directory of certified businesses that could, in the judgment of the State agency, perform work required by the State contract scope of work;
 - (3) the actions taken by the contractor to contact and assess the ability of certified minority- and women-owned business enterprises located outside of the region in which the State contract scope of work is to be performed to participate on the State contract;
 - (4) whether the contractor provided relevant plans, specifications or terms and conditions to certified minority- and women-owned business enterprises sufficiently in advance to enable them to prepare an informed response to a contractor request for participation as a subcontractor or supplier;
 - (5) the terms and conditions of any subcontract or provision of suppliers offered to certified minority- or women-owned business enterprises and a comparison of such terms and conditions with those offered in the ordinary course of the contractor's business and to other subcontractors or suppliers of the contractor;
 - (6) whether the contractor offered to make up any inability to comply with the certified minority- and women-owned business enterprises goals in the subject State contract in other State contracts being performed or awarded to the contractor;



- (7) the extent to which contractor's own actions, including but not limited to, any failure by contractor to discharge contractor's duties pursuant to this Part or article 15-A of the Executive Law, contributed to contractor's inability to meet the maximum feasible portion of the contract goals;
- (8) whether the contractor knowingly utilized one or more certified minority- and/or women-owned business enterprises, in the performance of the subject State contract, that contractor knew or reasonably should have known could not perform a commercially useful function.
- (9) whether the contractor submitted compliance reports pursuant to section 142.11 of this Part, which identified certified minority- and/or women-owned business enterprises that contractor knew or reasonably should have known did not perform a commercially useful function on a State contract on which goals were assigned pursuant to section 142.2 of this Part. and
- (10) any other information that is relevant or appropriate to determining whether the contractor has demonstrated a good faith effort.