



Application for Waiver of MWBE Participation Goal

Instructions for Completing and Submitting an Application for a Waiver of MWBE Utilization Goals

Article 15-A of the New York State Executive Law and 5 NYCRR 140-145 require state agencies to set goals for participation by minority- and women-owned business enterprises (MWBEs) on many types of State contracts. Prior to the contract award, separate goals are established for MBE and WBE utilization, expressed as a percentage of payments made under the contract. The regulations allow agencies to impose penalties if contractors fail to meet the MWBE utilization goals established for the contract and also allow agencies to grant waivers of MWBE utilization goals either prior to a contract award or after the award has been made, provided the contractor demonstrates an inability to solicit MWBE participation despite good faith efforts to that end. In order for a waiver to be granted, the contractor must submit a completed "Application for Waiver of MWBE Utilization Goals" form along with the required supporting documentation.

Section 1: Basic Information

Enter the contractor's name, address, federal identification number, and the contract number in the spaces provided. Enter the MBE and WBE utilization goals set forth in the solicitation or assigned contract.

Section 2: Type of Waiver Request

Check the type(s) of waiver requested. You may request a total or partial waiver of the MBE goals and/or a total or partial waiver of the WBE goals. If you request a partial waiver of either the MBE or WBE goal, enter the revised goal for participation in the box provided.

Use the space provided to provide a rationale for your waiver request. You may attach additional sheets, if necessary.

Section 3: Supporting Documentation

Extensive documentation is required to demonstrate good faith efforts to comply with the MWBE goals. See the form for details on the required documentation.

If Attachment F is applicable, you must include the date on the space provided and also copies of the notice of application receipt.

Section 4: Signature and Contact Information

The waiver application must be signed by someone authorized to discuss the waiver with OGS. By signing the waiver application, the contractor certifies that a good faith effort has been made to promote MWBE participation pursuant to the MWBE requirements set forth under the contract. Failure to submit complete and accurate information may result in a finding of non-compliance, non-responsibility, and a suspension or termination of the contract.

Note: Unless total waivers for both MBE and WBE participation have been granted, the contractor is required to submit all reports and documents—including MWBE compliance reports—pursuant to the provisions set forth in the contract, to evidence compliance with the MWBE goals.

Submit to:

NYS Office of General Services
Office of Business Diversity
GNARESP, Corning Tower, 29th Floor
Albany, NY 12242