How to Increase MWBE Participation in Your Procurement Process…Bake it in!
Overview

• Procurement Process Standard Model
  – What it Looks like
  – Typical results

• Evolution of the Procurement Process
  – Baking in MWBE to insure participation
  – Strategies for increasing MWBE participation

• Raising Your Agency’s Overall MWBE IQ
  – Waivers
  – New Coding System
  – Broker/Supplier
  – Supply/demand utilization initiative
  – Understanding diversity practices
Procurement Process-
Standard Model
Typical Procurement Process or Recipe!

1. Identify need/Start planning
2. Write Specs
3. Sourcing and Choose Procurement Methodology
4. Prepare Solicitation Documents
5. Internal Approvals
6. Evaluate offers & Samples/Validate testing
7. Tender Period/Clarifications
8. Contract Administration/Implementation
9. Negotiate and Award Contract
10. Monitor/Evaluate Procurement Process
Procurement Process
Standard Model
Results
Results Standard Model

- Meets State finance requirements
  - Competitive
  - Lowest price
- Contracting Agency needs are met
MWBE Requirements- Missing Ingredient!

• No Consideration of Minority and Women-owned Business Participation upfront.

• Governor’s 30% goals considered after requirements are established and before advertising!

That’s Too Late!
Bake-in Opportunities

MWBE Office... part of the Team!

- MWBE liaison involvement early in the process
- Use language that eliminates barriers to participation
- Check appropriateness of insurance and bonding requirements
Procurement Process ... A three legged Stool

Program ... Develop “Scope-of-work with subject-matter-experts

Procurement ... Insures the contract comports to State finance and other Legal requirements

MWBE... Conscience to insure a level playing field

OGS Office of Minority and Women-owned Business Enterprises Available to assist!
Illustration
New Approach
Results
Contract without Impediments… Baked In!

- H-Bits- Hourly Based
  - 25 Contractors; 20 active with 5 in reserve
  - 16 of the 25 are MWBE
  - 20% subcontractor utilization goals
Contract without Impediments… Baked In!

• P-Bits- Project Based
  – Lot 1- $200,000; limited to MWBEs and SBEs
  – Lot 2- $200,001 to $7,500,00
  – Lot 3- $7,500,001 to $25,000,000
  – Results:
    • 63 MWBE awardees
    • 35 in Lot 1
    • 25 in Lot 2
    • 3 in Lot 3
Raising Your Agency’s Overall MWBE IQ
Empire State Development
Waiver Authority
Waiver Authority

- Pre RFP (Agency’s Good Faith)
- Rationale for Submitting Request
- Are MWBE contacted for follow-up
- QC… What is it and Why institute?
New Coding System
The Division has migrated from ESD Codes to industry standard codes. These standardized codes include:

I. **NAICS** - Industry Codes
II. **NIGP** - Commodity & Service Codes
III. **CSI** - Heavy Construction Codes

**ESD codes still used**
How to Find MWBEs Using the Directory

Anyone can access NYS DMWBDs MWBE Directory by logging onto www.NY.newNYcontracts.com and clicking ‘MWBE Directory’.
How to Find MWBEs Using the Directory

All searching can be done here.
How to Find MWBEs Using the Directory

Using keywords in the Business Description is a powerful way to come up with a list of vendors across all product code sets.

First though – one needs a basic understanding of the code structure.
How to Find MWBEs Using the Directory

Clicking the ‘Lookup Commodity Code’ will bring up a dialog box.

Click to Lookup Commodity Code

(popup window will appear to browse and search available Commodity Codes)
How to Find MWBEs Using the Directory
Clicking on this Drop Down arrow will show a list of all product code sets.
All Code sets drop down for a selection of all the new codes. Note that the old ESD code set is still visible for reference. The ESD code set will eventually be phased out but will stay hidden from view and thus remain available should future reference require.
New Policy: Supplier- Broker Utilization
What’s the Difference?

Supplier
- Firm can demonstrate that it owns, operates, and maintains a significant store or warehouse
- Materials, supplies, articles or equipment are bought, kept in stock, and regularly sold or leased in the usual course of business
- The firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale of lease of the products in question
- Manufacturers can be classified as suppliers

VS

Broker
- Firm fills orders for a third party by ordering, and/or purchasing from third party supplier
Background

Policies related to the certification and crediting of suppliers, brokers, and manufacturers within the vertical and horizontal construction industries have evolved over the years in New York State. With the adoption by NYS of industry standard product and services codes (NAICS/NIGP/CSI/DOT), the Division of Minority and Women’s Business Development (DMWBD) has received an increase in requests by Minority and Women-owned Business Enterprises (MWBEs) to add “supplier” codes to their existing certifications.

The Governor’s statewide 30% MWBE utilization goal, and enhanced concerns about MWBE fraud and performance of commercially useful functions, make it increasingly critical to formalize and clarify a policy which outlines the State’s definitions of each of these industries and establishes consistent crediting.
In order to establish a foundation for NYS policy, DMWBD reviewed and contrasted Federal Disadvantaged Business Enterprise policies, as well as policies adopted by a variety of states and localities with robust MWBE programs.

In addition, NYS Agencies, Authorities, Primes, and industry associations were informally interviewed to determine their use of suppliers, brokers, and manufacturers’ representatives and their concerns and recommendations regarding their utilization credit.
New Policy

Effective April 1, 2016, MWBE utilization crediting standards will be amended to credit brokers only for their commission, or markup percentage, for the items they brokered. Supplier credit reduced to 60% of total contract value to mirror the federal standards. Manufacturer crediting will remain the same.
Supply/Demand Utilization Initiative
Overview of Supply/Demand Utilization Initiative (SDU)

- SDU is based on an analysis completed by the Division using the Directory of Frequently Purchased Commodities and Services by New York State Agencies published by the New York State Office of the State Comptroller (FY 2012-13);

- DMWBD reviewed state purchases (services and commodities) across multiple industries and their sub-industries;

- The analysis focused on categories which comprised the largest percentage of state spending (over $50 million), number of certified firms within various subcategories, and the rates of utilization of MWBE firms and availability of firms;

- The Division concluded that there were significant state spend in targeted industries across AG/AUs, which there were certified firms in certain industries, but little utilization of those firms.
Professional Services

- Advertising & Marketing
- Architecture/Engineering/Environmental
- Financial Services (Auditing, Accounting, Asset Management, Underwriting)
- Legal
- Administrative/Clerical
Information Technology

- Consulting
- Maintenance & Support
- Software Development
- Communications
Supplies

- Dental
- Medical Supplies
- Laboratory
- Office Equipment
- Food and Beverages
SDU: Business Development Strategies

- Business development activities will help selected MWBEs meet the capacity needs of the state agencies that could possibly purchase goods or services from them.

- Working on a partnership with statewide Technical Assistance providers to provide enhanced support MWBEs within the SDU categories.

- Notifying MWBEs within targeted industries of contracting opportunities in discretionary spend and non-discretionary procurements.

- Collaborate with trade associations and advocacy groups in efforts of spurring interests of firms within targeted industries.

- Advocate with the state agencies and authorities that have the largest spending amounts within the target industries to increase their use of MWBE vendors.

- Identify and target discretionary purchase opportunities.
Understanding Diversity Practices
Overview of Diversity Practices

- Diversity practices are the efforts of contractors to include New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") in their business practices.

- Diversity practices may include past, present, or future actions and policies, and include activities of contractors on contracts with private entities and governmental units other than the State of New York.
Overview of Diversity Practices

- Assessing the diversity practices of contractors enables contractors to engage in meaningful, capacity-building collaborations with MWBEs.

- Diversity practices are intended to be applied on procurements in which procurement personnel exercise their subjective judgment in selecting one or more successful contractors on the basis of best value, **NOT** on procurements that are awarded based upon lowest price.
Contact information

Empire State Development
Division of Minority and Women’s Business Development
Office: 212.803.2433
Email: MWBEBusinessDev@esd.ny.gov

Office of General Services
Office of Minority and Women’s Business Enterprises
Office: 518.474.5390
Email: OGSMWBE@ogs.ny.gov
Questions and Answers