MWBE
Executive Law
Article 15-A

Requirements:

- Goal of 30% annual spend with Minority and/or Women-owned Business Enterprises (MWBEs)
- Goal Setting on eligible procurements
- Good Faith Efforts to meet MWBE Goals
How to Comply with Article 15-A

**GOOD FAITH EFFORTS**

- Making Discretionary Awards to MWBEs
- Setting Subcontracting Goals on Contracts + Application of Exclusions/Exemption Rules
- Seeking Waivers (as needed)
- Quarterly Compliance
What does this mean for you?
Discretionary Purchasing with MWBEs

- Anything that does NOT require a formal sealed bid
- Soliciting quotations from MWBEs
- Seeking MWBEs
  - Visit: https://ny.newnycontracts.com/
  - Contact Procurement!
Bids/Contracts Process Flow
If procurement is eligible, conduct project-specific goal setting.
Setting Goals on Contracts

● Predetermined list of Exclusions and Exemptions per the 2017/18 Guidance Bulletin (January 17, 2017 - the most recent)
  ○ If your procurement is on the Exclusion/Exemption list, goals do not apply.

● Goals are set on
  ○ Commodities/Services $25,000+
  ○ Construction $100,000+

● Project Specific Goal Setting: Requires cost estimate
If procurement is eligible, conduct project-specific goal setting.

~1 week

15 business days min

If goals are 30%+, advertise. If not...
1: What if goals aren’t 30% after goal setting?

We seek a pre-RFP waiver!

Need from you:

1. Justification specifying need and impact
2. Information on any deadlines

**We need to stress that your procurement is Important (students, campus community/prestige, research, safety...etc.) and Time Sensitive

Unfortunately, no exact lead times, but minimum of three weeks wait time.
If procurement is eligible, conduct project-specific goal setting.

Once Apparent Low Bidder is identified, review submitted Utilization Plan (Form 107) to see if bidder met goals. If bidder has **not** submitted 107, they need to submit within 48 hours. (7 days for construction/construction-related services)

~1 week

15 business days min

2 days

Procurement is advertised.

If goals are met, utilization plan is approved. If not...
2: What if bidder does not meet goals?

1. We issue a deficiency notice within **20 business days** after receipt of utilization plan.
   - Low bidder must make good faith efforts to include MWBEs for subcontracting
     - Outreach, negotiations, follow-up
     - “We don’t subcontract” is not acceptable

2. Bidder has **7 business days** to meet goals.
3. If they meet the goals, great! Approve and move on.
4. If not...
If bidder STILL does not meet goals, we seek a **post-RFP waiver**:

- Lengthy.
- “The average time frame for SUNY University-wide MWBE Program waiver request review is seven (7) business days before sending over to the Governor’s Office. The average time frame for the Governor’s Office review and approve waiver request is fourteen (14) business days.” - SUNY MWBE Waiver Procedure and Submission Guidelines, SFY 2017-18
  - This time frame does not include feedback/edit time from the SUNY MWBE Program Office.
- Could take months.
If procurement is eligible, conduct project-specific goal setting.  

Once Apparent Low Bidder is identified, review submitted Utilization Plan (Form 107) to see if bidder met goals. If bidder has not submitted 107, they need to submit within 48 hours. (7 days for construction/construction-related services)

Goals met or Waiver Granted

Quarterly compliance
Executive Law Article 17-B

Requirements:

- Goal of 6% annual spend with NYS-certified Service-Disabled Veteran-Owned Businesses (SDVOBs)

- No Goal Setting Required - flat 6% applied to:
  - Commodities/Services $25,000+
  - Construction $100,000+
Purchasing with SDVOBs

- **Seeking SDVOBs**
  - Visit: [https://online.ogs.ny.gov/SDVOB/search](https://online.ogs.ny.gov/SDVOB/search)

- **Set Asides**
  - At least two NYS Certified SDVOBs are available and can provide the commodity/service
  - No dollar threshold for set asides, but advertising in NYSCR is still required for procurements >$50,000
SDVOB Exclusions/Exemptions & Waivers

- Exclusions/Exemptions: Same rules as MWBE Exclusions/Exemptions Apply
- Waivers:
  - Pre-RFP: We do not decrease the SDVOB goal from 6% if MWBE goals apply. If we see no availability of SDVOB firms, we may then apply for a pre-RFP waiver.
  - Post-RFP: Bidder must make all good faith effort steps as outlined for MWBEs.
  - **Waivers for SDVOB utilization are quicker to obtain than MWBE waivers**
Contact!

Rebecca Kim
MWBE Program Coordinator
Phone: 631-632-9308
Email: Rebecca.Kim@stonybrook.edu
Questions???