

July 2013

Re: Minority and Women-owned Business Enterprise (MWBE) Goals

Dear Mental Health Service Provider:

As you may be aware, New York State Executive Law Article 15-A requires that, among other things, State agencies establish goals for maximum feasible participation of certified minority-and women-owned business enterprises (MWBE) and the employment of minority group members and women in the performance of Office of Mental Health (OMH) contracts. While MWBE utilization goals have existed for some time at OMH, recent changes to the regulations governing Article 15-A, specifically concerning the implementation and operation of the statewide certified minority-and women-owned business enterprises program, now require a higher level of effort by State agencies to increase the percentage goals.

In response to the regulation changes, for the past two years, OMH has established an overall goal in its non-grant contracts of 20% MWBE participation, and is now extending MWBE participation goals to include grant contracts. OMH recognizes that setting this goal for aid-to-localities (ATL) contracts is challenging because there are limited expenses to which MWBE utilization can be applied. Likely, most potential MWBE utilization opportunities would be for expenditures that are not associated with the direct provision of services and could be subcontracted, e.g. IT consulting, printing, cleaning, maintenance, or other purchases. Only New York State-certified MWBE firms or those in the process of becoming certified can be used as subcontractors to meet the stated goals. Firms certified as MWBEs in other states, or certified as Disadvantage Business Enterprises (DBEs) in the federal government program, do not qualify as subcontractors for meeting the stated MWBE goals. Verification of pending status will be required of firms currently in the process of becoming certified in New York State. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html> .

OMH supports and is committed to this effort and has developed requirements with related forms that all potential Contractors must comply with in order to be considered responsive to a solicitation and/or enter into a contract with OMH. Further details on MWBE participation requirements and procedures can be found in Attachment A (attached). All related MWBE utilization forms and instructions are provided as attachments to this letter and are also available on OMH's website at www.omh.ny.gov/directcontract.

In the event that a Contractor cannot meet the entirety of the goals as stated, an Application for Waiver (Exhibit 2) must be completed. The application must document Good Faith Efforts (GFE) consistent with Section NYCRR 142.8 of the MWBE regulations. In addition to completing the waiver application, Contractors must submit a signed and notarized Certification of GFE (Exhibit 2-a) affirming due diligence in performing a GFE to meet the goals. Waivers are reviewed by OMH but ultimate approval lies with the Executive Chamber.

Questions regarding the certification process or the New York State MWBE program in general should be addressed to the Empire State Development Corporation at (518) 292-5250.

Questions regarding the OMH MWBE program or requests for technical assistance should be addressed to Carol Swiderski or Lisa McLea at (518) 473-7885.

Thank you for your continued support and we look forward to working with you on this important initiative.

Sincerely,

Nancy P. Splonskowski
Director, Contracts & Claims
Community Budget & Financial Management

Attachments