

# Understanding M/WBE Compliance



A Guide to Achieving Article 15-A Compliance in OASAS Contracting  
January 2015



# What is M/WBE - EEO?

- M/WBE - Minority- and Women-Owned Business Enterprises
  - **MBE** – Minority-Owned Business Enterprises
  - **WBE** – Women-Owned Business Enterprises

**PLEASE NOTE** - OASAS has set its M/WBE Participation Goal at 30% and recommends that, whenever practicable, its contractors attempt to equally utilize Minority-Owned Business Enterprises (“MBE”) and Women-Owned Business Enterprises (“WBE”) participation in the performance of the contract.

- EEO - Equal Employment Opportunity
- Article 15-A of the New York State Executive Law and its associated regulations outline the requirements of this agency’s M/WBE-EEO program



# Applicability of Article 15-A

- **State Vs. Federal Funding** – *NYS requires that all contractors, including those with contracts that are 100% Federally-funded, comply fully with the M/WBE initiative. As such, OASAS requires that all contractors meet established spending goals.*
- **Net Deficit Funding** – *For programs that are supported using Net Deficit Funding, contractors are expected to implement procurement practices that maximize M/WBE utilization when acquiring Non Personal Services (NPS) and to document good-faith procurement efforts.*
- **EEO – M/WBE Requirements include completing the following forms:**
  - ✓ Organization's EEO – M/WBE Policy Statement
  - ✓ Project Staffing Plan
  - ✓ Subcontracting/Suppliers Utilization
  - ✓ M/WBE Subcontractors and Suppliers Letter of Intent to Participate
  - ✓ M/WBE Quarterly Report



# Who is Responsible for Considering M/WBE Goals in Discretionary Spending?

- **For-Profit Contractors M/WBE Certified** will have all dollars from their Budget counted toward OASAS agency goal.
- **For-Profit Contractors not MWBE Certified** must consider OASAS goals with all subcontracts/services, products or commodities secured with discretionary funds in the NPS portion of their Budget.
- **Not-for Profit Contractors, counties and local governmental jurisdictions** must consider OASAS goals with all subcontracts/purchase agreements for services, products or commodities secured with discretionary funds in the NPS portion of their Budget.



# NYS Certified M/WBEs

## NYS Certified Vs. Non-Certified M/WBEs

Only New York State Certified Minority- and Women-Owned Businesses can count towards participation goals. Firms certified through other entities or jurisdictions cannot be counted towards contract goals.

Find eligible businesses by searching the NYS M/WBE Directory located at:

<https://ny.newnycontracts.com>



The screenshot shows the top section of the New York State Contract System website. It features the state seal on the left, the text "NEW YORK STATE Contract System" in large blue and orange letters in the center, and a logo on the right that says "The New NY WORKS for Business" with a map of New York. Below this are six small images: a grid of data, a group of people, a calculator and charts, a group of people, a city street, and a construction site. At the bottom, there is a search bar with the text "NYS M/WBE Directory" and "Search for Certified Firms". Below the search bar, it says "Search the NYS M/WBE Directory of Certified Firms by entering search terms and clicking Search. You must select at least one certification type." To the right of the search bar, there is a button that says "→ MWBE Directory" and a link that says "NYSCS Links".



# A Look at the NYS Contract System Homepage

<https://ny.newnycontracts.com>

## Governor's M/WBE Program

- Press Release
- Executive Order
- 2011 State of the State MWBE Clip
- 2012 State of the State MWBE Clip

## Empire State Development

- Who We Are
- MWBE Division

## Businesses

### Want to Certify?

- Learn About Certification
- Apply for Certification
- Recertify
- Update Profile

## Find NYS Contracting Opportunities

- Bid & Grant Opportunities

## NYS M/WBE Directory

Search the NYS M/WBE Directory of Certified Firms by entering search terms and clicking **Search**. You must select at least one certification type.

### Search by Business Name or DBA

Business Name/DBA

Tip: Try just a few letters of the firm's name.

### Search by Business Description

Business Description

### Search by Commodity Code

Commodity Code

[Click to Lookup Commodity Code](#)  
(popup window will appear to browse and search available Commodity Codes)

### Search by Contact Person

Contact Person/Owner

First name

Last name

<input type="text"/>	<input type="text"/>
----------------------	----------------------

Tip: Use the first letter

Tip: Try just the first four letters

## Search for Certified Firms

- MWBE Directory

## NYSCS Links

- Home/Login
- Contact Us & Support
- Password Reminder
- Account Lookup
- Outreach & Program Notices
- FAQs



More @ <https://ny.newnycontracts.com>

Vendors who are interested in becoming certified as an M/WBE can also begin the process at the NYS Contract System Website.

- No fee to apply
- Process is streamlined
- Application process is 95% on line
- Cross Certification with NYC and NY/NJ Port Authority possible

The screenshot shows a navigation menu for the NYS M/WBE Program. It is organized into four main sections, each with a search button to its right:

- Governor's M/WBE Program**
  - Press Release
  - Executive Order
  - 2011 State of the State MWBE Clip
  - 2012 State of the State MWBE Clip

Search by clicking Search
- Empire State Development**
  - Who We Are
  - MWBE Division

Search by Business Name
- Businesses**

Want to Certify?

  - Learn About Certification
  - Apply for Certification
  - Recertify
  - Update Profile

Search by Business Description
- Find NYS Contracting Opportunities**
  - Bid & Grant Opportunities

Search by Contact Person



# Compliance Process

The Contractor should:

- 1. Read the awarded contract to understand the specific M/WBE requirements.**
- 2. Identify all discretionary NPS items in the approved budget and determine the total dollar amount.** *Instructions on identifying discretionary NPS can be found on pages 12-15 of this presentation.*
- 3. Calculate the M/WBE Participation Goal Amount -** *Currently OASAS requires its contractors set a goal amount equal to 30% of discretionary NPS. Multiply the M/WBE Goal(%) by Discretionary NPS Amount(\$)*



# Compliance Process *Continued*

4. Review the list of discretionary NPS items to be purchased
5. Use the Directory of NYS Certified M/WBEs to identify appropriate vendor(s) to make the purchases.

<https://ny.newnycontracts.com>

6. Develop purchasing strategies that maximize M/WBE utilization

*Information developed in steps 1 – 5 is entered onto the Subcontracting/ Suppliers Utilization and M/WBE Subcontractors and Suppliers Letter of Intent to Participate*

7. Report M/WBE spending on a quarterly basis using the M/WBE Quarterly Report Form.



# How Do I Find Information on M/WBE Requirements?

The information about the specific M/WBE participation goals is provided in various OASAS documents:

- Request for Proposal (RFP), Invitation for Bids (IFB), Request for Quotes (RFQ), Request for Applications (RFA), etc.
- Contract award documents and correspondence
- Renewal packages



# Finding the M/WBE Goal

The OASAS Annual Goal Plan/Update is located on the Procurements page of the OASAS internet site:

<http://www.oasas.ny.gov/procurements/index.cfm>



Annual MWBE Goal Plan



# Discretionary Spending Defined

Discretionary spending is defined as procurements, earmarked in the NPS (Non-Personal Service) sections of the Budget, where the vendor has options as to who to select in order to solicit a service, product or commodity.

Discretionary purchasing also improves opportunities for M/WBE vendors to secure business with the state.

BUDGET CATEGORIES	TOT/ CONTR
<b>EXPENSES (GROSS)</b>	
Personal Services	
FICA & Fringe Benefits	
O.T.P.S.	
Equipment	
Property/Space	
Agency Administration	
Non-Allowable Expenses	
<b>Total Gross Expenses</b>	
<b>REVENUE</b>	
Patient Fees	
SSI and SSA	
Public Assistance	
Medicaid	
Medicare	
State Grant	
Third Party/Private Insurance	
Federal Grant	
Food Stamps	
Disproportionate Share	
Local Tax	
Voluntary Contributions	
<b>Total Revenue</b>	
<b>NET OPERATING COST</b>	
State Aid	
Non-Funded	
Local Government	



# Areas Usually With No Discretion

- Examples of budget items which are not considered discretionary are:

Personnel costs including fringe benefits

Rent

Utilities

Telephones

Travel expenses

Postage

Etc.



# Opportunities for Discretion

Examples of common discretionary NPS budget items:

- Program Supplies
- Computer Equipment and Supplies
- Office Supplies
- Educational Supplies
- Art and Crafts Supplies
- Equipment
- Paper Products
- Electronics & Accessories
- Furniture
- Printing Services



# Other Areas to be Considered for Discretion

In addition, the availability of M/WBEs to perform certain types of contractual services must be examined prior to entering into contractual relationships with non-M/WBEs. Examples of the types of services that must be evaluated are:

- Consultants for Provision of Program Services
- Janitorial Services
- Equipment Maintenance
- Computer/IT Service
- Accounting Services
- Insurance
- Transportation Costs (program services)



# Need Help?

## **NYS Office of Alcoholism and Substance Abuse Services**

### **OASAS Procurements Email**

[Procurements@oasas.ny.gov](mailto:Procurements@oasas.ny.gov)  
(include "MWBE" in your subject line)

### **OASAS Bureau of Contracts & Procurement**

Bill Reilly, Director; [bill.reilly@oasas.ny.gov](mailto:bill.reilly@oasas.ny.gov); 518-485-2194

### **NYS Empire State Development Corp Division of Minority & Woman Business Development**

<https://ny.newnycontracts.com>

### **NYS Office of General Services(OGS) Procurement Services Group**

[www.ogs.ny.gov](http://www.ogs.ny.gov)  
[customer.services@ogs.ny.gov](mailto:customer.services@ogs.ny.gov)  
(518) 474-6717

