



**Homes and
Community Renewal**

M/WBE Compliance

Tools for Non-For-Profit Grantees

Presented by the Office of Economic Opportunity and Partnership Development
in collaboration with
Affordable Housing Corporation
New York State Rural Housing Coalition, Inc.
New York State Rural Advocates

Tameika Edwards presenting
Regulations Title Page– Slide #2

We're going to begin with the regulations.

Governing Regulations – Slide #3

Article 15 – A and 5 NYCRR Parts 142 -144 were signed into law to promote employment and business opportunities on State contracts for minority and women-owned businesses. The regulations require MWBE participation goals for all state contracts

- 1) In excess of \$25,000 for labor, services, equipment, materials or any combination
- 2) In excess of \$100,000 for real property renovations and construction

HCR will apply the MWBE goals to the total grant remaining after land acquisition and administrative costs have been removed. If your funding amount has not been adjusted, please contact your compliance specialist: Tameika Edwards for projects located in NYC and Lisa Rambaran for projects in all other regions.

Additional provisions have been made for grants awarded for Home Improvement and Manufactured Home Repair programs. That will be addressed later in the presentation.

Grantee Compliance Requirements – Slide #4

For the purpose of this program, Grantees are required to maintain centralized records on participating MWBEs documenting the contract values and payments made using HCR awarded funds. Grantees are responsible for submitting quarterly reports for each grant awarded. After each quarter, your compliance specialist will record the payments reported on a cumulative tally sheet for each project and return them to your office. Your records will be critical for reconciling these tally sheets to capture any errors or missed payments. Also, if you have an MWBE sub who received their certification during the life of your project, please let us know at this point so your tally sheet can be adjusted, crediting you for the MWBE's participation.

Each fiscal year begins April 1st and ends March 31st of the following year. The reporting schedule goes as follows:

Quarter	Reporting Period (Payments Made)	Due Date
1 st	April 1-June 30	July 5 th
2 nd	July 1-September 30	October 5 th
3 rd	October 1-December 31	January 5 th
4 th	January 1-March 31	April 5 th

Once construction has been completed, please indicate “Final Report” on your submission and communicate with your compliance specialist. Your compliance specialist will review all documents and give a final report to your AHC project manager.

Applying the MWBE Goal – Slide #5

This slide applies to all projects that are not requesting a waiver at the beginning of their project. To understand how to apply the MWBE goals to your grant you will need to start with the total amount awarded from AHC. Do not include any other funding sources. Then, deduct 10% for administrative costs. If your project received funds for acquisition and rehabilitation, deduct the acquisition costs from the remaining funding amount. The acquisition cost should not exceed 49% of the total award. Finally, apply the county specific MWBE goals to the remaining funds used for construction related hard and/or soft costs. You can be creative with your MWBE selection utilizing anything from consultants or accountants to builders and suppliers.

Compliance Forms Title Page– Slide #6

HCR Forms Webpage - Slide #7

All of our compliance forms are available online on the Economic Opportunity and Partnership Development Forms page accessible through the Economic Opportunity Corner. For the purpose of MWBE quarterly reporting you are responsible for submitting the MWBE Utilization Plan, the Cumulative Payment Statement for Grant Projects, the Affirmation of Income Payments to MWBEs, and the Monthly Employment Utilization or EEO forms listed in the MWBE & EEO section highlighted in red. The Good Faith Effort Guide and Certification of Good Faith Efforts form are also available for your convenience. Each form includes an instructional page with a definition of terms. If you would like to request a copy of these forms, please send an email to econ.opportunity@nyshcr.org

MWBE Utilization Plan – Slide #8

The first form you will need to submit is the MWBE Utilization Plan. This will be the outline for your MWBE participation. The preliminary utilization plan shows the projected use of certified MWBEs from the beginning to the end of your project. At this point, you should have already been contacted by your compliance specialist who should have communicated your applicable funding amount and your regional MWBE goals necessary to complete this plan. In order to be accepted, the utilization plan must meet the MWBE goals applied to your funding. This plan must be

approved by our office prior to receiving grant funds. In other words, your grant disbursements will be held until you are in compliance with our office.

Exceptions to the Preliminary Utilization Plan:

- If your grant was awarded for the purpose of reducing sales costs or down payment assistance/closing costs, do not submit this form. Send an email to your compliance specialist requesting a waiver for your project.
- If your grant was awarded for the purpose of gap financing. Do not submit this form. You will need to prepare a good faith effort package. Send an email to your compliance specialist requesting a waiver for your project, with the GFE attached.
- If your grant was awarded for the purpose of manufactured home repairs, do not submit this form. You will also need to request a waiver from your compliance specialist.

Your compliance specialist will prepare and submit the waiver request to the Governor's Executive Chamber on your behalf.

- The last exception is home improvement. If your grant was awarded for the purpose of Home Improvement, you **will** need to submit a preliminary utilization plan. We understand the home owner chooses the contractors at their own discretion so we are asking you to identify a pool of prequalified contractors, including certified MWBEs, for the homeowner to choose from. You will need to supply that list on the preliminary utilization plan. If the homeowner decides to utilize the MWBEs listed, you can submit an amended plan with just the certified MWBEs selected.

Sample Utilization Plan Form – Slide #9

This is the utilization plan. You must fill in all fields and sign the utilization plan. The first section asks for information regarding the grantee and the organization managing the project. In the field where it says "Project or SHARS#" please indicate your AHC Grant number. This is usually a combination of numbers and letters. The "Contract Amount" field will always be N/A. Your funding amount will be the total applicable grant funding after the appropriate exemptions have been deducted. If you currently have a project that has not been reviewed for an adjustment to your funding amount, please send an email to econ.opportunity@nyshcr.org. In the Contractor Name field, please indicate the general contractor managing your project and the address, telephone number, email address, and federal id number for your GC. If you are managing the construction of your project, please list your organization as the GC. You will also have to list your organization

under Developer Name and include the appropriate contact information. The next section captures information regarding the MWBEs participating on your project. You will need to include the name, address, and federal ID for these firms. Identify whether the subcontractor will be applied to your goal as an MBE or WBE. Dual certified firms will only be credited as an MBE or WBE for each contract on the project. Also include a general description of the work they will perform and an estimated value for the contract as well as the anticipated start and end date. For home improvement, this is where you will identify your prequalified contractors. Finally, sign and date on the bottom left corner. Once your preliminary plan has been accepted, you will not need to resubmit this form unless you would like to report a change in your projected MWBE usage. If you need to change your plan, you can submit an amended utilization plan attached to your quarterly report.

Cumulative Payment Statement – Slide #10

The cumulative payment statement captures the payment activity for the quarter. You will need to record payments made to all subcontractors including your non-MWBE subs. If you did not issue a payment during the quarter, you must still submit this form with your quarterly report and indicate “no activity”.

Cumulative Payment Statement Form – Slide #11

Here we have the revised cumulative payment statement. Again, this form is required every quarter. The top portion is where you will provide the grantee information. Identify the grantee under all fields identified as “contractor”. Again, the project name is the alpha numeric grant identifier. Also, identify the person compiling the report. In the event that we have a question regarding a payment or something that may have been entered incorrectly, we’d like to have it rectified as soon as possible. Also, be sure to identify the appropriate quarter and fiscal year.

Your payments for the quarter are recorded in the second section. We made some adjustments to the form to make this process a little easier. For instance, you can record as many subcontractors as needed on one page and the spreadsheet will tally your payments in the “summary of expenditures” at the top right corner. We added the “firm certification type” drop down with additional identifiers. You can identify your sub as a certified M or W, an uncertified M or W, an M or W with a pending certification application, or N/A for non-MWBE firms. At the end of your project, this can be included as part of your effort to meet the goals if a good faith effort package is required. Also,

article 15-A requires we document if there is a written contract on file for each subcontractor. The other fields are self-explanatory, but there is a tab with instructions if you need clarification. When you are ready to submit your quarterly report electronically, you can submit this form as an excel spreadsheet. If you need to print this form, please set your print area by selecting the entire area you would like to print by clicking the top left corner (cell A1) and dragging your mouse to include all the appropriate columns and rows. The selected area should appear grey with a green border. Then, at the top left side, select the page layout tab – print area – set print area. This will stop additional unwanted rows from printing.

Affirmation of Income Payment Statement – Slide #12

This affirmation of income payment statement or AFF confirms the MWBE subcontractor listed on the cumulative payment statement received a payment from your organization. You will need to submit an AFF for each MWBE payment on the Cumulative Payment Statement. The form must be signed by both the grantee and the MWBE. If there were no MWBE payments reported for the quarter, you do not need to submit this form with your report. If there was a payment made to an MWBE with a pending certification application, we recommend an AFF be included with your submission for this payment. Once the certification application has been approved, we can review previous quarterly submissions and make adjustments to the progress of your MWBE attainment. Please note, when completing this form, the MWBE payment for the quarter must be recorded on Line 5b. This dollar amount must coincide with the payment reported on the cumulative payment statement or you will need to resubmit your report.

Sample Affirmation of Income Payment Statement - Slide #13

This is the entire AFF. The grantee’s information is listed in the “Contractor” section. The certified or pending MWBEs information is listed in the “MWBE Firm” section.

Identify the services provided, contract amount, payment for the reporting period, and total payments received to date.

Good Faith Efforts Title Page – Slide #14

The combination of these forms make up your quarterly report. You will need to submit your quarterly reports to your compliance specialist and cc: econ.opportunity@nyshcr.org in order to remain in compliance and continue to receive disbursements from your grant.

Lisa Rambaran presenting – Slide 14

The non-profit compliance with the New York State Homes & Community Renewal Minority and Women Owned Business Enterprises (M/WBE) policy will be evaluated based upon the use of “Good Faith Efforts” to achieve maximum participation results.

Good Faith Effort Form – Slide #15

What is the Certification of Good Faith Efforts (GFE)?

Each awardees’ effort will be rated by applying the references in the guide provided by your Compliance Specialist and taking into account the following:

- Size of the contract
- Location of the project
- Capability and availability of M/WBE

Please document dates and detailed descriptions of the actions taken, for each good faith effort listed. Please add documentation, narrative or attached pages as needed to supplement your responses. NYS-certified MWBEs may be found at the NYS Contract System, by contacting Empire State Development Corporation at (518) 292-5250 or your Compliance Specialist. A link to the NYS Contract System is also provided on our Economic Opportunity Corner.

- (As I have detailed)The Compliance Specialist will provide a Certification of Good Faith Efforts (GFE) form and guide, when requested
- Non-Profits applying for Gap Financing – or to lower the sales cost for home purchase, for (New Construction and Acquisition/Rehab projects) must submit a GFE
- Projects that have not met their MWBE goals must submit a GFE before their project closes out.

GFEs should include:

- All certified and non-certified MWBE firms utilized during the project in construction and non-construction related trade offering professional services.
- All bidding efforts (such as a bid list of MWBE contractors), marketing and outreach efforts to increase minority and/or women workforce. (see below)

Sample GFE Marketing/Outreach - Slides #16-18

Some examples of GFE Marketing/Outreach Efforts:

- Solicit and document a list of NYS-certified MWBEs.
- Attend MWBE conferences/events.
- Advertisement placed in general circulation, trade associations, MWBE publications or newsletters.
- Sponsor business opportunity-related meetings, conferences, seminars with minority organizations.
- Notices placed in common areas of housing developments, public housing authority buildings, schools, daycare facilities.
- Utilization of local media, electronic and print, to promote contract and business opportunities for MBEs and WBEs.
- Placing outreach material at movie theaters that provide free public service announcements.
- Partner with faith-based and community organizations that serve the minority population.
- Conduct outreach activities at adult-education training centers or other community activity classes.
- Internet
- Social Media - Facebook, Twitter.

Waivers Title Page - Slide #19

In regards to questions about waivers...

Waivers - Slide #20

How to secure a waiver?

- A comprehensive package must be accepted and approved before it is sent to the Executive Chamber for review.

When to request for a waiver?

- At the beginning, once your grant has been awarded for down payment or closing cost assistance, gap financing or manufactured home repair programs **or**
- At the end of construction, before the closing of your project if it did not meet the MWBE goals.

Who approves waivers?

- Only the Executive Chamber can approve a request to waive your goals

How long does it take to approve a waiver?

- Once a completed package is submitted, it will take within 30 days for a response.

Types of programs that have successfully received waivers

- Grants allocated towards down payment and closing costs assistance
- Gap financing
- Home Improvement
- Manufactured home repair
- Existing projects that have not met their MWBE goals at the end of their project

Gap Financing - Slide #21

Gap financing- For projects where construction is completed using other funding sources that have been exhausted. Seeking funds from the agency to lower sales cost, requires the submission of an application to the agency to include a waiver, with a supplemental Good Faith Effort (GFE) attached in lieu of the M/WBE Utilization Plan. This must be approved before your grant is awarded preceding a contract execution.

Home Improvement - Slide #22

Home Improvement- for projects where funds are allocated to individual home improvements projects and the homeowners choose their contractors. A bid list of contractors inclusive of MWBEs must be available for homeowners to choose from listed on the Utilization Plan discussed. A Good

Faith Effort package must be submitted before the closing of the project with the Utilization Plan and all other supporting documents outlining efforts.

Terry Owens presenting

MWBE Participation Goals Title Page – Slide #23

As we turn our attention to the MWBE participation goals please note that Governor Cuomo has made MWBE utilization one of his top priorities of his administration, setting an overall goal to 30% Statewide. Construction Activity is one area that HCR captures MWBE utilization.

NYS Regional Map – Slide #24

The New York State Regional Map shows how NYS is divided into the ten regions. Your AHC project # identifies the region your project is listed. Please note, projects located in multi-counties in multiple regions, will have an identifier starting with 11.

MWBE Participation Goals by County – Slide #25

MWBE goals have been established based on availability within the county. The MWBE participation goals relate to the state certified minority and/or women owned business enterprises working on the projects statewide. For projects involving multiple counties, use a weighted average based on the proportional allocation of funding per county.

Resources Title Page– Slide #26

As we conclude our presentation, again, please note the resources available to you and your organization through our website and specifically through ESD.

Role of NYS Empire State Development – Slide #27

New York State Empire State Development's Division of Minority and Women Business Development or (DMWBD) certifies and monitor the utilization of MWBEs throughout the state. All certification questions should be directed to ESD. They maintain the directory of certified minority and women-owned businesses in state and out of state. ESD will also assist your contractors and other business partners with their certification process.

Please note, there is a certification hotline telephone number that you can call to see where your organization is in regards to certification. You must provide the firm's name and application id#. The number to the Certification Helpline is: (212) 803-2414. The link to the new fully integrated online application for navigating NYS MWBE Certification is available on the Economic Opportunity Corner. (<http://esd.ny.gov/MWBE/Certification.html>)- reference only

Economic Opportunity Corner Website – Slide #28

The Economic Opportunity Corner holds a wealth of information for Minority and Women-Owned Business Enterprises. It gives you an opportunity to see other current HCR Projects that are meeting or exceeding MWBE Requirements.

The Economic Opportunity Corner is also an excellent resource for currently certified firms. It outlines the New York State “Bridge to Success Loan Program that provides qualified MWBEs with the short-term resources they need to participate in contracting opportunities with New York State.

We are committed in directing or providing technical assistance with your communication with ESD on the certification.

HCR maintains a database of MWBE'S that have worked on agency funded projects. This database also includes, professional service contractors. We look forward to answering any questions you may have.

Compliance Specialists – Slide #29

In conclusion, we have the names and contact information for the Compliance Specialists.

Questions/Comments – Slide #30

And the e-mail address to submit your questions.