



Governor's Office of Storm Recovery



Andrew M. Cuomo
Governor

Lisa Bova-Hiatt
Executive Director

GOSR GOOD FAITH EFFORTS GUIDELINES

All participating entities (including vendors and subrecipients) engaged with GOSR (operating under the umbrella of NY Rising) must make a commitment and demonstrate an acceptable “Good Faith Effort” toward achievement of GOSR’s M/WBE utilization goal of 30 percent participation (15 percent MBE, 15 percent WBE).

GOSR’s Diversity and Civil Rights (DCR) Department oversees all participating entities progress towards achieving their M/WBE goals. All entities must notify DCR of any considerations or concerns preventing M/WBE participation and provide documentation supporting their concerns.

In some cases, where participating entities are non-profit subrecipients, implementing public service activities where the majority of the grant will be used to reimburse the subrecipient for staff time. In these cases, entities can comply with GOSR’s M/WBE 30 percent goals by ensuring that 30 percent of any funds that are spent on goods or services are directed to M/WBE vendors or service providers. For example, a subrecipient can utilize M/WBE firms when purchasing supplies or for other vendor services such as marketing and promotions. Additionally where participating entities are subrecipients, they must complete DCR’s excel-based M/WBE Utilization Plan and update it whenever a new contract is entered into or amended, and must report progress towards meeting goals through Elation System.

Enforcement

Failure to comply with the requirement to make Good Faith Efforts may include but are not limited to the following consequences:

1. An onsite integrity monitor may be assigned to evaluate and document subrecipients and their contractors Good Faith Efforts and any deficiencies in implementation.
2. Some or all costs for the integrity monitor may be withdrawn from the grant award.
3. A monetary penalty may be imposed in an amount between the contractually stated goal or GOSR-approved utilization plan goal, and the utilization actually achieved by the contractor.
4. Future payments/awards may be tolled until compliance is achieved.
5. Future projects may be fully or partially defunded depending on the magnitude of non-compliance.

Vendors and subrecipients will receive written notice prior to the issuance of any of the above-stated consequences, and will receive a reasonable period to make corrective actions.

Documenting Good Faith Efforts

All participating entities compliance with the M/WBE program will be evaluated on the basis of their use of “Good Faith Efforts” to achieve maximum participation results. *Below is a list of the 17 steps* that can be taken in order to demonstrate Good Faith Efforts. All participants should undertake as many of these activities as possible in order to achieve the required 15 percent MBE and 15 percent WBE goals. Additionally participants must maintain a log and document all dates and detailed descriptions of the actions taken for each Good Faith Effort that was undertaken as well as add documentation, narrative or attached pages as needed to supplement responses.

GOOD FAITH EFFORTS LIST

1. Make frequent and timely advertisements in newspapers and periodicals that market to M/WBEs.
 - a. Maintain a log of dates of advertisements and the name of the publication.
 - b. Maintain copies of the advertisement itself.
 - c. Record copies of responses made by certified M/WBEs to your advertisement.
2. Make timely follow ups to responses received by M/WBEs.
 - a. If you received responses to your solicitations but did not select the M/WBE, maintain records describing why a response from a certified M/WBE was not selected.
 - b. Log responses from M/WBEs.



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3. Utilize list of certified M/WBEs in the Empire State Development directory, www.esd.ny.gov.
 - a. Maintain a log of all communications, including names, contacts and dates.
 - b. Maintain records including, copies of notices/solicitations, dates of contact, letters, etc.
4. Advertise your requirements in the NYS Contract Reporter, <https://www.nyscr.ny.gov/> as well as the NYS Storm Recovery Local Workforce Opportunities Page, www.nystormrecoveryopps.com.
 - a. Provide copies of your advertisements, dates on which the ad was submitted and log responses received.
5. Conduct pre-bid, pre-award, or other meetings to inform M/WBEs of available opportunities.
 - a. Maintain a record of the names of companies, dates, and locations of meetings attended.
6. Attend pre-bid, pre-award, or other meetings organized by GOSR to inform M/WBEs of opportunities available.
 - a. Maintain a record of the names, dates, and locations of meetings attended.
7. Contact community organizations and state/federal business assistance offices that provide support in the recruitment and placement of M/WBEs.
 - a. Maintain a record of all communications including, dates and contacts.
8. Send written notification to M/WBEs and trade associations located within the region where the work will be performed.
 - a. Maintain a record of communications.
9. Provide documents/plans/bid specifications to certified M/WBEs, and allow adequate time for them to respond to bids.
 - a. Record the steps taken to structure the scope of work for the purpose of contracting with certified M/WBEs.
10. Establish contacts and working relationships with certified M/WBE firms.
 - a. Maintain a log of all communications.
11. Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority/women's business enterprises.
 - a. Maintain a log of all such contracts and activities.
12. Establish delivery schedules which encourage participation by small and minority/women's business enterprises.
 - a. Maintain records of such schedules and activities.
13. Undertake specific steps to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified minority and women-owned business enterprises.
 - a. Provide record of all such contracts modified and list of steps as well as activities.
14. Make efforts to solicit certified M/WBEs located outside the region where the scope of work is to be performed and evaluate their ability to participate.
 - a. Log all efforts made for such outreach.
15. Document the evaluation you conducted to determine eligibility for participation.
16. Provide the same sub contract terms and conditions to certified M/WBEs as the ones offered to other sub-contractors in the ordinary course of business.
 - a. Document the terms and conditions being offered to both entities.
17. Make efforts to engage in either telephone or direct, in-person negotiations with NYS certified M/WBEs whose quotes were too high.
 - a. Document such efforts made by keeping a log of all communications.