

## APPLICATION FOR WAIVER OF MWBE PARTICIPATION GOALS

*This form must be submitted for review and approval by HRPT MWBE staff and the Governor's staff.  
 Waiver approval must be received prior to completion of the project and is a prerequisite for full and final payment.*

Section 1: Basic Information			
<b>Contractor's Name:</b>  Are you a NYS MWBE certified by the NYS Empire State Development Corp? <input type="checkbox"/> Yes <input type="checkbox"/> No		<b>Federal ID Number:</b>	<b>SFS Vendor ID Number:</b>
<b>Street Address:</b>		<b>E-Mail Address:</b>	
<b>City, State, Zip Code:</b>		<b>Telephone:</b>	
<b>Contract Number:</b>		<b>Location:</b>	
<b>Description of Project:</b>		<b>MWBE Goals Assigned to the Contract</b>	
		<b>MBE%</b>	<b>WBE %</b>
Section 2: Type of MWBE Waiver Requested			
<b>MBE Waiver</b>	<input type="checkbox"/> Total Waiver	<input type="checkbox"/> Partial Waiver	If partial waiver is being requested please indicate the proposed MBE utilization: MBE: _____%
<b>WBE Waiver</b>	<input type="checkbox"/> Total Waiver	<input type="checkbox"/> Partial Waiver	If partial waiver is being requested please indicate the proposed WBE utilization: WBE: _____%
<b>Does a certified MWBE exist anywhere in New York State that can provide at least 30% of the products and/or services needed for the contract? If so, please explain in detail the reason you are requesting a waiver.</b>			
Section 3: Supporting Documentation			
Provide the following documentation as evidence of your good faith efforts to meet the M/WBE goals set forth in the contract and support of your waiver application: (Please check all that apply).			
<input type="checkbox"/> <b>Attachment A.</b> List of the general circulation, trade and MWBE specific publications and dates of publications in which your firm solicited for certified MWBE participation as a subcontractor/supplier and copies of such solicitations.			
<input type="checkbox"/> <b>Attachment B.</b> List of the certified MWBEs appearing in the Empire State Development M/WBE directory ( <a href="http://www.esd.ny.gov">www.esd.ny.gov</a> ) that were solicited for this contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.			
<input type="checkbox"/> <b>Attachment C.</b> Descriptions of the contract documents/plans/specifications made available to certified MWBEs by the contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs.			
<input type="checkbox"/> <b>Attachment D.</b> Description of the negotiations between the contractor and certified MWBEs for the purposes of complying with the MWBE goals of this contract.			
<input type="checkbox"/> <b>Attachment E.</b> Identify dates of pre-bid, pre-award or other meetings attended by the contractor and scheduled by HRPT with certified MWBEs whom HRPT determined were capable of fulfilling the MWBE goals set in the contract.			
<input type="checkbox"/> <b>Attachment F.</b> Other information deemed relevant to the request.			
Section 4: Signature and Contact Information			
<b>DECLARATION: The undersigned certifies that s/he is authorized by the Contractor identified above to make this Declaration. The Contractor has made good faith efforts, as defined in NYS law, to meet the MWBE goals contained in NYS law and under the applicable contract. The undersigned acknowledges that failure to submit complete and accurate information in connection with a waiver request may result in denial and/or a finding of noncompliance. Failure to establish good faith efforts may result in suspension or termination of a New York State contract.</b>			
Prepared By : (Signature)			Date:
Name and Title of Preparer:			

## APPLICATION FOR WAIVER OF MWBE PARTICIPATION GOALS

### *Instructions for Completing and Submitting an Application for a Waiver of MWBE Utilization Goals*

Article 15-A of the New York State Executive Law and 5 NYCRR 140-145 require State agencies to set goals for participation by minority and women owned business enterprises (MWBEs) on many types of State contracts. Prior to the contract award, separate goals are established for MBE and WBE utilization, expressed as a percentage of anticipated payments made under the contract. A State agency shall not grant any automatic waivers of goal requirements on a State contract but may grant a partial or total waiver of goal requirements established on a State contract only upon the submission of a waiver form by a contractor, documenting good faith efforts. Failure to make good faith efforts may result in a State contract being awarded to another bidder, or, if the contract is already in progress, may result in financial penalties.

### **Section 1: Basic Information**

Complete all sections, enter the contractor's name, address, federal identification number, State Financial System (SFS) vendor identification number, contract number. Please provide a current e-mail address and telephone number where the firm can be reached. In the space provided, please summarize a detailed description of the project and state the location of the work under the contract. Please state the MWBE utilization goals assigned to the contract.

### **Section 2: Type of Waiver Request**

You may request a total or partial waiver of the MBE goals and/or a total or partial waiver of the WBE goals. If a partial waiver is being requested, please state the MWBE utilization that the firm is proposing. In the space provided, explain in detail the need of a waiver for the MWBE participation goals.

### **Section 3: Supporting Documentation**

Extensive documentation is required to demonstrate good faith efforts to comply with the MWBE goals. See the form for the specific details on the required documentation and check all that apply.

### **Section 4: Signature and Contact Information**

The waiver application must be signed by an authorized official of the firm who will be responsible for the contract. By signing the waiver application, the authorized official is certifying that he or she is authorized to make the DECLARATION that has been set forth, and that the Contractor has made good faith efforts, as defined in NYS law, to meet the MWBE goals contained in NYS law and under the applicable contract. The undersigned acknowledges that failure to submit complete and accurate information in connection with a waiver request may result in denial and/or a finding of noncompliance. Failure to establish good faith efforts may result in suspension or termination of a New York State contract. Please state the date that the Application for Waiver of MWBE Participation Goals was signed by the authorized official who is responsible for the contract.

**For HRPT Office Use Only:**

**Reviewed By:**

**Date:**

**HRPT's Waiver Recommendation for Submission to Governor's Staff, if required :**

- Full MBE waiver granted
- Partial MBE waiver granted; revised MBE goal: \_\_\_\_\_ %
- MBE waiver denied \_\_\_\_\_
- Full WBE waiver granted
- Partial WBE waiver granted; revised WBE goal: \_\_\_\_\_ %
- WBE waiver denied \_\_\_\_\_

**Date the notice of determination was sent:**

**Comments:**