



**CITY OF ALBANY**

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# **Minority and Women Business Enterprise (M/WBE) Program**

## **CONTRACT MONITORING ACTIVITIES**

**REPORTING PERIOD: APRIL 2017 - OCTOBER 2017**

**City of Albany Minority/Women's Business Office**  
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This is the bi-annual report to the Albany Common Council on the activities of the City of Albany Minority and Women's Business Office, covering April through September 2017.

Topics in this report:

- 1) Introduction
- 2) Compliance Summary
- 3) Commentary
- 4) Looking Ahead

## **Introduction**

The Minority/Women's Business Office is responsible for implementing the M/WBE Program and Minority and Women Labor Utilization Plan Ordinance. [Adopted 6-18-1984; amended in its entirety 4-1-2002 by Ord. No. 13-22-02]. The intent of this Ordinance is to provide minorities and women the maximum opportunity to participate in City Of Albany construction projects.

The goals for participation on these projects are:

- a minimum of 7.5% of the total dollar value of all construction projects should be awarded to City of Albany Certified Minority or Women-owned Business Enterprises;
- a minimum of 17.8% of the total work hours on construction projects should be performed by minorities and women.

The M/WBE Program and Minority and Women-owned Labor Utilization Plan Ordinance established that the Office is also responsible for implementing the City's M/WBE Certification Program. The Ordinance specifies that the Office is responsible for administering the program as follows:

- Identify minority and women-owned businesses capable of engaging successfully in a competitive bid process for the procurement of construction and construction-related projects
- Maintain a central directory of minority and women-owned firms
- Discontinue and disqualify contractors and subcontractors when violations of policy and performance agreements occur.

## Compliance Summary: April through September 2017

The M/WBE Office monitors several categories of contracts, with different compliance requirements:

**1) City of Albany-funded contracts:**

Require 7.5% of the total paid on the contract to be paid to certified M/WBE contractors and/or subcontractors, and 17.8% of total hours worked on the contract be performed by minority or women labor.

--this is required on construction contracts only, not services, consulting or emergency contracts

**2) Department of Transportation Federally-funded contracts:**

Require different levels of participation, categorized as "DBE" (Disadvantaged Business Enterprise); the contractors must be certified on the DOT list. DOT monitors all the compliance.

--The DOT utilization goal is a percentage of the total contract cost, and ranges from less than 5% up to 10%, depending on the contract. DOT determines the goal.

**3) New York State-funded contracts:**

Utilization goals are set by Empire State Development (ESD) and monitored by the Environmental Facilities Corporation (EFC). The Albany M/WBE Office compiles the utilization reports for the EFC on a quarterly basis, and is responsible for obtaining reports and supporting documents from contractors. The M/WBE contractors must be on the certified ESD list.

--EFC utilization goals range from 20% to 30% of the contract cost, depending on the contract.

**4) Albany Community Development Agency (ACDA) contracts:**

Mostly Federally-funded HUD, residential housing rehab contracts. Compliance requirements are the same as the City of Albany, and ACDA mostly uses Albany's M/WBE list for contractors (sometimes pulling from the ESD list). This office monitors compliance.

See next page for statistics.

## Compliance Statistics

### ACDA Jobs

	Total Spent	M/WBE Spent	M/W Hours	Total Hours
14 Mercer St.	\$14,200.00	\$2,000.00	40	181
2 Albion Ave.	\$29,800.00	\$0.00	8	68
311-315 Clinton	\$230,280.00	\$38,040.00	724	2826
13 Garden Ave.	\$9,000.00	\$1,200.00	11	39
106 Third Ave.	\$18,415.00	\$1,520.00	54	174
492 Elk St.	\$24,550.00	\$2,500.00	40	160
14 Elmendorf St.	\$19,750.00	\$1,580.00	32	144
788 New Scotland	\$25,975.00	\$2,000.00	24	80
94 Whitehall Rd.	\$17,900.00	\$1,200.00	8	120
C1: 927 Broadway	\$26,000.00	\$3,700.00	75	210
C1: 425 Lark St.	\$22,500.00	\$0.00	35	55
360 Orange St.	\$13,900.00	\$1,600.00	117	553
164 Second St.	\$28,500.00	\$2,280.00	40	128
635 Washington Ave.	\$7,495.00	\$1,200.00	18	22
<b>TOTAL</b>	<b>\$488,265.00</b>	<b>\$58,820.00</b>	<b>1226</b>	<b>4760</b>
<b>PERCENTAGES</b>		<b>12.05%</b>	<b>25.76%</b>	

### DOT Jobs

8836: Corning Riverfront	\$4,271,581.00	\$1,108,595.00	N/A	N/A
8890: Whitehall, Ten Broeck etc. Rehab	\$770,799.61	\$335,352.00	705.75	2944
<b>TOTAL</b>	<b>\$5,042,380.61</b>	<b>\$1,443,947.00</b>	<b>705.75</b>	<b>2944</b>
<b>PERCENTAGES</b>		<b>28.64%</b>	<b>23.97%</b>	

### Albany City Jobs (including EFC)

8833: Traffic Signal Improvements	\$16,736.00	\$0.00	12	62
8850: City Hall Windows Phase 2	\$201,267.00	\$0.00	0	N/A
8855: Traffic Signal Improve. #1	\$58,110.22	\$0.00	0	283
8857: General Restorations	\$164,671.10	\$0.00	0	604
8865: Hansen/Ryckman Overflow (EFC)	\$407,100.00	\$56,387.42	N/A	N/A
8871: N. Swan Green Infrastructure (EFC)	\$868,920.00	\$63,130.00	337	1406
8889: Washington Park Skateboard	\$354,622.36	\$0.00	88	698
8894: Arbor Hill Softball Reconstruction	\$634,200.00	\$0.00	101	794.25
8900: Feura Bush Filtration Plant	\$133,950.00	\$1,426.50	347	1556
8901: Street Resurfacing #1	\$1,832,478.33	\$176,900.08	370.25	5474.75
8904: Elberon Pl. CSO Abatement (EFC)	\$482,568.00	\$31,324.67	866	7304
8908: Street Resurfacing #2	\$1,530,773.41	\$158,786.68	460	6062.25
8918: Masonry Restoration, Various	\$106,344.90	\$106,344.90	N/A	N/A
8922: Fire Suppression System	\$37,027.60	\$0.00	62.35	232.25
<b>TOTAL</b>	<b>\$6,828,768.92</b>	<b>\$594,300.25</b>	<b>2643.6</b>	<b>24476.5</b>
<b>PERCENTAGES</b>		<b>8.70%</b>	<b>10.80%</b>	

## Commentary

ACDA jobs have the best compliance of all the contract categories shown on page 2. Those jobs are mostly rehab of smaller properties, and there are many M/WBEs that can take on jobs of that size. Many of the jobs show far greater than the required 7.5%/17.8% compliance.

DOT contracts do not require the contractors to report compliance to this office, so the numbers are incomplete, even though the percentages ostensibly meet requirements. Since DOT does their own monitoring, it can be assumed that the compliance is acceptable for their contracts.

EFC contracts tend to be larger, long-term contracts (sometimes covering several years), and the snapshot of one six-month period does not always reflect the M/W utilization for the entire job. For example, an M/W subcontractor may perform a considerable portion of the work at the start of the job, but less at the end, so the percentages taken from the last six months of the job may not reflect M/WBE utilization on the entire job. EFC is diligent about requiring contractors to meet the planned M/W utilization, or requiring documentation to obtain a waiver. Most jobs meet EFC's stringent requirements.

City of Albany-funded jobs show the least compliance.

For almost the entire time of this report, the M/WBE Office had minimal staff: one person who also had several other responsibilities in City Hall. The current M/WBE officer began working the third week of September, so the office was severely understaffed for all but two weeks of this period.

Basic paperwork (approving contractor's vouchers) was accomplished during this time, but, as a result of this understaffing, contract compliance monitoring, reporting and record keeping was mostly not done. The result of this can be seen in the table on page 3. The current officer is addressing issues of compliance, monitoring and record keeping, as well as other functions.

## Looking Ahead

There are several areas where the M/WBE Office can be more efficient and effective in its mission.

- 1) Find efficiency: the City and County of Albany have an almost identical M/WBE application, yet maintain separate lists. It would be more efficient for both municipalities to use one combined list. It would also be less onerous for the M/WBEs in the Capital District to go through only one application/certification process for both the City and County. This may require some approvals from City and/or County legislatures, and cooperation between City and County IT departments. Also, other collaborations with the County may be beneficial and will be explored.
- 2) DBEs: New York State and other states and municipalities are moving to a "Disadvantaged Business Enterprise" model, which includes minorities, women, service veterans, people with disabilities and other possible categories. Adopting this model may make the current M/WBE program more inclusive and encourage business growth in previously overlooked communities. Changing to a DBE model will require some adjustment to the current law, and criteria to be detailed.

- 3) Expand the M/WBE list: Include other than construction related businesses, and encourage use of this list in the community. A range of professional services had been included on the M/WBE list in previous years, but they were dropped off in the last few years. A few non-construction related M/WBEs were recently added to the list, and more will be developed. Expanding the list would further encourage the Albany community to support local M/WBEs.
  
- 4) Increase the required participation of M/WBEs and M/W labor in City-let contracts. New York State conducted a study on the availability of M/WBE contractors and M/W employees and found that M/Ws are *underutilized* both as contractors and employees. See the disparity study: <https://esd.ny.gov/doing-business-ny/mwbe/mwbe-reports>.  
New York State now sets a goal of 30% M/W participation in their contracts (the level varies among agencies and according to contracts).  
This office recommends increasing the requirements in city-let construction contracts: M/W labor from 17.8% to 20%; and M/WBEs from 7.5% to 10%. These are small steps but in the right direction.  
Increasing the required M/W LABOR participation needs a legislative change, to City Code Chapter 48, Equal Opportunity Protections, Article II, §48\_17 (I). The M/WBE CONTRACTOR participation goal was adopted through an administrative policy, and could be increased using the same procedure.
  
- 5) One hurdle that contractors face is finding qualified M/W labor. This office, in conjunction with the Albany County M/WBE Office, should look at this issue and recommend solutions. Areas to consider include: working with unions, establishing an apprenticeship program, collaborating with schools and community colleges.

## Conclusion

Due to this office being understaffed from March to September this year, many of the usual office functions were not performed. Now that the position is filled, normal activities have resumed and progress will be reflected in the next six-month report.

Respectfully submitted,

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December 13, 2017