

**New York State Office for the Aging (NYSOFA)  
Minority and Women Business Enterprises (MWBE) Guidelines and Procedures**

**Frequently Asked MWBE Questions and Responses:**

- **Question:** Do the MWBE regulations apply to all NYSOFA grant award contracts?  
**Response:** MWBE regulations only pertain to contracts in **excess** of \$25,000. MWBE forms **are not** required for contracts totaling \$25,000 or below.
  
- **Question:** How do MWBE regulations affect our procurement rules and regulations?  
**Response:** Grantees must follow their procurement laws and regulations at all times. **The MWBE program is not changing that.** Where a contractor/grantee has **discretion** to purchase from a MWBE, they should consider doing so. If procurement rules prohibit the selection of a MWBE vendor, then the pertinent expenditure would be excluded from the MWBE requirements.
  
- **Question:** What goals must be established during the MWBE process?  
**Response:** Grantees must establish two goals during the MWBE process - a **staffing** goal and a **spending** goal. **These are two separate and distinct components of MWBE.** The goal percentages are established independently and are reflected on different forms. Staffing goals are identified on the Staffing Plan for Contractors of the NYS Office for the Aging (MWBE-101). Spending goals are established utilizing the MWBE Utilization Plan for Contractors of the NYS Office for the Aging (MWBE-103).
  
- **Question:** How do MWBE regulations apply to purchases from vendors identified on NYS OGS Centralized State Contracts?  
**Response:** If NYS Certified MWBE vendors/suppliers are available on NYS OSG Centralized State Contracts, regardless of geographic region, grantees should consider procuring from the MWBE vendor, because they have the **discretion** to select an MWBE.
  
- **Question:** If an MWBE subcontractor/supplier charges more than a non-MWBE subcontractor/supplier, does the MWBE vendor have to be considered?  
**Response:** There will be instances when the selection of an MWBE vendor may be cost prohibitive. If a grantee determines that the price differential of a service or commodity is cost prohibitive, and there are no other discretionary expenditures in the contract budget, the onus is on the grantee to justify their position. Declaring that a commodity or service is cost prohibitive **does not exclude** these award dollars from the Grantee NPS Discretionary Budget. The grantee still has **spending discretion** for these award dollars. MWBE spending goals will be established based on the total Grantee NPS Discretionary Budget. A grantee may choose not to spend their discretionary funds with the MWBE, perhaps justifiably so. But failure to meet established MWBE goals, even when an expenditure is identified as cost prohibitive, will require the submission of a waiver application.
  
- **Question:** Is it permissible to ask an MWBE subcontractor/supplier to meet the price of a non MWBE subcontractor/supplier?  
**Response:** Grantees may request that a MWBE vendor/supplier match the price of the non MWBE vendor/supplier, in an effort to meet their MWBE spending goals.

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- **Question:** What documents are required with a NYSOFA grant application?  
**Response:** The MWBE – Equal Opportunity Policy Statement for Contractors of the NYS Office for the Aging (MWBE-100), the Staffing Plan for Contractors of the NYS Office for the Aging (MWBE-101) and the MWBE Utilization Plan for Contractors of the NYS Office for the Aging (MWBE-103) must be submitted with all RFA, RFP and grant applications over \$25,000.
- **Question:** Which entities are classified as subcontractors?  
**Response:** Any expenditure supported by a binding agreement falls under the realm of subcontractor for MWBE purposes.
- **Question:** Which documents are required of subcontractors?  
**Responses:** At this time, grantees must submit a Staffing Plan for Contractors of the NYS Office for the Aging (MWBE-101) for themselves and each subcontractor identified on the grant.
- **Question:** Are revised MWBE documents required with all budget modification requests?  
**Response:** Revised MWBE documents, MWBE-101 and MWBE-103, must be submitted with all budget modification requests, which alter any of the contract's established MWBE staffing and/or spending goals.