

City of Rochester 2018 MWBE and Workforce Goals

Administrative Regulations and Procedures

Issued by the Director of Finance, July 1, 2018

Revised January 7, 2019

Background

Ordinance No. 2018-54 established the goal that MWBE's will receive 30% of the total annual contract awards for contracts over \$10,000 for three types of City contracts, with aggregate minority and women award goals, as shown in Table 1.

TABLE 1			
Contract Type	Aggregate Annual Award	Aggregate Annual Award: Minorities	Aggregate Annual Award: Women
Public Works Construction Contracts	30%	20%	10%
Public Works Consultants	30%	15%	15%
Professional Services Consultants	30%	15%	15%

Ordinance No. 2018-54 also established the goal that MWBE's will receive percentages of annual contract awards for City commodity (goods and services) contracts as shown in Table 2.

TABLE 2			
Contract Type	Aggregate Annual Award	Aggregate Annual Award: Minorities	Aggregate Annual Award: Women
Commodity Contracts After July 1, 2018	10%	5%	5%
Commodity Contracts After July 1, 2019	20%	10%	10%
Commodity Contracts After July 1, 2020	30%	15%	15%

Ordinance No. 2018-54 further required that workforce goals be incorporated into all City public works and professional services consulting and public works consulting contracts. The workforce goals are 20% Minority and 6.9% Women.

Section 10 of the Ordinance also designated the Director of Finance with the responsibility for developing the administrative regulations and procedures for achieving and reporting MWBE and workforce goals.

Attached are the revised administrative regulations and procedures, effective January 7, 2019. Please ensure that all public works bids, all public works consulting contracts and all professional consulting services contracts incorporate these requirements.


Rosiland Brooks-Harris, Director of Finance

1-7-19
Date

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Part 1 – MWBE Goals

Section 1. Who Qualifies for MWBE Status for Purposes of Meeting City Goals

- 1.1. APPLICATION. A contractor, vendor or consultant shall be eligible for meeting the City’s MWBE goals if:
- 1.1.1 It is a state-certified MWBE at the time of the contract award. State certification requires that a business be at least 51% owned and controlled by minorities (M), women (W), or both. Minority shall be defined consistent with state and federal definitions, e.g. Black, Hispanic, American Indian or Alaskan Native, Asian – Indian Subcontinent, and Asian Pacific. State certified shall mean that the MWBE business has a valid current certification as listed in the Empire State Development (ESD) directory, or has been approved through another state agency MWBE or DBE certification process, or is under recertification review by ESD if verified and approved by the MWBE Officer.
 - 1.1.2 The contractor, vendor or consultant has bona fide offices and operations in the Empire State Development (ESD) Finger Lakes Region, which includes the following counties: Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming and Yates.
 - 1.1.3 The MWBE Officer is authorized to approve the use of state-certified businesses from outside this region if the MWBE Officer determines that a contract requires either specialty work that cannot reasonably be subcontracted to an MWBE business, or there is a lack of qualified responsive and responsible MWBE companies in the region to perform the work.

Section 2 Procedures for MWBE Requirements: Public Works Contracts

- 2.1 APPLICATION. The City’s MWBE goals shall apply to all City public works projects, unless state or federal or grantee goals are required that supersede City requirements. The City’s MWBE goals do not replace any state or federal or grantee goals, but may add to such goals if permitted.
- 2.1.1 Public works contracts shall include, but not be limited to contracts for work in or on city streets, sidewalks, bridges, water infrastructure, utility infrastructure, parks, recreational facilities, and buildings, and any other non-City owned facilities for which the City is otherwise responsible for constructing or maintaining. Demolition contracts established by the City shall be classified as public works contracts.
 - 2.1.2 Public works term service and maintenance contracts that are awarded based on unspecified quantities and/or time frames for work on infrastructure and facilities (in other words, are not awarded on the basis of a discrete Total Bid Price where quantities and timing of orders can be reasonably estimated) shall be classified as City commodity contracts for the purposes of meeting MWBE goals.
- 2.2 CONTRACT REQUIREMENTS. The requirements and procedures for meeting the MWBE goals for public works contracts shall be as set forth in the contract documents, Special Laws and

- Regulations (SLR). These may be amended from time to time with the approval of the MWBE Officer and the Corporation Counsel, and consistent with Ordinance No. 2018-54 or subsequent amendments.
- 2.3 PRIOR APPROVAL OF BID DOCUMENTS. Prior to advertisement for bids for a public works contract, the MWBE Officer shall review and approve the bid documents. Any changes required by the MWBE Officer shall be made prior to publishing the bid documents.
- 2.4 APPROVAL OF MWBE UTILIZATION PLAN. The MWBE Officer shall review the MWBE Participation Plan (Form P) submitted with the bids received and shall work with the apparent low bidder as recommended by the department to develop an acceptable MWBE Utilization Plan, on a form designated by the City (Form A). The MWBE Officer is authorized to adjust individual contract goals by waivers, or to permit the use of state-certified MWBE's from outside the region if the contract requires either specialty work that cannot reasonably be subcontracted to an MWBE business, or there is a lack of qualified responsive and responsible MWBE companies in the region to perform the work. In approving the MWBE Utilization Plan for a contract, the MWBE Officer will use appropriate discretion to ensure that the City's annual aggregate MWBE goals for public works contracts are met.
- 2.4.1 The MWBE Officer must approve an MWBE Utilization Plan, which shall become incorporated into the contract documents, prior to the contract being executed by the Director of Finance and Purchasing Agent.
- 2.4.2 An otherwise low bidder who fails to provide an MWBE Utilization Plan that the MWBE Officer will approve shall be declared non-responsive, and the City will proceed to award the contract to the lowest responsive and responsible bidder.
- 2.5 CHANGE ORDERS. If any individual contract change order is 5% or more, or if any change order brings the total net cumulative amount of change orders to the initial contract award to 5% or more, the contractor must submit a revised MWBE Utilization Plan for approval by the MWBE Officer. A Form A MWBE Utilization Plan revision must be submitted and approved each time a new change order occurs after the 5% threshold has been reached. The MWBE Officer may also issue a revised MWBE Utilization Plan for unforeseen changes, such as changes in the availability of MWBE subcontractors during the term of the contract.
- 2.6 CONTRACTOR REPORTING REQUIREMENTS. The Contractor shall submit periodic MWBE utilization reports to the City, on forms or on a web based system provided by the City. A completed MWBE Form W - Subcontractor/Supplier Payment Certification Form (Form W) and MWBE Form F - Report of MWBE Utilization (Form F). These forms shall be submitted with each application for payment until these forms are superseded by the web based system. In order for the City to determine if MWBE subcontractors are being utilized according to the Approved Form A MWBE Utilization Plan, the contractor is required to submit a payment application/invoice to the City a minimum of once every ninety (90) days after the date of the Notice to Proceed/start of work and continuing during the term of the project/contract.
- 2.7 FAILURE TO MEET THE APPROVED GOALS. If a contractor fails to provide required reports and forms that demonstrate the contractor's success in meeting the goals set in the initial or subsequent Approved Form A MWBE Utilization Plan, the City has the right to withhold payment

for failure to submit required documentation per Section 13.3 of the Special Terms and Conditions of the contract documents. If a contractor fails to meet the goals set in the Final MWBE Utilization Plan (i.e. the initial Form A or last dated revision), the Purchasing Agent shall take such failure into account in determining whether or not the contractor is a responsible bidder, for purposes of evaluating subsequent bids submitted by that contractor.

Section 3. Procedures for MWBE Requirements: Professional Services Consulting Contracts, including Public Works Consulting Contracts

3.1 APPLICATION. The City’s MWBE goals shall apply to all City professional services consulting contracts, including public works consulting contracts, over \$10,000, unless state, federal or grantee goals are required that supersede City requirements. The City’s MWBE goals do not replace any state or federal or grantee goals, but may add to such goals if permitted. While any individual Professional Services Agreement (PSA) for professional services consulting and public works consulting may or may not meet the overall and minority category goals, it is the City’s policy to achieve the goals in aggregate based on the annual value of contracts awarded. Therefore, departments are expected to strive to meet or exceed the goals on as many contracts as possible.

3.1.1 MWBE goals shall apply to all professional services consulting contracts, including public works consulting contracts. “Consulting Services” shall be those professional services that are provided by a consultant based upon the accumulation of information, the synthesis of that information into conclusions, and the preparation and transmittal of recommendations for action – all informed and guided by the knowledge, experience and specialized training of the consultant. A consultant is an experienced professional or firm in a given field who provides expert advice to the City or acts for the City in a particular area for a fee, including but not limited to the following areas: engineering, architecture, finance, security, management, education, accountancy, law, human resources, marketing and information technology.

3.1.2 The MWBE Officer, with the review of the Law Department, may apply a test of “reasonableness” to determine whether or not a professional services agreement should be classified as a consulting services agreement subject to MWBE goals.

3.2 CONTRACT AND RFP REQUIREMENTS. Departments shall follow the PSA/RFP policy and procedures set by Ordinance No. 2012- 318 except as modified by these procedures and as authorized by Ordinance No. 2018-54.

For each RFP and PSA for a professional services or public works consulting contract, the RFP and PSA shall include MWBE goals language as provided in the Professional Services Agreement Form approved by the Law Department per Appendix 1. Respondents to the RFP are expected to address the MWBE goals requirements specified in the RFP. Departments shall award respondents the additional MWBE evaluation weighting points specified in Table 3.

TABLE 3	
Additional Evaluation Weighting Points for MWBE Goals	
Responding Company	Weight Awarded
Prime contractor is an MWBE	10%
Prime Uses 10%-20% MWBE Subcontractors	5%
Prime Uses More Than 20% MWBE Subcontractors	10%

- 3.2.1 The evaluation weighting points for use of one or more subcontractors shall be based on how the prime contractor will utilize MWBE subcontractors, shown as either a percent of the total contract dollar amount or as a percent of the total full-time-equivalent labor hours budgeted for this project.
- 3.2.2 Templates for the Vendor Selection Form or the No RFP Justification Statement, whichever is submitted with the City Council authorization recommendation are attached in Appendix 6. The Vendor Selection Form template illustrates how to provide the additional bonus weighting points for meeting MWBE and workforce goals. Both forms also include a statement verifying that the MWBE Officer has reviewed the recommendation to award to the proposed company.
- 3.3 **PRIOR APPROVAL OF RFP.** Prior to advertising, publishing and distributing the RFP for a professional services consulting or public works consulting contract, the department shall ensure that the MWBE Officer has reviewed the RFP for the relevant MWBE and workforce goals language and forms. The review process will provide the opportunity for the MWBE Officer to work with the department to identify potential MWBE consultants for the work and determine if a waiver of the MWBE goals is appropriate given the type of work required and the availability of qualified MWBE's.
- 3.4 **PRIOR APPROVAL OF RECOMMENDATION FOR AWARD.** Departments are required to have the MWBE Officer review the recommendation for award prior to the department submitting the Mayor's transmittal letter to City Council for authorization for all proposed PSA's. As part of this review, the MWBE Officer and the Law Department will determine whether or not the proposed PSA is subject to the MWBE and workforce goals per Section 3.1. **NOTE** – since MWBE and workforce goals apply to all professional services consulting contracts, even if a department does not issue an RFP to obtain a contract with a professional consultant, the department is still required to review the proposed PSA with the MWBE Officer.
- 3.4.1 The MWBE Officer will review the proposed MWBE and workforce plans and work with the department to make any preliminary adjustments with the proposed consultant that demonstrate the consultant's understanding of and commitment to the City's MWBE and workforce goals.
- 3.4.2 This review will include verifying that the prime consultant and/or any subcontractors are certified MWBE's in order to qualify for any MWBE evaluation weighting points.

- 3.4.3 The MWBE Officer shall confirm review of the proposed PSA by initialing either the No RFP Justification Form or the Vendor Selection Form that is submitted along with the Mayor's Transmittal Letter.
- 3.5 APPROVAL OF MWBE UTILIZATION PLAN. After City Council has authorized entering into the PSA, the department shall work with the consultant and the MWBE Officer to complete the Form A MWBE Utilization Plan and related documents. The MWBE Officer shall review the Plan, and once approved, the Plan shall be incorporated into the contract documents. NOTE – since the MWBE requirements apply to all professional services consulting and public works consulting contracts, even if a department does not issue an RFP to obtain a contract with a professional consultant, the department must review the proposed contract with the MWBE Officer to ensure that an approved MWBE Utilization Plan is incorporated into the agreement.
- 3.6 CHANGE ORDERS. If the contract incorporates the use of MWBE subcontractors, the agreement requires that the consultant shall notify the authorized City agent (the department) if a change occurs that will result in a significant (5% or more) increase or decrease in the MWBE Utilization Plan goals. If so, the consultant is expected to submit a revised MWBE Utilization Plan, which must be approved by the MWBE Officer. The MWBE Officer may also issue a revised MWBE Utilization Plan for unforeseen changes such as changes in the availability of MWBE subcontractors during the term of the contract. Revised plan(s) will become incorporated into the agreement as an amendment.
- 3.7 CONSULTANT REPORTING REQUIREMENTS. If the contract incorporates the use of MWBE subcontractors, the consultant shall submit to the department an MWBE Form W - Subcontractor/Supplier Payment Certification Form (Form W) and MWBE Form F - Report of MWBE Utilization (Form F). These forms shall be submitted with each application for payment until these forms are superseded by the web based system. When the department receives an invoice and forms F and W, the department shall transmit copies of those forms (until the web based reporting system is utilized) to the MWBE Officer and Contract Compliance unit of the Department of Finance. In order for the City to determine if MWBE subcontractors are being utilized according to the approved Form A MWBE Utilization Plan, the consultant is required to submit a payment application/invoice to the City a minimum of once every ninety (90) days after the date of the Notice to Proceed/start of work and continuing during the term of the project/contract.
- 3.8 FAILURE TO MEET THE GOALS IN THE APPROVED MWBE UTILIZATION PLAN. The contract agreement language stipulates that failure to submit the required MWBE utilization reports and documents shall constitute a default in the performance of the agreement subject to potential termination for default by the City. In addition, if the consultant fails to meet the goals in the most recent approved MWBE Utilization Plan, such failure may result in disqualification from award of future contracts with the City unless the consultant has demonstrated a good faith effort to meet the goals set forth in Ordinance No. 2018-54 for future agreements.

Section 4. Procedures for MWBE Requirements: Commodity Contracts - Purchases of Goods and Services

4.1 The Purchasing Agent shall develop practices and procedures to meet the annual MWBE goals set forth in Table 4 for City commodities (goods and services) contracts.

TABLE 4			
Contract Type	Aggregate Annual Award	Aggregate Annual Award: Minorities	Aggregate Annual Award: Women
Commodity Contracts after July 1, 2018	10%	5%	5%
Commodity Contracts after July 1, 2019	20%	10%	10%
Commodity Contracts after July 1, 2020	30%	15%	15%

4.2 The Purchasing Agent is authorized to utilize best value bids for City purchase and services bids, consistent with Article 8A of City Code, and to permit a 5% price advantage to MWBE bidders for contracts awarded on the basis of best value.

4.3 The Purchasing Agent shall submit quarterly and annual reports to the MWBE Officer including the total value of all purchase orders issued against City contracts, the total value of those purchase orders that were issued to MWBE’s, and any other tracking information requested by the MWBE Officer to demonstrate efforts and abilities to meet the MWBE goals specified.

Part 2 – Workforce Goals

Section 1. Overall Requirements.

1.1 APPLICATION. The City’s workforce goals shall apply to all City public works contracts and professional services consulting contracts, including public works consulting contracts, over \$10,000, unless state, federal or grantee goals are required that supersede City requirements. The City’s workforce goals do not replace any state or federal or grantee goals, but may add to such goals if permitted.

Section 2. Procedures for Workforce Goals Requirements: Public Works Contracts

2.1 APPLICATION. The City’s workforce goals shall apply to all City public works projects, unless state or federal or grantee goals are required that supersede City requirements.

2.1.1 Public works contracts shall include, but not be limited to contracts for work in or on city streets, sidewalks, bridges, water infrastructure, utility infrastructure, parks, recreational facilities, and buildings, and any other non- City owned facilities for which the City is otherwise responsible for constructing or maintaining. Demolition contracts established by the City shall be classified as public works contracts.

2.1.2 Public works term service and maintenance contracts that are awarded based on unspecified quantities and/or time frames for work on infrastructure and

facilities (in other words, are not awarded on the basis of a discrete Total Bid Price where quantities and timing of orders can be reasonably estimated) shall be classified as City commodity contracts for the purposes of meeting MWBE goals.

- 2.2 CONTRACT REQUIREMENTS. The requirements and procedures for meeting the workforce goals for public works contracts shall be as set forth in the contract documents, Special Laws and Regulations (SLR). These may be amended from time to time with the approval of the MWBE Officer and the Corporation Counsel, and consistent with Ordinance No. 2018-54 or subsequent revisions. Key requirements are:
- 2.1 The prime contractor and all subcontractors are required to submit a Workforce Staffing Plan prior to the initiation of any work.
 - 2.2 The Workforce Staffing Plan(s) shall be reviewed by the MWBE Officer, and once signed by the MWBE Officer, shall become an integral part of the performance agreement between the parties.
 - 2.3 Workforce goals may be met in the aggregate by any combination of prime and subcontractor employees, independent owner operators and supervisors who work on the job.
- 2.3 PRIOR APPROVAL OF BID DOCUMENTS. Prior to advertisement for bids for a public works contract, the MWBE Officer shall review and approve the bid documents. Any changes required by the MWBE Officer shall be made prior to publishing the bid documents.
- 2.4 WORKFORCE UTILIZATION REPORTS. The requirements and procedures for submitting workforce utilization information during the term of the contract shall be as set forth in the contract documents, Special Laws and Regulations (SLR). Key requirements are:
- 2.4.1 Workforce utilization will be tracked through certified payrolls.
 - 2.4.2 Independent owner operators and supervisory personnel who work on the job will be counted for meeting workforce goals.
- 2.5 CHANGE ORDERS. Aggregate workforce utilization goals shall apply to and reflect any and all change orders authorized during the course of the contract.
- 2.6 CONTRACTOR REPORTING REQUIREMENTS
- 2.6.1 The prime contractor and all subcontractors shall be required to submit certified payrolls that, in addition to meeting the requirements of Labor Law, include worker category, minority and gender information for each employee on the payroll. Additional information for independent owner operators and supervisory personnel who work on the job shall also be reported as appropriate. This information will be reported to the City on a form acceptable to the City, which may be paper or on a web based system provided by the City.
 - 2.6.2 The information provided in Section 2.6.1 shall be reviewed by the City and tracked to determine actual employees utilized on the project. The City reserves the right to require the contractor to provide monthly and cumulative summary reports on a form acceptable

to the City. This information will be the basis for determining how the workforce goals were met. Failure of the contractor to provide these reports shall be deemed a default of the contract.

2.6.3 The 20% M and 6.9% W workforce goals may be met in aggregate by any combination of prime contractor and subcontractor employees, including independent owner operators and supervisory personnel. Workforce M and W utilization shall be calculated by determining the total hours of all employees paid and the corresponding percentage of hours worked by minority (M) employees and female (W) employees. However, if it appears that the workforce goals are not being met or are not likely to be met during the course of the contract, the City reserves the right to require the contractor to demonstrate what steps will be taken to ensure that, by the end of the work of the contract, the workforce goals will be met.

2.6.4 In order for the City to determine if workforce goals are being met, the Contractor is required to submit a payment application/invoice to the City a minimum of once every ninety (90) days after the date of the Notice to Proceed/start of work and continuing during the term of the project/contract.

2.7 FAILURE TO MEET WORKFORCE GOALS. A contractor's failure to meet the aggregate 20% M and 6.9% W workforce goals at the time the final payment application for this contract is submitted may be a basis for the City to declare the contractor non-responsible on future bid submissions.

Section 3. Procedures for Workforce Goals Requirements: Professional Services Consulting Contracts including Public Works Consulting Contracts

3.1 APPLICATION. The City's Workforce goals shall apply to all City professional services consulting contracts, including public works consulting contracts, over \$10,000, unless state, federal or grantee goals are required that supersede City requirements. The City's workforce goals do not replace any state or federal or grantee goals, but may add to such goals if permitted. While any individual Professional Services Agreement (PSA) for professional services consulting and/or public works consulting may or may not meet the overall and minority category goals, it is the City's policy to achieve the goals in aggregate based on the annual value of contracts awarded. Therefore, departments are expected to strive to make sure that the goals are met or exceeded on as many contracts as possible.

3.1.1 Workforce goals shall apply to all professional services consulting contracts, including public works consulting contracts. "Consulting Services" shall be those professional services that are provided by a consultant based upon the accumulation of information, the synthesis of that information into conclusions, and the preparation and transmittal of recommendations for action – all informed and guided by the knowledge, experience and specialized training of the consultant. A consultant is an experienced professional or firm in a given field who provides expert advice to the City or acts for the City in a particular area for a fee, including but not limited to the following areas: engineering, architecture, finance, security, management, education, accountancy, law, human resources, marketing and information technology.

3.1.2 The MWBE Officer, with the review of the Law Department, may apply a test of “reasonableness” to determine whether or not a professional services agreement should be classified as a consulting services agreement subject to workforce goals.

3.2 CONTRACT AND RFP REQUIREMENTS. Departments shall follow the PSA/RFP policy and procedures set by Ordinance No. 2012- 318 except as modified by these procedures as authorized by Ordinance No. 2018-54.

For each RFP and PSA for a professional services or a public works consulting contract, the RFP and PSA shall include workforce goals language approved by the Law Department per Appendix 1. Respondents to the RFP are expected to address the workforce goals requirements specified in the RFP. Respondents should describe their preliminary staffing plan that indicates the percentage of minority and female employees who will work on the project.

3.2.1 The City will give preference to consultants who certify that the City’s workforce goals will be met both in aggregate and for minority and female workers utilized for the work of the contract by the consultant and any subcontractors. The City’s workforce goals are 20% minority and 6.9% women (female). Responding companies who demonstrate that they meet or exceed both of these goals shall receive an additional evaluation weighting of 10%.

3.2.2 Templates for the Vendor Selection Form or the No RFP Justification Statement, whichever is submitted with the City Council authorization recommendation are attached in Appendix 6. The Vendor Selection Form template illustrates how to provide the additional bonus weighting points for meeting MWBE and workforce goals. Both forms also include a statement verifying that the MWBE Officer has reviewed the recommendation to award to the proposed company.

3.3 PRIOR APPROVAL OF RFP. Prior to advertising, publishing and distributing the RFP for a professional services consulting or public works consulting contract, the department shall ensure that the MWBE Officer has reviewed the RFP for the relevant MWBE and workforce goals language and forms. The review process will provide the opportunity for the MWBE Officer to work with the department to identify potential MWBE consultants for the work.

3.4 PRIOR APPROVAL OF RECOMMENDATION FOR AWARD. Departments are required to have the MWBE Officer review the recommendation for award prior to the department submitting the Mayor’s transmittal letter to City Council for authorization for all proposed PSA’s. As part of this review, the MWBE Officer and the Law Department will determine whether or not the proposed PSA is subject to the MWBE and workforce goals per Section 3.1. NOTE – since MWBE and workforce goals apply to all professional services consulting contracts, even if a department does not issue an RFP to obtain a contract with a professional consultant, the department is still required to review the proposed PSA with the MWBE Officer.

3.4.1 The MWBE Officer will review the proposed MWBE and workforce plans and work with the department to make any preliminary adjustments with the proposed consultant that

demonstrate the consultant's understanding of and commitment to the City's MWBE and workforce goals.

- 3.4.2 This review will include verifying that the prime consultant and/or any subcontractors have met the workforce goals in order to qualify for the workforce evaluation weighting points.
- 3.4.3 The MWBE Officer shall confirm review of the proposed PSA by initialing either the Justification Form or the Vendor Selection Form that is submitted along with the Mayor's Transmittal Letter.
- 3.5 REVIEW OF WORKFORCE STAFFING PLAN. After City Council has authorized entering into the PSA, the department shall work with the consultant and the MWBE Officer to obtain a completed Workforce Staffing Plan. The MWBE Officer shall review the Plan, and may request additional information and/or revisions. The final Plan submitted by the consultant shall be reviewed and signed by the MWBE Officer, and the Plan shall be incorporated into the contract documents. NOTE – since the workforce requirements apply to all professional services consulting and public works consulting contracts, even if a department does not issue an RFP to obtain a contract with a professional consultant, the department must review the proposed contract with the MWBE Officer to ensure that a Workforce Staffing Plan is incorporated into the agreement.
- 3.6 CHANGE ORDERS. The consultant shall notify the department if a change occurs that will result in a significant (5% or more) increase or decrease in the workforce staffing plan and/or MWBE utilization plan goals incorporated into the agreement. A revised workforce staffing plan and/or MWBE utilization plan must be approved by the MWBE Officer. Such revised plan(s) shall be incorporated into the agreement for purposes of determining performance of the agreement as stated in Section 3.8 below.
- 3.7 CONSULTANT REPORTING REQUIREMENTS. The consultant shall report workforce utilization reports on forms or the web based system provided by the City. The calculated percentages of workforce utilization will be based on actual hours worked and paid over the term of the project for employees reported to the City on certified payrolls, and/or other reporting forms or the web based system as approved by the City. The final determination of workforce goals accomplished during the contract shall be based on hours reported in the workforce utilization reports.
 - 3.7.1 In order for the City to determine if workforce goals are being met, the consultant is required to submit a payment application/invoice to the City a minimum of once every ninety (90) days after the date of the Notice to Proceed/start of work and continuing during the term of the project/contract.
- 3.8 FAILURE TO MEET THE APPROVED GOALS. The contract agreement language stipulates that failure to submit the required workforce utilization reports shall constitute a default in the performance of the agreement subject to potential termination for default by the City. In addition, if the consultant fails to meet the most recent goals submitted in the most recent Workforce Staffing Plan, such failure may result in disqualification from award of future

contracts with the City unless the consultant has demonstrated a good faith effort to meet the goals set forth in Ordinance No. 2018-54 for future agreements.

Part 3 - Responsibilities of Departments

Each department that is the administrator/owner of a public works contract, public works consulting contract, or professional services consulting contract, is responsible for administering their contracts to meet the MWBE and workforce participation goals specified in Ordinance No. 2018-54 and these regulations and procedures. To that end, departments shall:

1. Ensure that any bids or RFP's issued by the department include MWBE and workforce goals language as specified in these administrative regulations and procedures.
2. Prior to issuing a bid or RFP, submit the bid or RFP to the MWBE Officer for review and approval at least three business days prior to publishing and advertising bids or RFP's. Or, if no RFP is issued, the department must ensure that the selected consultant fully understands the MWBE and workforce goals requirements.
3. Ensure that prospective respondents are made aware of the new MWBE and workforce requirements. This shall include, but not be limited to:
 - 3.1 Clearly marked and highlighted at the front of each bid specification and/or RFP a summary of the new MWBE and workforce goal requirements. RFP's should have similar language referencing the appropriate section(s) of the RFP.
 - 3.2 Clearly identify the new requirements in the announcement of the bid or RFP.
 - 3.3 Clearly identify where the new MWBE and workforce requirements may be found in the specification or RFP.
 - 3.4 Discuss the MWBE and workforce requirements at any pre-bid/pre-proposal meeting with potential bidders or respondents. NOTE – even if the department does not issue an RFP to obtain consulting services, the department must notify the potential consultant of the MWBE and workforce goals that will be incorporated into the Agreement.
4. Ensure that public bids and responses to RFP's that are received include sufficient documentation to demonstrate how the bidder/respondent plans to meet the MWBE and workforce goals.
5. Prior to submitting the Mayor's transmittal letter to City Council for authorization for all proposed PSA's, ensure that the MWBE Officer has reviewed the MWBE and workforce plans submitted by the recommended consultant or contractor.
6. After City Council has authorized a PSA that includes MWBE and/or workforce goals, work with the consultant to obtain a Form A MWBE Utilization Plan that is approved by the MWBE Officer, and a Workforce Staffing Plan that is reviewed by the MWBE Officer. Both the MWBE Utilization Plan and the Workforce Staffing Plan will be incorporated into the Agreement.

To summarize, departments interact with the MWBE Officer at the following points in the RFP/PSA process:

1. Prior to release of an RFP. Send the RFP to the MWBE Officer, who will do a quick format review and offer department suggestions for potential respondents. As part of this review, the department may request that the MWBE Officer and the Law Department determine whether or not the proposed PSA is a public works/professional services consulting contract subject to MWBE and workforce goals.
2. Prior to submittal to Council. The MWBE Officer is required to review each PSA submitted as part of the Mayor's transmittal letter information package requesting authorization from City Council. As part of this review, the MWBE Officer and the Law Department will determine whether or not the proposed PSA is subject to MWBE and workforce goals if this hasn't been determined previously.
3. After Council authorization and before routing the Agreement in MUNIS. The department is required to obtain a Form A MWBE Utilization Plan that is approved by the MWBE Officer, and a Workforce Staffing Plan that is reviewed by the MWBE Officer and incorporated into the Agreement.

After the Agreement has been executed, departments:

7. Collect MWBE and workforce utilization reports required to be submitted, and not approve payments until such reports have been properly submitted, either in paper form or on the web based system provided by the City. This shall include ensuring that all information regarding MWBE and/or DBE and/or workforce utilization required by other funding agencies or grantors is properly submitted by the contractor/consultant and transmitted to the funding agency to meet their requirements. Copies of these forms (or the relevant data as provided in the City's web based system) must be transmitted to the MWBE Officer and Contract Compliance unit in Finance by the department.
8. Notify the MWBE Officer of any changes to the original contract so that MWBE and workforce utilization plans are properly adjusted.
9. Provide information as the contract administrator to any funding agency or grantor that is required to demonstrate compliance with that agency's MWBE and/or DBE and/or workforce utilization and other affirmative action goals.
10. Assist the MWBE Officer as requested to ensure that City, state and federal MWBE, DBE, workforce and other affirmative action goals required by grantors are being met and reports are filed as required.
11. Provide the MWBE Officer with an MWBE and workforce utilization summary report at the end of each contract for public works consulting and professional services consulting administered by the department. The summary reports shall be on a form requested by the MWBE Officer, or electronically if available on a web based system provided by the City. This information must be kept by the department as part of the contract records for audit purposes.

Part 4 - Duties of the MWBE Officer

To ensure that the requirements of Ordinance No. 2018-54 and these regulations and procedures are followed, the MWBE Officer shall:

1. Work with departments as appropriate to ensure that MWBEs have the opportunity to participate in City public works projects, professional services contracts and purchases of goods and services.
2. Review all City contracts and requests for proposals over \$10,000 prior to solicitation for public works bids and public works consulting services and professional services consulting services RFP's, to ensure that MWBE and workforce goals are included where appropriate. The MWBE Officer, with the review of the Law Department, shall determine whether or not the proposed contract is subject to the MWBE and workforce goals.
3. Maintain the City's MWBE directory that is provided on the City's web site as a primary resource for City departments and the public, and maintain and update the MWBE web site page.
4. Review and approve MWBE Utilization Plans and review Workforce Staffing Plans submitted for public works projects, public works consulting contracts and professional services consulting contracts. This shall include, but not be limited to, working with departments, contractors and consultants to resolve any problems associated with achieving the goals specified in the contract documents.
5. Review and track MWBE utilization reports and workforce utilization reports, and determine when a contractor/consultant has not met the MWBE and workforce goals set in the MWBE and workforce plans incorporated into the contract/agreement.
6. Adjust individual contract goals by waiver, or permit the use of state-certified MWBE's from outside the region, where the MWBE Officer concludes that the contract includes specialty work that cannot reasonably be subcontracted to an MWBE business, or there is a lack of qualified responsive and responsible MWBE companies in the region to perform the contract work. The MWBE Officer shall apply professional experience and judgment, in conjunction with staff in the departments, to determine how best to address and resolve MWBE goal shortfalls for any contract. The MWBE Officer shall document when waivers are granted and how shortfalls are resolved.
7. Recommend to the Director of Finance when a bidder should be declared non-responsive and/or non-responsible due to failure to make a good faith effort to meet the City's MWBE and/or Workforce goals for public works projects.
8. Recommend to the Director of Finance when a consultant should be declared in default for failure to submit MWBE and subcontractor/supplier payment certification forms and/or workforce utilization reports required by the Agreement, or for failure to meet the workforce and/or MWBE goals included in the Agreement with that consultant.
9. Prepare and submit quarterly and annual MWBE and workforce utilization reports to the Mayor.

Appendix 1

RFP and PSA Language for Professional Services Consulting Contracts including Public Works Consulting Contracts

The Law Department has updated the RFP Form Template, PSA Long Form and PSA Short Form to include MWBE and Workforce Utilization Goals pursuant to Ordinance No. 2018-54. The forms will be available on the portal at: <http://eportal.cityofrochester.gov/article.aspx?id=2147485092>

Under the following link names:

- January 2019 COR RFP Form Template
- January 2019 COR Short Form PSA
- January 2019 COR Long Form PSA

Effective July 1, 2018, all new RFPs advertised and PSAs entered into with a maximum compensation over \$10,000 shall utilize the new forms. If you have any questions regarding the new forms please contact Maureen Gilroy at Maureen.Gilroy@CityofRochester.gov or (585)428-6387.

Appendix 2

MWBE Forms for Public Works Contracts

**CITY OF ROCHESTER
MWBE FORM A
MWBE UTILIZATION PLAN – PUBLIC WORKS & DEMOLITION**

MWBE GOALS: MBE 20%, WBE 10%

Project Name _____ **Bid #** _____ **Contract #** _____

Prime Contractor _____ **Total Contract Amount**\$** _____ **Original Plan** **Revised Plan**

MWBE Business Name	M B E	W B E	Scope of Work to be Performed	Projected Start Date	Projected End Date	Total Amount of MWBE Subcontract	Percentage of Total Contract*	\$ Amount of Material
TOTAL:								

*Total Contract equals contract award plus all change orders

Authorized Person _____ **Title** _____ **Phone** _____

Signature _____ **Date** _____ **Email** _____

Approved by MWBE Officer _____ **Date** _____

**CITY OF ROCHESTER
MWBE FORM B
INTENT TO PERFORM AS A SUBCONTRACTOR – PUBLIC WORKS & DEMOLITION**

Project Name _____

Bid No. _____ Contract No. _____

TO: _____
(Name of Prime Contractor)

The undersigned intends to perform work in connection with the above project as
(Check one choice on each side):

an individual a corporation Minority Business Enterprise
 a partnership a joint venture Woman Business Enterprise

At the following price: _____

I have been given the projected start and end dates for such work, and by signing below I am attesting to being ready, willing and able to do the said work during the prescribed time.

Projected Start Date Projected Completion Date

Scope of Work (Please provide detail and denote if any materials/supplies are to be purchased)

With respect to the proposed subcontract described above, no more than 30% of the dollar value of such subcontract can be sublet and/or awarded to non-MWBE contractors.

Contracts for supplies must meet the following criteria: Supplies only contracts--- 60% of total price to be granted toward MWBE goals; Manufacturers' Rep contracts--- 100% of total price to be granted toward MWBE goals, provided the contract also includes installation/labor. No brokerage contracting is allowed.

The undersigned will enter into a formal agreement for the above work with _____
(Prime Contractor)

conditioned upon the execution of a signed contract with the City of Rochester. The subcontractor and all of its employees' must adhere to all worksite rules and policies. (i.e., OSHA, Safety, Hours, Wages, etc.)

_____ _____
Date Print Name of MWBE Subcontractor

Signature _____ Title _____

Address _____ City _____ Zip _____

Email _____

**CITY OF ROCHESTER
MWBE FORM C
MWBE AFFIDAVIT**

Page 1 of 2

I _____ do understand that only a New York State certified Minority and Women
(Print Name)

Business Enterprise (MWBE) will be accepted and approved to perform work which is to be credited towards fulfillment of the composite MWBE Utilization Goal for this City of Rochester construction project. Accordingly, I affirm that the following statements are true and accurate:

1. I am a minority, and/or a woman.
2. I own and control at least 51% of my company or corporation; I conduct the ownership and management responsibilities for this firm. Management of this firm is not controlled directly or indirectly by any other entity through formal or informal relationships.
3. I attest that my company is a certified NYS MWBE firm named _____
(Print Name of Firm)
4. I will exercise all of the management functions for the performance and execution of the contract, unless I have indicated on an attached sheet specific management functions which I have contracted to other organizations, including the prime contractor. Furthermore, I understand that the term "management functions", as referenced above, includes the following duties:
 - a. Hiring of employees
 - b. Procurement of equipment and materials
 - c. Purchase of insurance
 - d. Field supervision
 - e. Payroll and financial record keeping
 - f. Authorization of any contracts or subcontracts
 - g. Provision of office space

The above functions cannot be delegated to such an extent as to violate paragraph 2.

5. I will perform the actual installation of all materials and supplies, except as provided in paragraph 6 below. I will not serve solely as a supplier to another contractor, nor will I serve as a mere conduit (i.e. pass-through) for materials procured through other suppliers.
6. My firm is capable of performing the work which has been subcontracted to me. I will, in fact, manage, direct, and perform this work. I authorize the City to audit all of my financial records and books related to the execution of this MWBE contract.
7. At least fifty percent (50%) of an MWBE subcontract with the prime must be for labor/installation in order for the subcontract to be counted toward the MWBE utilization goals. MWBE subcontracts where materials and/or supplies are more than 50% of the value of the contract will not be permitted to count towards the MWBE goals of the prime contract unless permitted by the grant funding agency and approved by the MWBE Officer.
8. I acknowledge and understand that as an MWBE subcontractor, I am permitted to sublet up to 30% of the subcontract to non-MWBE's and still have the whole MWBE subcontract count towards the MWBE utilization goal. I understand and acknowledge, however, that if more than 30% of my subcontract is contracted out to non-MWBE firms, the subcontract between my firm and the prime contractor shall no longer be considered a bona fide MWBE subcontract; and accordingly the work subcontracted to me as an MWBE subcontractor shall not count towards fulfillment of the MWBE utilization goal.

**CITY OF ROCHESTER
MWBE FORM C
MWBE AFFIDAVIT**

9. I acknowledge and understand that any subcontract that requires materials and/or supplies as part of the contract, the MWBE subcontractor must provide a service of installation, connection, set-up, mounting, assembly, construction, and erection, raising and/or building the product or material supplied. Even if an MWBE subcontracts less than 30% of its subcontract to a non-MWBE firm, the MWBE subcontract cannot be reduced to just providing or passing along the materials and/or supplies. Should this be the case, then the subcontract agreement between prime contractor and the MWBE shall no longer be considered a bona fide MWBE subcontract; and accordingly the work subcontracted to the MWBE subcontractor shall not count towards fulfillment of the MWBE utilization goal. By signing below I certify that materials and/or supplies do not exceed 50% of the total value of my subcontract with the prime.
10. I acknowledge full responsibility for submitting within seven (7) days of request, any and all information requested by the City as part of the City's MWBE certification process.

Name of MWBE Company:

Title and Project Number for which this company is a subcontractor:

Name of prime contractor for this project:

Authorized signature of MWBE:

Date:

**CITY OF ROCHESTER
MWBE FORM F**

MWBE GOALS: MBE 20%, WBE 10%

REPORT OF MWBE UTILIZATION – PUBLIC WORKS & DEMOLITION

TO: CONTRACT ADMINISTRATOR
 Department of Finance
 City Hall Room 106A
 30 Church Street
 Rochester, NY 14614

Stage of Project Completion: _____%

* ___ 100% ** ___ Final

** If any retainage is due, a final Form F must be submitted upon completion of payments.

Project Name		Bid #		Contract #			
MWBE Subcontractor	Scope of Work Performed	Start Date	End Date	Total Amount of MWBE Subcontract	Payments Made to Date	Percentage of MWBE Subcontract Paid to Date	Retainage due as of 100% completion mark

Prime Contractor Company Name: _____

Prepared by: _____

Signature: _____

Title: _____

Date: _____

Contractor shall submit this form at least quarterly (i.e. every three (3) months after the start of the agreement), or as otherwise requested by MWBE Officer. Reports shall be submitted with each invoice if filed more frequently than once per quarter.

**CITY OF ROCHESTER
MWBE FORM P
MWBE PARTICIPATION PLAN – PUBLIC WORKS**

MWBE GOALS: MBE - 20% WBE - 10%

Project Name: _____

Bid # _____

Contract # _____

NAME OF SUBCONTRACTOR	Check Classification		TYPE OF WORK AND CONTRACT ITEMS TO BE PERFORMED	PROPOSED DOLLAR AMOUNT OF SUBCONTRACT	PERCENT OF BASE BID AMOUNT
	MBE	WBE			
TOTALS:					

The undersigned intends to utilize the MWBE Contractors listed in this Form P (pages 1 and 2), if awarded the contract for the bid referenced above. The undersigned understands and accepts that the company submitting this bid will enter into contracts with the MWBE subcontractors listed above to perform the type of work shown on Page 1 at the stage of the work shown on page 2, unless the contractor utilizes alternative MWBE subcontractors approved by the City on MWBE Forms A, B and C referenced in the bid documents. The undersigned understands and accepts that only MWBE contractors listed in the City MWBE Directory may be used to meet the MWBE requirements of this contract. The undersigned also understands and accepts that the City will require submission of a final MWBE Form A - MWBE Utilization Plan and related Forms B and C, all of which will be incorporated into the executed contract with the City, and that the bidder may be required to utilize additional MWBE firms approved by the City if the Form P Plan does not meet the MWBE good faith effort requirements, and that the bidder will provide final MWBE Forms A, B and C and all other documentation requested by and acceptable to the City within the time period required by the contract documents.

CONTRACTORS MUST SUBMIT THIS FORM P, PAGES 1 AND 2, AND PAGE 3 IF REQUIRED, WITH THE BID.

NAME OF COMPANY SUBMITTING THE BID: _____

Printed Name: _____

Signature: _____

Title: _____

Date: _____

**CITY OF ROCHESTER
MWBE FORM P
MWBE PARTICIPATION PLAN – PUBLIC WORKS**

Project Name: _____

Bid # _____

Contract # _____

NAME OF SUBCONTRACTOR	INSTRUCTIONS - INDICATE BY AN "X" APPROXIMATELY IN WHAT STAGE OF THE WORK YOU INTEND TO UTILIZE EACH MWBE SUBCONTRACTOR LISTED ON PAGE 1. - SEE EXAMPLE BELOW			
	0-25% Stage	25% - 50% Stage	50% - 75% Stage	75% - 100% Stage
EXAMPLE - Contractor Name		X		

The undersigned intends to utilize the MWBE Contractors listed in this Form P (pages 1 and 2), if awarded the contract for the bid referenced above. The undersigned understands and accepts that the company submitting this bid will enter into contracts with the MWBE subcontractors listed above to perform the type of work shown on Page 1 at the stage of the work shown on page 2, unless the contractor utilizes alternative MWBE subcontractors approved by the City on MWBE Forms A, B and C referenced in the bid documents. The undersigned understands and accepts that only MWBE contractors listed in the City MWBE Directory may be used to meet the MWBE requirements of this contract. The undersigned also understands and accepts that the City will require submission of a final MWBE Form A - MWBE Utilization Plan and related Forms B and C, all of which will be incorporated into the executed contract with the City, and that the bidder may be required to utilize additional MWBE firms approved by the City if the Form P Plan does not meet the MWBE good faith effort requirements, and that the bidder will provide final MWBE Forms A, B and C and all other documentation requested by and acceptable to the City within the time period required by the contract documents.

CONTRACTORS MUST SUBMIT THIS FORM P, PAGES 1 AND 2, AND PAGE 3 IF REQUIRED, WITH THE BID.

NAME OF COMPANY SUBMITTING THE BID: _____

Printed Name: _____

Signature: _____

Title: _____

Date: _____

**CITY OF ROCHESTER
MWBE FORM P
MWBE PARTICIPATION PLAN – PUBLIC WORKS**

Project Name: _____ **Bid #** _____ **Contract #** _____

As the prime contractor of this project, I attest that I understand that this project has MWBE subcontractor goals, that the overall MWBE goal is 30% of the total contract value, and the sub-goals are 20% MBE and 10% WBE. Any inability to meet these goals, in whole or in part, is explained in detail below:

CONTRACTORS MUST SUBMIT THIS FORM P, PAGES 1 AND 2, AND PAGE 3 IF REQUIRED, WITH THE BID.

NAME OF COMPANY SUBMITTING THE BID: _____

Printed Name: _____

Signature: _____

Title: _____

Date: _____

**CITY OF ROCHESTER
FORM W
SUBCONTRACTOR/SUPPLIER PAYMENT CERTIFICATION FORM – PUBLIC WORKS & DEMOLITION**

In accordance with General Municipal Law Section 106-B payment on Public Works & Demolition Projects, the Contractor shall pay Subcontractor(s) and Supplier(s) for undisputed work performed by the Subcontractor(s) or deliveries made by the Supplier(s) within seven (7) days of receipt of payment by the City for which the work has been completed. The Contractor must submit this Subcontractor/Supplier Payment Certification Form with each payment application after payment application #1. The form certifies that subcontractors and suppliers who performed work have been paid in full for all undisputed work and deliveries included in each prior payment application submitted to and paid for by the City of Rochester contract. **(THIS FORM MUST BE SUBMITTED WITH EACH PAYMENT APPLICATION)**

Project Title: _____ **Bid #** _____ **Contract #** _____

Contractor/Supplier Name and Address	Federal ID #	Payment Application #	Period (dates)	Current Payment Application Amount
List all subcontractors/suppliers that were paid from the previous pay application				

Printed Name

Signature

Title

Date

Appendix 3

**MWBE Forms for Professional Services Consulting Contracts including Public Works Consulting
Contracts**

**CITY OF ROCHESTER
MWBE FORM A
MWBE UTILIZATION PLAN – PROFESSIONAL CONSULTANT SERVICES**

MWBE GOALS: MBE 15%, WBE 15%

Project Name _____ Agreement # _____

Consultant _____ Total Contract Amount* \$ _____ Original Plan Revised Plan

MWBE Business Name	M B E	W B E	Scope of Work to be Performed	Projected Start Date	Projected End Date	Total Amount of MWBE Subcontract	Percentage of Total Contract*
TOTAL:							

*Total Contract equals contract award plus all change orders

Authorized Person _____ Title _____ Phone _____

Signature _____ Date _____ Email _____

Approved by MWBE Officer _____ Date _____

**CITY OF ROCHESTER
MWBE FORM B
INTENT TO PERFORM AS A SUBCONTRACTOR – PROFESSIONAL CONSULTANT SERVICES**

Project Name _____

Agreement No. _____

TO: _____
(Name of Prime Contractor)

The undersigned intends to perform work in connection with the above project as
(Check one choice on each side):

an individual a corporation Minority Business Enterprise
 a partnership a joint venture Woman Business Enterprise

At the following price: _____

I have been given the projected start and end dates for such work, and by signing below I am attesting to being ready, willing and able to do the said work during the prescribed time.

Projected Start Date Projected Completion Date

Scope of Work (Please provide detail and denote if any materials/supplies are to be purchased)

With respect to the proposed subcontract described above, no more than 30% of the dollar value of such subcontract can be sublet and/or awarded to non-MWBE contractors.

Contracts for supplies must meet the following criteria: Supplies only contracts--- 60% of total price to be granted toward MWBE goals; Manufacturers' Rep contracts--- 100% of total price to be granted toward MWBE goals, provided the contract also includes installation/labor. No brokerage contracting is allowed.

The undersigned will enter into a formal agreement for the above work with _____
(Prime Contractor)

conditioned upon the execution of a signed contract with the City of Rochester. The subcontractor and all of its employees' must adhere to all worksite rules and policies. (i.e., OSHA, Safety, Hours, Wages, etc.)

_____ _____
Date Print Name of MWBE Subcontractor

Signature _____ Title _____

Address _____ City _____ Zip _____

Email _____

**CITY OF ROCHESTER
MWBE FORM C
MWBE AFFIDAVIT**

Page 1 of 2

I _____ do understand that only a New York State certified Minority and Women
(Print Name)

Business Enterprise (MWBE) will be accepted and approved to perform work which is to be credited towards fulfillment of the composite MWBE Utilization Goal for this City of Rochester construction project. Accordingly, I affirm that the following statements are true and accurate:

1. I am a minority, and/or a woman.
2. I own and control at least 51% of my company or corporation; I conduct the ownership and management responsibilities for this firm. Management of this firm is not controlled directly or indirectly by any other entity through formal or informal relationships.
3. I attest that my company is a certified NYS MWBE firm named _____
(Print Name of Firm)
4. I will exercise all of the management functions for the performance and execution of the contract, unless I have indicated on an attached sheet specific management functions which I have contracted to other organizations, including the prime contractor. Furthermore, I understand that the term "management functions", as referenced above, includes the following duties:
 - a. Hiring of employees
 - b. Procurement of equipment and materials
 - c. Purchase of insurance
 - d. Field supervision
 - e. Payroll and financial record keeping
 - f. Authorization of any contracts or subcontracts
 - g. Provision of office space

The above functions cannot be delegated to such an extent as to violate paragraph 2.

5. I will perform the actual installation of all materials and supplies, except as provided in paragraph 6 below. I will not serve solely as a supplier to another contractor, nor will I serve as a mere conduit (i.e. pass-through) for materials procured through other suppliers.
6. My firm is capable of performing the work which has been subcontracted to me. I will, in fact, manage, direct, and perform this work. I authorize the City to audit all of my financial records and books related to the execution of this MWBE contract.
7. At least fifty percent (50%) of an MWBE subcontract with the prime must be for labor/installation in order for the subcontract to be counted toward the MWBE utilization goals. MWBE subcontracts where materials and/or supplies are more than 50% of the value of the contract will not be permitted to count towards the MWBE goals of the prime contract unless permitted by the grant funding agency and approved by the MWBE Officer.
8. I acknowledge and understand that as an MWBE subcontractor, I am permitted to sublet up to 30% of the subcontract to non-MWBE's and still have the whole MWBE subcontract count towards the MWBE utilization goal. I understand and acknowledge, however, that if more than 30% of my subcontract is contracted out to non-MWBE firms, the subcontract between my firm and the prime contractor shall no longer be considered a bona fide MWBE subcontract; and accordingly the work subcontracted to me as an MWBE subcontractor shall not count towards fulfillment of the MWBE utilization goal.

**CITY OF ROCHESTER
MWBE FORM C
MWBE AFFIDAVIT**

9. I acknowledge and understand that any subcontract that requires materials and/or supplies as part of the contract, the MWBE subcontractor must provide a service of installation, connection, set-up, mounting, assembly, construction, and erection, raising and/or building the product or material supplied. Even if an MWBE subcontracts less than 30% of its subcontract to a non-MWBE firm, the MWBE subcontract cannot be reduced to just providing or passing along the materials and/or supplies. Should this be the case, then the subcontract agreement between prime contractor and the MWBE shall no longer be considered a bona fide MWBE subcontract; and accordingly the work subcontracted to the MWBE subcontractor shall not count towards fulfillment of the MWBE utilization goal. By signing below I certify that materials and/or supplies do not exceed 50% of the total value of my subcontract with the prime.
10. I acknowledge full responsibility for submitting within seven (7) days of request, any and all information requested by the City as part of the City's MWBE certification process.

Name of MWBE Company:

Title and Project Number for which this company is a subcontractor:

Name of prime contractor for this project:

Authorized signature of MWBE:

Date:

**CITY OF ROCHESTER
MWBE FORM F**

MWBE GOALS: MBE 15%, WBE 15%

REPORT OF MWBE UTILIZATION – PROFESSIONAL CONSULTANT SERVICES

TO: CONTRACT ADMINISTRATOR
 Department of Finance
 City Hall Room 106A
 30 Church Street
 Rochester, NY 14614

Stage of Project Completion: _____%

* ____100%

Project Name _____

Agreement # _____

MWBE Subcontractor	Scope of Work Performed	Start Date	End Date	Total Amount of MWBE Subcontract	Payments Made to Date	Percentage of MWBE Subcontract Paid to Date

Consulting Company Name: _____

Prepared by: _____

Signature: _____

Title: _____

Date: _____

Consultant shall submit this form at least quarterly (i.e. every three (3) months after the start of the agreement), or as otherwise requested by MWBE Officer. Reports shall be submitted with each invoice if filed more frequently than once per quarter.

**CITY OF ROCHESTER
FORM W
SUBCONTRACTOR/SUPPLIER PAYMENT CERTIFICATION FORM – PROFESSIONAL CONSULTANT SERVICES**

In accordance with State Law payment on Professional Services Projects, the Contractor shall pay Subcontractor(s) and Supplier(s) for undisputed work performed by the Subcontractor(s) or deliveries made by the Supplier(s) within seven (7) days of receipt of payment by the City for which the work has been completed. The Contractor must submit this Subcontractor/Supplier Payment Certification Form with each invoice after invoice #1. The form certifies that subcontractors and suppliers who performed work have been paid in full for all undisputed work and deliveries included in each prior payment application submitted to and paid for by the City of Rochester contract.

(THIS FORM MUST BE SUBMITTED WITH EACH INVOICE)

Project Title: _____ **Agreement #** _____

Contractor/Supplier Name and Address	Federal ID #	Invoice #	Period (dates)	Current Invoice Amount
List all subcontractors/suppliers that were paid from the previous pay application				

Printed Name

Signature

Title

Date

Appendix 4

Workforce Forms for Public Works Contracts

City of Rochester
Public Works and Demolition Workforce Staffing Plan

WORKFORCE STAFFING PLAN FOR PUBLIC WORKS AND DEMOLITION CONTRACTING								
PROJECT NAME:				DATE:			MINORITY GOAL	FEMALE GOAL
CONTRACTOR:				BID NUMBER:			20.00%	6.90%
TRADE	NUMBER OF EMPLOYEES WORKING ON PROJECT						MINORITY %	FEMALE %
	TOTAL		MINORITY		NON-MINORITY			
	M	F	M	F	M	F		
Laborers								
Equipment Operators, Surveyors								
Truck Drivers, Teamsters								
Sheet Metal								
Carpenters								
Masons								
Plumbers, Steam Fitters								
Electricians								
Sprinkler, Pipe Fitter								
Painter								
Lineworker								
Roofer								
Other (Specify)								
TOTAL WORKFORCE								

Prepared by (Signature):	Title:	Phone:
Printed Name:	Date:	Email:

Reviewed by MWBE Officer:	Date:
---------------------------	-------

City of Rochester
Public Works and Demolition Workforce Utilization Report

PROJECT NAME:		FOR WORK DONE FROM: ____/____/____ TO ____/____/____				MINORITY GOAL	FEMALE GOAL	
CONTRACTOR:		CONTRACT NUMBER:				20.00%	6.90%	
TRADE	NUMBER OF EMPLOYEES WORKING ON PROJECT						MINORITY %	FEMALE %
	TOTAL		MINORITY		NON-MINORITY			
	M	F	M	F	M	F		
Laborers								
Equipment Operators, Surveyors								
Truck Drivers, Teamsters								
Sheet Metal								
Carpenters								
Masons								
Plumbers, Steam Fitters								
Electricians								
Sprinkler, Pipe Fitter								
Painter								
Lineworker								
Roofer								
Other (Specify)								
TOTAL WORKFORCE								

Actual hours worked for these employees will be as shown on certified payrolls for this project

Prepared by (Signature):	Title:	Phone:
Printed Name:	Date:	Email:

Contractors shall submit this form at least quarterly (i.e. every three (3) months after the start of the agreement), or as otherwise requested by MWBE Officer. Reports shall be submitted with each invoice if filed more frequently than once per quarter.

Appendix 5

**Workforce Forms for Professional Services Consulting Contracts including Public Works Consulting
Contracts**

City of Rochester
Professional Consultant Services Workforce Staffing Plan

WORKFORCE STAFFING PLAN FOR PROFESSIONAL CONSULTANT SERVICES								
PROJECT NAME:				DATE:			MINORITY GOAL	FEMALE GOAL
CONSULTANT:				AGREEMENT NUMBER:			20.00%	6.90%
CLASSIFICATION	NUMBER OF EMPLOYEES WORKING ON PROJECT						MINORITY %	FEMALE %
	TOTAL		MINORITY		NON-MINORITY			
	M	F	M	F	M	F		
Officials, Administrators								
Professionals								
Technicians								
Sales Workers								
Office, Clerical								
Craft Workers								
Laborers								
Temporary, Apprentices								
Other (Specify)								
TOTAL WORKFORCE								

Prepared by (Signature):	Title:	Phone:
Printed Name:	Date:	Email:

Reviewed by MWBE Officer:	Date:
---------------------------	-------

City of Rochester
Professional Consultant Services Workforce Utilization Report

PROJECT NAME:		FOR WORK DONE FROM: _____ TO _____				MINORITY GOAL	FEMALE GOAL		
CONSULTANT:		AGREEMENT NUMBER:				20.00%	6.90%		
TRADE	EMPLOYEES WORKING ON PROJECT (NUMBER OF EMPLOYEES / HOURS WORKED)	TOTAL		MINORITY		NON-MINORITY		MINORITY %	FEMALE %
		M	F	M	F	M	F		
		Employees	Hours	Employees	Hours	Employees	Hours		
Officials, Administrators	Employees								
	Hours								
Professionals	Employees								
	Hours								
Technicians	Employees								
	Hours								
Sales Workers	Employees								
	Hours								
Office, Clerical	Employees								
	Hours								
Craft Workers	Employees								
	Hours								
Laborers	Employees								
	Hours								
Temporary, Apprentices	Employees								
	Hours								
Other (Specify)	Employees								
	Hours								
TOTAL WORKFORCE	Employees								
	Hours								

Prepared by (Signature):	Title:	Phone:
Printed Name:	Date:	Email:

Consultants shall submit this form at least quarterly (i.e. every three (3) months after the start of the agreement), or as otherwise requested by MWBE Officer. Reports shall be submitted with each invoice if filed more frequently than once per quarter.

Appendix 6

**Vendor Selection Form and No RFP Justification Statement for PSA Transmittal to City of Rochester
Council**

NO RFP JUSTIFICATION STATEMENT

Awarding a Professional Services Agreement Without a Request for Proposals

The Procurement of Professional Services Policy (Ord. No. 2012-318) requires an RFP to be issued under most circumstances. If it is determined that an RFP will not be issued, this form must be completed, signed by the Department Head, and kept on file (electronically or hard copy). It must also be submitted:

1. To City Council as an attachment to the transmittal letter for any PSA that exceeds \$10,000, and
2. To the contract record when entered in Munis.

Department:

Services(s):

Vendor/Consultant selected:

How was the vendor selected?

Why was no RFP issued for this service?

(Your rationale should include the following information when applicable)

- Is there **previous experience** with the vendor? Describe why it is in the City's best interest to continue with them and not solicit others.
- Are there unique or **emergency circumstances**? Describe how an RFP process would jeopardize the success of the project.
- Is the service **specialized and unique**? Is the number of **qualified providers limited**? Describe the Department's experience with and knowledge of the market and why an RFP would not produce additional qualified consultants.
- Does the project include **multi-year State or Federal funding**? Explain why it is in the best interest of the project and the City to continue with the same consultant (e.g. where the design consultant on a project is retained for resident project representation services).

Compensation

Amount:

How was this determined? Explain how it is a reasonable and best value for the City.

The MWBE Officer has reviewed the proposed Agreement for MWBE and Workforce goals. MWBE Officer Initials: _____ Date: _____

Signature: Department Head

Date