

EXECUTIVE ORDERS

Executive Order No. 4: Removing Barriers to Minority and Women Business Enterprises' Participation in State Contracting.

WHEREAS, New York State has enacted Article 15-A of the Executive Law, to promote equal opportunity in contracting for all persons, without discrimination for minority group members and women and business enterprises owned by them, and to eradicate the barriers that have impaired access by minority and women-owned business enterprises to State contracting opportunities;

WHEREAS, despite New York State's law to promote the continuing development of minority and women-owned businesses, in 2010 a statewide disparity study showed significant disparities between (1) the number of minority and female businesses in New York State available and qualified for contracting opportunities, and (2) the number of state contracts awarded to those businesses;

WHEREAS, legislation was enacted in 2010 to strengthen Article 15-A, and it is crucial that the State take active measures to ensure that these provisions are effectively implemented;

WHEREAS, it is of significant public importance that New York State conduct a critical, systematic, and comprehensive review to remove the barriers that have impaired access by minority and women-owned business enterprises to New York State contracting opportunities; and

WHEREAS, this review should be tailored to increasing the participation of minority and women-owned businesses in state contracting and providing equal opportunities in employment without discrimination;

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York do hereby order as follows:

A. Definitions

As used herein, the following terms shall have the following meanings:

1. "Minority and Women-Owned Business Enterprise" or "M/WBE" shall mean those businesses defined as "Minority-Owned Business Enterprises" and "Women-Owned Business Enterprises" in Executive Law § 310.

2. "Public authority" or "authority" shall mean a public authority or public benefit corporation created by or existing under any New York State law, with one or more of its members appointed by the Governor or who serve as members by virtue of holding a civil office of New York State, other than an interstate or international authority or public benefit corporation, including any subsidiaries of such public authority or public benefit corporation.

3. "SAGE Commission" shall mean the Spending and Government Efficiency Commission created by Executive Order 4 of 2011 and tasked with redesigning the organizational structure of state government.

4. "State agency" or "agency" shall mean any state agency, department, office, board, bureau, division, committee, council or office.

5. "State officer or employee" shall have the meaning given in Section 73 of the Public Officers Law.

B. M/WBE Team

1. There is hereby established the M/WBE Team ("Team") that shall exist to provide guidance for, and advice to, the Governor.

2. The Governor shall appoint up to 30 voting members of the Team. The members of the Team shall include: state officers or employees with relevant experience; members of the New York State Legislature; members of state academic institutions; and stakeholders with experience in supplier diversity contracting, diversity and inclusion practices and workforce diversity programs.

3. Vacancies shall be filled by the Governor, and the Governor may appoint additional voting and non-voting members to the Team as necessary. Members of the Team shall serve at the pleasure of the Governor.

4. The Governor shall designate a Chair from among the members of the Team.

5. A majority of the total members of the Team who have been appointed shall constitute a quorum, and all recommendations of the Team shall require approval of a majority of its total members.

6. The Team shall attempt to engage and solicit the input of a broad and diverse range of groups, organizations and individuals.

C. Cooperation with the Team

1. Every agency and authority of New York State shall provide to the Team every assistance and cooperation, including use of New York State facilities, which may be necessary or desirable to fulfill the purposes of this Executive Order.

2. Staff support necessary for the conduct of the Team's work shall be furnished by agencies and authorities (subject to the approval of the boards of directors of such authorities).

3. The Chief Diversity Officer shall serve as a liaison between the Team and agencies to facilitate the exchange of data and information.

D. Duties and Purpose

1. The Team shall review the 2010 disparity study, as well as data and information produced by state agencies and collected by the Chief Diversity Officer regarding individual agency performance and contracting practices.

2. The Team shall work with the Executive Chamber, the Empire State Development Corporation, and the SAGE Commission and identify opportunities for collaboration with other relevant entities.

3. The Chair shall notify stakeholders of the purposes of the Team, the opportunities for stakeholder participation and the means and schedule for such participation.

4. The Chair shall provide parameters for the submission of proposals and recommendations by stakeholders and other interested parties.

5. The Team's review and recommendations shall address existing barriers to M/WBE participation in State contracting opportunities including but not limited to:

- a. commitment from agency leadership to meeting M/WBE goals;
- b. access to information;
- c. specificity in contracts regarding M/WBE participation;
- d. assistance and supportive services programs;
- e. obstacles in credit and bonding that lead to difficulty in securing state contracts; and
- f. inconsistent and infrequent monitoring and compliance during contract period.

6. The Team shall also review the manner in which state agencies are implementing the 2010 amendments to Article 15-A of the Executive Law, and any problems with such implementation; and any gaps in the current statutory and regulatory regime governing M/WBE contracting.

7. The Team shall commence its work no later than March 1, 2011. On or before May 1, 2011, the Team shall identify a work plan and work with the Executive Chamber to implement the plan.

8. The Team shall fully implement its work plan by or before June 1, 2012. Thereafter, the Team shall terminate its work and be relieved of all responsibilities and duties hereunder.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany, this seventeenth day of February in the year two thousand eleven.

BY THE GOVERNOR
/S/ Andrew M. Cuomo
/s/ Steven M. Cohen
Secretary to the Governor