

ERIE COUNTY LEGISLATURE

MARIA R. WHYTE

LEGISLATOR - 6th DISTRICT
MAJORITY LEADER



ECLEG MAR21'11 PM 4:07

☐ NEIGHBORHOOD OFFICE:
286 Lafayette Avenue
Buffalo, New York 14213
716/874-3257
FAX: 716/874-4779

☒ OLD COUNTY HALL:
92 Franklin Street, 4th Floor
Buffalo, New York 14202
716/858-8878
FAX: 716/858-8895

Robert Graber, Clerk
Erie County Legislature
92 Franklin Street
Buffalo, NY 14202

March 21, 2011

Re: Items to be referred to the Community Enrichment Committee

Dear Mr. Clerk:

I have attached three Local Laws, previously passed by the Erie County Legislature, to be referred to the Community Enrichment Committee. Each Local Law pertains to the utilization of Minority and Women Owned businesses in county contracting and purchasing.

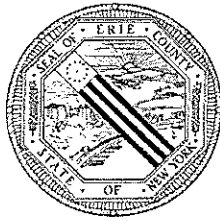
I have very serious concerns about how each law is being enforced and have co-sponsored a resolution requesting a thorough review of compliance with the laws. As the issue will be discussed in the Committee, I thought it would be helpful for the Committee Members to have copies of each law at their disposal. I have also attached a copy of the MBE/WBE Certification Application, as it too will be discussed in Committee.

Thank you very much.

Very Truly Yours,

A handwritten signature in cursive script, reading "Maria R. Whyte".

Maria R. Whyte
6th District Erie County Legislator, Majority Leader



**COUNTY OF ERIE/CITY OF BUFFALO
JOINT CERTIFICATION COMMITTEE**

CERTIFICATION APPLICATION

General Instructions: Please type or print clearly. Do not leave any spaces blank on the application. If a question is not applicable to your business, insert "N/A" in the space provided for your answer. You may make photocopies of the completed application as necessary. Whenever the space is insufficient to answer a question completely, attach additional sheets as necessary. Use the question number to identify any answer continued on an additional sheet. Retain a copy of your entire application.

Name and Street Address of Applicant Firm

Enter the full legal name of the enterprise. (For example, a corporation named ABC Construction, Inc. should be identified as "ABC Construction, Inc." not as "ABC Construction.")

Name: _____

Street: _____

City: _____ State: _____ Zip Code: _____

"Doing Business As" (DBA) Name (Complete if firm does business under an assumed or trade name that is different from its legal name)

Mailing Address (if different from above)

Street: _____

City: _____ State: _____ Zip Code: _____

Business Phone Number: _____ ext _____ Fax: _____

Email: _____ Web Address: _____

Federal Employer Identification Number (EIN) or Social Security Number (A Federal EIN is required for most business activities. For an application and/or additional information, contact the United States Internal Revenue Service website <http://www.irs.gov>. Sole Proprietorships may submit social security number of the owner in lieu of the federal EIN.

Name of Company's President, Chief Executive Officer, and Owner

Name & Title of Officer of the Firm who can be contacted during application review process:

DEFINITIONS & GROUP CODE OF MBE AND WBE

UNDER EACH CERTIFICATION CATEGORY, OWNERSHIP MUST BE REAL SUBSTANTIAL AND CONTINUING. THE APPLICANT MUST HAVE AND EXERCISE THE AUTHORITY TO INDEPENDENTLY CONTROL THE BUSINESS DECISIONS OF THE ENTERPRISE

WOMEN OWNED BUSINESS ENTERPRISE (WBE)

A business enterprise in which at least fifty-one percent (51%) is owned by citizens or permanent resident aliens who are women.

MINORITY BUSINESS ENTERPRISE (MBE)

A business enterprise in which at least fifty-one percent (51%) is owned by citizens or permanent resident aliens who meet the following definitions:

Group Code	Group Name	Group Definition
01	Black	Persons having origins from any of the Black, African racial groups
02	Hispanic	Persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race
03	Asian-Pacific	Persons having origins from the Far East, Southeast Asia or the Pacific Islands
04	Asian-Indian	Persons having origins from the Indian subcontinent
05	Native American	Persons having origins in any of the original peoples of North America
06	Non-Minority	Persons whose culture or origin is other than those defined above

1. Firm is applying for certification as:

☐ Minority Business Enterprise (MBE)

☐ Women-Owned Business Enterprise

2. Name & Position of all person(s) with ownership interest. (Check all applicable. If no positions are held, state "none.")

****For Group Codes, above.)**

Name	Position	Group Code	% Owned	Gender	US Citizen/Permanent Resident Alien
_____	_____	_____	_____	<input type="checkbox"/> M <input type="checkbox"/> F	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> M <input type="checkbox"/> F	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> M <input type="checkbox"/> F	<input type="checkbox"/> Yes <input type="checkbox"/> No

3. Are you currently involved in the bidding process or other contract/purchase order negotiations with any governmental agency, department, or authority?

☐ Yes

☐ No

If Yes, please identify the agency, department, or authority.

4. Specify Type of Current Ownership

☐ Sole Proprietorship _____
Date Established _____

Certificate of Trade Name on file in _____
County _____

☐ Partnership _____
Date Established _____

Business Certificate for Partners on file in _____
County _____

☐ Corporation _____
Date Established _____

Certificate of Incorporation on file in _____
County _____

☐ LLC/LLP _____
Date Established _____

Certificate of Incorporation on file in _____
County _____

5. Did the business exist under a different type of business ownership prior to the date indicated in question 4?

☐ No

☐ If Yes, please explain _____

6. Has your Certification of Incorporation been amended?

☐ No

☐ If Yes, please explain _____

7. Method of Acquisition (Check all applicable):

☐ Started New Business

☐ Bought Existing Business

☐ Secured Franchise

☐ Secured Concession

☐ Inherited Business

☐ Merger or Consolidation

☐ Other: _____

Date of Acquisition: _____

8. Please identify the cash and capital contributions to the firm by those identified in question 7, including gifts, equipment, loans, and expertise.

Contributor/Source	Amount/Value	Type of Contribution	Date of Contribution
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

9. If the firm is a partnership, please complete for all partners.

Name	Total Amount/Value of Contribution	Date of Ownership
_____	_____	_____
_____	_____	_____
_____	_____	_____

10. If the firm is a corporation, please complete for all shareholders.

Name/Contributor	No. of Shares	Common or Preferred	Amount Paid when Purchased	Date of Contribution
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

11. If a corporation, number of shares:

Common Authorized: _____ Common Issued: _____
 Preferred Authorized: _____ Preferred Issued: _____

12. Gross Sales/Tax Returns. Please provide tax returns for the last 3 years. (If in business for less than 3 years complete as applicable.)

Amount	Amount	Amount
_____	_____	_____
Current Year 20____	Last Year 20____	Previous Year 20____

13. Number of Employees (Provide average over the past year).

Permanent	Temporary
Full-Time _____	Full-Time _____
Part-Time _____	Part-Time _____

14. If licensing, permits or accreditation is required to conduct the business, please identify:

Type of License/Permit	Issued By	Issue Date	Exp. Date	Holder/Registrant
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

15. Check all that best describes the business operation. (For definition see application instructions)**

<input type="checkbox"/> Construction-Related	<input type="checkbox"/> Customer Service	<input type="checkbox"/> Broker
<input type="checkbox"/> Professional Service	<input type="checkbox"/> Manufacturer	<input type="checkbox"/> Supplier**
<input type="checkbox"/> Retail	<input type="checkbox"/> Technical Service	
<input type="checkbox"/> Other (Explain): _____		

16. Describe principle products/commodities sold, specialties or services offered. (Please explain.)

17. Identify those individuals responsible for managerial operations (State if owner or non-owner).
***For Group Codes, see 2 Page.**

Name & Title	Gender	Group Code	Owner
1. Financial Decisions			
Name & Title	Gender	Group Code	Owner
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Estimating			
Name & Title	Gender	Group Code	Owner
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Preparing Bids			
Name & Title	Gender	Group Code	Owner
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Negotiating Bonding			
Name & Title	Gender	Group Code	Owner
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	<input type="checkbox"/> M <input type="checkbox"/> F	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

5. Negotiating Insurance
Name & Title

Gender

☐ M ☐ F

☐ M ☐ F

☐ M ☐ F

Group Code

Owner

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

6. Marketing & Sales
Name & Title

Gender

☐ M ☐ F

☐ M ☐ F

☐ M ☐ F

Group Code

Owner

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

7. Hiring & Firing
Name & Title

Gender

☐ M ☐ F

☐ M ☐ F

☐ M ☐ F

Group Code

Owner

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

8. Supervising Field Operations
Name & Title

Gender

☐ M ☐ F

☐ M ☐ F

☐ M ☐ F

Group Code

Owner

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

9. Purchasing Equipment/Supplies
Name & Title

Gender

☐ M ☐ F

☐ M ☐ F

☐ M ☐ F

Group Code

Owner

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

10. Managing & Signing Payroll
Name & Title

Gender

☐ M ☐ F

☐ M ☐ F

☐ M ☐ F

Group Code

Owner

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

11. Negotiating Contracts
Name & Title

Gender

Group Code

Owner

☐ M ☐ F

☐ Yes ☐ No

☐ M ☐ F

☐ Yes ☐ No

☐ M ☐ F

☐ Yes ☐ No

12. Signatories for Business Accounts
Name & Title

Gender

Group Code

Owner

☐ M ☐ F

☐ Yes ☐ No

☐ M ☐ F

☐ Yes ☐ No

☐ M ☐ F

☐ Yes ☐ No

18. Please identify additional staff persons. (If any individual also works for another firm, please check yes and provide the person's name, his/her position, other firm's name, address, and phone number.)

1. Office Staff

Name & Position

Other Firm Name & Address

Phone

2. Field/Supervisory Staff

Name & Position

Other Firm Name & Address

Phone

3. Estimator

Name & Position

Other Firm Name & Address

Phone

4. Controller

Name & Position

Other Firm Name & Address

Phone

5. Consultant (For firms involved in providing consultant service or advisory service.)

Name & Position

Other Firm Name & Address

Phone

19. Does this firm share the following with any other firm? If yes, please provide the other firm's name, address, and phone number.

1.	Office Space Other Firm Name	Address	Phone
	_____	_____	_____
	_____	_____	_____
2.	Yard Space Other Firm Name	Address	Phone
	_____	_____	_____
	_____	_____	_____
3.	Equipment (include rentals) Other Firm Name	Address	Phone
	_____	_____	_____
	_____	_____	_____

20. List rented, leased, or owned warehouse, plant, yard, and office facilities.

Facility Type	Owner or Name of Lessor and/or rental agent	If rented or leased Amount of yearly payment
_____	_____	_____
_____	_____	_____

21. List major equipment or machinery that is owned or leased by the firm.

Type	Depreciated \$ Value	Acquisition Date	Payment Terms
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

22. Do any principles, officers and/or owners of the firm have an affiliation (i.e. business interest or employment) with any other firm? ☐ Yes ☐ No If Yes, please complete the following.

Name of Person	Firm Name & Address	Phone Number	Nature of Business	Nature of Affiliation
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

23. Attorney for Firm

Name _____

Address _____

City _____ State _____ Zip Code _____

Phone Number: _____

24. CPA/Accountant for Firm

Name _____

Address _____

City _____ State _____ Zip Code _____

Phone Number: _____

25. Has the firm applied for certification as an M/WBE with another governmental agency, department or authority?
☐ Yes ☐ No *If Yes, please complete the following.*

Agency	Date	Contact Person	Phone	Specify MBE or WBE
1. Pending With				
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
2. Certified By				
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
3. Registered By				
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

26. List the three largest accounts for which the applicant has provided goods or services within the last two years.

Firm Name	Phone	Account Dollar Amount	Location of Performance	Duration
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

27. Identify Bank(s) where firm's accounts are maintained.

Bank Name	Address	Contact	Account Type	Account Number
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

28. Do you have a Line of Credit? ☐ Yes ☐ No If Yes, please identify.

Source	Limit	Name of Guarantor(s)
_____	_____	_____
_____	_____	_____

29. List major current creditors and/or lenders and types of investments and/or loans in the firm.

Name of Creditor/Lender	Type of Investment Credit/Loan	Dollar Value of Investment Terms/Credit/Loans
_____	_____	_____
_____	_____	_____

30. If your company is owned in full or in part by another firm, please identify the firm and the percentage of ownership interest. Include venture capitalists and other similar investors.

Firm Name	Address	% Ownership
_____	_____	_____
_____	_____	_____

31. Is the firm bonded? ☐ Yes ☐ No

Bonding Company	_____		
Address	_____		
City	State	Zip Code	
Phone Number	Contact Person	_____	
Type	Limit	_____	

SUPPORTING DOCUMENTS

A. REQUIRED FOR ALL APPLICANTS

Attach copies of the following, if applicable. Please indicate documents submitted by checking appropriate boxes. Applicant must provide copies of the completed application to all five members of the JCC Committee

NOTE: If appropriate documents are not submitted AND no written explanation is given, the application will be returned to you.

- ☐ 1. Resumes of all principles, partners, officers, and/or key employees of the firm as per questions 2, 13, and 17. Show home address and phone number, education, training, and employment dates.
- ☐ 2. Bank signature card, bank resolution, or letter from the bank identifying persons authorized to conduct transactions, level of authority and limitations, if any.
- ☐ 3. Current Financial Statement. (Balance Sheet and Profit & Loss Statement.)
- ☐ 4. Most recent two years' Federal, State, and City tax returns including all schedules (e.g. Schedule K-1), where applicable.
- ☐ 5. Proof of sources of capitalization/investments.
- ☐ 6. Proof of ethnicity (i.e. Birth Certificate, Baptismal Certificate, Picture ID, etc.)
- ☐ 7. Proof of US Citizenship (i.e. Birth Certificate, US Passport, Naturalization Certificate, etc.)
- ☐ 8. Proof of permanent resident alien status (i.e. permanent resident "green" card).
- ☐ 9. Lease Agreements per questions 20 and 21.
- ☐ 10. All third party agreements including, equipment rental, purchase agreements, management service agreements, etc.
- ☐ 11. Any employment agreements.
- ☐ 12. Vehicle registration(s).
- ☐ 13. Any certification, decertification or denial of certification documentation. Out-of-state firms should attach a copy of their home state certification, if similar process exists.
- ☐ 14. Written request for exemption from disclosure regarding trade secrets.
- ☐ 15. If Out-of-state firm, the Authority to Do Business In New York State.

B. REQUIRED FOR SOLE PROPRIETORSHIP

(Attach copies of the following: Please indicate documents submitted by a check mark.)

- ☐ 1. Copy of Certificate Trade Name or Business Trade Name filed with County Clerk (If doing business under an assumed name)

C. REQUIRED FOR PARTNERSHIP AND A JOINT VENTURE PARTNERSHIP

(Attach copies of the following: Please indicate documents submitted by a check mark.)

- ☐ 1. Business Certificate
- ☐ 2. Partnership Agreement
- ☐ 3. Buy-out Rights

SUPPORTING DOCUMENTS

D. REQUIRED FOR A CORPORATION

(Attach copies of the following, if applicable. Please indicate documents submitted by a check mark.)

- ☐ 1. Articles of Incorporation, including date approved by State
- ☐ 2. Corporation by-laws
- ☐ 3. Minutes of first corporate organizational meeting and amendments
- ☐ 4. Copies of all issued stock certificates, front and back, as well as, next unissued certificate
- ☐ 5. Copy of stock ledger
- ☐ 6. If applicable, furnish copies of agreements relating to:
 - ☐ Stock Options
 - ☐ Shareholder Agreements
 - ☐ Shareholder voter rights
 - ☐ Restriction on the disposal of stock loan agreements
 - ☐ Facts pertaining to the value of shares
 - ☐ Buy-out rights
 - ☐ Restriction on the control of the corporation

E. REQUIRED FOR ALL LLC/LLPs

(Attach copies of the following, if applicable. Please indicate documents submitted by a check mark.)

- ☐ 1. Certificate of Registration
- ☐ 2. Articles of Organization
- ☐ 3. Operating Agreement

VERIFICATION

STATE OF _____)

COUNTY OF _____) SS:

A)

_____, being duly sworn, states he or she is the owner of (or a partner in) the enterprise making the foregoing Application and that the statements and representations made in the Application are true to his or her own knowledge.

B)

_____, being duly sworn, states that he or she is the
Name of Corporate Officer

_____, of _____
Title of Corporate Officer Name of Corporation

the enterprise making the foregoing Application, that he or she has read the Application and knows its contents, that the statements and representations made in the Application are true to his or her own knowledge, and that the Application is made at the direction of the Board of Directors of the Corporation.

Signature

Date

Sworn to before me this _____

Day of _____, 20__

Notary Public

Person assisting in completing the Application

Print Name

Signature

Phone Number

**COUNTY OF ERIE
LOCAL LAW NO.1
LOCAL LAW INTRO NO.1
1987**

A Local Law requiring a minority business utilization and women-owned business utilization commitment by persons or firms contracting with the County of Erie:

BE IT ENACTED BY THE COUNTY OF ERIE LEGISLATURE AS FOLLOWS:

Section 1: The following provisions shall be inserted in and made a condition of all bid specifications prepared by the County of Erie Department of Planning and Environment and/or the County of Erie Department of Public Works and advertised after the effective date of the local law which was estimated by the County of Erie to result in a contract exceeding \$100,000.00.

Minority Business Utilization Commitment

(A) The Contractor shall take affirmative action to utilize bona fide minority business enterprises/women business enterprises for subcontracts on this project. Affirmative action shall include, but not limited to : (1) Utilizing a source list of minority business enterprises (MBE) and women-owned business enterprises (WBE), (2) Solicitation of bids from MBE=s and WBE=s, particularly those located in Erie, Niagara, Cattaraugus and Chautauqua Counties, (3) Giving MBE=s and WBE=s sufficient time to submit proposals in response to solicitations, (4) Maintaining records showing MBE=s and WBE=s and specific efforts to identify and award contracts to these companies, and (5) A goal of awarding at lease ten percent (10%) of the total dollar value of the contract to MBE=s and at least two percent (2%) of the total dollar value of the contract to WBE=s or, for those contracts governed by federal or state regulations with respect to MBE and/or WBE hiring, the prevailing percentage set forth therein, whichever is higher, subject to waiver as provided for below.

(B) The three (3) lowest bidders on each contract subject to this law shall submit to the County MBE/WBE office, with the bid (or within 3 business days of the bid opening), a list of all MBE=s and WBE=s from whom the contractor has solicited bids or with whom the contractor has signed a binding contractual agreement of with whom the contractor is presently negotiating an agreement, for the purposes of meeting the MBE and WBE utilization goals provided for in subdivision (A) (5) above. A contractor=s bid shall not be considered where the contractor fails to submit such a list as provided for herein. A contractor=s bid shall not be considered where examination of said list of MBE=s and WBE=s evidences failure by the contractor to comply with the affirmative action requirements provided for herein, except that the County may, upon written request by the contractor,

grant a complete or partial waiver of the provisions of subdivision (A) (5), where the availability of MBE=s and/or WBE=s in the market area of the project is less than the ten percent (10%) and two percent (2%) goals above.

(C) As evidence of compliance with the goals set forth in subdivision (A) (5) above, the contractor shall submit to the County MBE/WBE office, within fifteen (15) business days of the bid opening, a schedule for MBE and WBE participation, listing the MBE=s and WBE=s with whom the contractor intends to subcontract, specifying the agreed price to be paid for such work, and identifying in detail the contract items(s) or parts to be performed by each MBE and each WBE. A letter of intent to be enter into a subcontract or purchase agreement, contingent upon contract award, indicating the agreed upon price and scope of work, shall be provided, signed by both the contractor and the MBE or WBE. The prime contractor shall not substitute or delete the listed MBE=s or WBE,s without the written consent of the County of Erie.

(D) As evidence of compliance with the goals set forth in subdivision (A) (5) above, the contractor shall provide to the County of Erie MBE/WBE office, copies of all subcontracts and/or purchase agreements with MBE=s and WBE=s within fifteen (15) days of contract award. A motion (notice) to proceed with construction shall not be issued until such documentation is received.

(E) As evidence of compliance with the goals set forth in subdivision (A) (5) above, the contractor shall submit to the County of Erie MBE/WBE office, when the project is thirty percent (30%) complete, a list of MBE=s and WBE=s on the project, the dollar amount paid to that date and the estimate amount remaining to be spent. This same information is required at seventy-five percent (75%) completion and a final accounting must accompany the final payment request.

(F) Failure to comply with the provisions set forth herein shall constitute a breach of this contract subject to all remedies available to the County of Erie.

(G) For the purposes of this section, the term Aminority business enterprise (MBE)@ shall mean a business which performs a commercially useful function, at least fifty-one percent (51%) of which is owned by minority group members or, in the case of a publicly owned business, at least fifty-one (51%) of all stock is owned by minority group members. Such ownership shall be certified by the County of Erie Equal Employment Opportunity office. For the purposes of this paragraph, Aminority group members@ are citizens of the United States who are Black, Hispanic, Asian-American, American Indian, Eskimo or Aluet. [For purposes of this section, the term Asubcontract@ includes all construction, modification, supplies and material, and service work contracted for by the contractor in the prosecution of this work.]

(H) For the purpose of this section, the term Awomen-owned business enterprise (WBE)@ shall mean a business which performs a commercially useful function, at least fifty-one (51%) of which is owned by a woman or women or, in the case of a publicly owned business, at least fifty-one (51%) of all stock is owned by a woman or women. Such ownership shall be certified by the County of Erie Equal Employment Opportunity office.

(I) where the MBE or WBE is a supplier, a credit of one hundred percent (100%) of the dollar value of the sub- contract between the MBE or WBE and the Contractor shall be awarded toward the Fulfillment of the appropriate goal, as set forth in section 1(A) (5) above.

1) For purposes of this section, an MBE or a WBE will be considered a supplier when it:

a. Assumes actual and contractual responsibility to furnish supplies and / or materials and is the manufacturer of those supplies and / or materials or

b. Is recognized by the manufacturer involved as a distributor of its supplies and/ or materials, and

c. Owns or leases a warehouse, yard, building or other facility which is necessary and customary to carry out the reported function of the business, and

d. Distributes, delivers and services the supplies and / or materials with its own staff.

(J) Where an MBE or WBE performs a sales function, which is customarily performed as a distinct and necessary part of the supply process, a credit of twenty- five percent (25%) of the dollar value of subcontract between the MBE or WBE the contractor will be awarded toward the fulfillment of the appropriate goal, as set forth in section 1 (A) (5) above.

(K) Where the MBE or WBE performs a function or service which is commercially unnecessary, such as acting as a passive conduit in the supply process or duplicating a service provided by others in the same chain of supply from manufacturer to purchaser, no credit will be granted toward the appropriate goal, as set forth in Section 1 (A) (5) above.

(L) the qualifications set forth in subsections (I), (J) and (K), above, of this Action shall be certified by the Erie county Equal Employment Opportunity Office.

(M) For purposes of this section, the term subcontract= include all construction, modification, service work, supplies and material contracted for by the contractor in the prosecution of this work.

Section 2. The county Executive shall appoint a minority business enterprise and women-owned business enterprise utilization advisory board of nine (9) members consisting of county personnel, Legislators, minority contractors, Female contractors and community and business representatives, which shall review program administration and implementation on a regular basis and shall submit an annual report to the county Executive and the county Legislature. This committee shall be empowered to promulgate regulations to provide for the administration of this local law.

Section 3. The Legislature shall conduct hearings annually to assess the impact of the Local Law.

Section 4. This Local Law shall take effect immediately.

Mary Lue Rath
Legislator, 15th District

Joan K. Bozer
Legislator, 4th District



[Legislature](#) | [Sheriff's Prevention Tip](#) | [Internet Mapping System](#) | [Employment](#) | [Bids](#) | [Site Map](#) | [Home](#)

Department of Purchasing

Sections

- [Informal Bids](#)
- [Formal Bids](#)
- [On-Line Bid Retrieval](#)
- [Available Contracts](#)
- [MBE/WBE Commitment](#)
- [Vendor Applications](#)
- [Home](#)

MBE/WBE Commitment

The Erie County Legislature enacted Local Law No. 5 requiring a minority and women-owned business utilization commitment by persons or firms contracting with the County of Erie for supplies, materials, equipment, and insurance.

Section 1.

A. The supplier of all purchase contracts involving an expenditure of more than \$15,000.00 shall take affirmative action to utilize bona fide minority business enterprises (MBE) and women business enterprises (WBE) on all contracts with the County. Affirmative action shall include, but not limited to:

1. Utilizing a source list of MBEs and WBEs; and
2. Solicitation of bids from MBEs and WBEs; and
3. Providing MBEs and WBEs sufficient time to submit proposals in response to solicitations; and
4. Maintaining records showing utilization of MBEs and/or WBEs specific efforts to identify and utilize these companies; and
5. A goal of awarding at least ten percent (10%) of the total dollar value of the contract to MBEs and at least two percent (2%) of the total dollar value of the contract to WBEs or, for those contracts governed by federal or state regulations with respect to MBE and/or WBE hiring the prevailing percentage set forth therein, whichever is higher, subject to waiver as provided below.

B. All bidders must submit, with a bid, a list of all MBEs and WBEs from whom the supplier has solicited bids, or with whom the supplier has signed a binding contractual agreement, or with whom the contractor is presently negotiating an agreement, for the purpose of meeting the MBE and WBE utilization goals provided in subdivision (A) (5) above. A supplier's bid shall not be considered where the supplier fails to submit a list as provided for herein. A supplier's bid shall not be considered where examination of said list of MBEs and WBEs evidences failure by the supplier to comply with the affirmative action requirements provided herein, except that the County may, upon written request by the supplier, grant a complete or partial waiver of the provisions of subdivision (A) (5) where the availability of MBEs and/or WBEs in the market area of the contract is less than the ten percent (10%) MBE goal and two percent (2%) WBE goal.

C. As evidence of compliance with the goals set forth in subdivision (A) (5) above, the supplier shall submit to the Director or Purchasing, at the bid opening, a schedule for MBE and WBE participation listing the MBEs and WBEs with whom the supplier intends to utilize; specifying the agreed upon price to be paid for such goods and identifying in detail the contract item or items to be supplied by each MBE and WBE. A copy of the participating schedule will be forwarded to the Division of E.E.O. from the Division of Purchasing. Contingent upon a contract award, a letter of intent to enter into a purchase agreement, signed by both the supplier and the MBE and WBE (unless a waiver is requested in one of those categories), indicating the agreed upon price and scope of work, shall be provided.

D. As evidence of compliance with the goals set forth in subdivision (A) (5) above, the supplier shall provide to the County Division of E.E.O., copies of all the subcontracts and/or purchase agreements with the MBEs and WBEs within fifteen (15) days of contract award.

E. For the purpose of this section, the term "minority business enterprise" shall mean a business which performs a commercially useful function, at least fifty-one percent (51%) of which is owned by minority group members or, in the case of a publicly-owned business, at least fifty-one percent (51%) of all stock is owned by minority group members. Such ownership shall be certified by the County Division of E.E.O.

For the purposes of this paragraph, "minority group members" are citizens of the United States who are African-American, Hispanic, Asian-American and American-Indian.

F. For the purposes of this section, the term "women-owned business enterprise" shall mean a business which performs a commercially useful function, at least fifty-one percent (51%) of which is owned by a woman or women or, in the case of publicly-owned business, at least fifty-one percent (51%) of all stock is owned by a woman or women. Such ownership shall be certified by the County Division of E.E.O.

Note:

It is the prime vendor's responsibility to obtain MBE/WBE vendors and NOT the County of Erie. However, some vendors may be obtained from:

Jacqueline Stover, Director
Erie County Division of E.E.O.
95 Franklin Street
Room 1651
Buffalo, NY 14202
(716) 858-7542



Your information resource for Erie County, New York

COUNTY OF ERIE
LOCAL LAW NO. 9 2005 JUL -6 P 1:10
LOCAL LAW INTRO NO. 8 2005
PRINT NO. 2

A LOCAL LAW in relation to the utilization by the County of Erie of minority-owned businesses and woman-owned businesses for professional, technical or other consultant services.

BE IT ENACTED BY THE ERIE COUNTY LEGISLATURE AS FOLLOWS:

Section 1. Short Title. This local law shall be known as the Erie County MBE/WBE Utilization Commitment Act.

Section 2. Legislative Intent. As a direct result of Local Law #1, of 1987 the County of Erie has significantly increased its utilization of businesses owned by minority group members and women, and especially locally owned and operated businesses, on construction contracts and has thereby significantly enhanced the opportunities and entrepreneurial skills of minority group members and women in Erie County. The growth and development of such businesses have a substantial positive impact on the economic health of the County. The County's utilization of minority and women-owned professional, technical and other consultant services, such as in the areas of law, finance, information technology, accounting and engineering, outside of construction projects, has not achieved the same level of success, notwithstanding the increased growth of minority and women owned business and firms in these areas and professions.

Section 3. Definitions: For the purposes of this local law, the following terms shall have the following meanings:

A. Minority-Owned Business Enterprise (MBE) shall mean a business which performs a commercially useful function, at least fifty-one percent (51%) of which is owned by minority group members or, in the case of a publicly-owned business, at least fifty-one percent (51%) of all stock is owned by minority group members, with such ownership certified by the Erie County Office of Equal Employment Opportunity and who is doing business and maintains an office in the County of Erie. For the purposes of this paragraph, minority group members are citizens of the United States who are African American, Hispanic, Asian-American and Native American (American-Indian).

B. Women-Owned Business Enterprise (WBE) shall mean a business which performs a commercially useful function, at least fifty-one percent (51%) of which is owned by a woman or women or, in the case of publicly-owned business, at least fifty-one percent (51%) of all stock is owned by a woman or women, with such ownership certified by the Erie County Office of Equal Employment Opportunity and who is doing business and maintains an office in the County of Erie.

C. Department shall mean every County Department, Agency or Administrative Unit, , including but not limited to the County Executive, the Legislature, Sheriff's Department, Comptroller's Office, County Clerk's Office and District Attorney's Office.

Section 4. Minority And Women-Owned Business Enterprise Utilization Commitment

(A) Every Department shall annually prepare and implement a written plan for the utilization of bona-fide minority and women-owned businesses on County contracts let by or on behalf of such Department for professional, technical, or other consultant services. The plan must include a goal of awarding to MBE's, directly or through subcontracts, in each fiscal year, at least fifteen percent (15%) of the total value of all contracts intended to be let by the Department and a goal of awarding to WBE's at least five percent (5%) of the total value of all contracts intended to be let by the Department. The plan shall be submitted to the Erie County Division of Equal Employment Opportunity for review and approval by September 15th, preceding the calendar year covered by such plan.

(B) If the Department determines that the goals set forth in Section 4 (A) cannot be met, the Department's annual plan must include a justification why the policy goals are unobtainable. The written justification must include the Department's reasonable good faith efforts to meet the utilization goals and which may include the utilization of minority and women professionals in non-minority and non-women owned businesses.

(C) The County Executive must submit a summary of each Department's plan pursuant to this local law to the Legislature simultaneously with the annual proposed Budget. The plans are not to be considered as a part of the proposed budget.

Section 5. Reporting

A. Every Department shall prepare and submit an initial plan by September 15, 2005 that will cover the period January 1, 2006 to December 31, 2006. Annual plans, including the initial plans, will be modified as appropriate to reflect the Department's final adopted budget for the applicable year and subsequent modifications to the Department's budget during the applicable year.

B. On or before the 30th day of April, and quarterly thereafter, each Department head shall prepare a status report in such standard form as shall be periodically established by the Division of Equal Employment Opportunity, on the implementation and results of its utilization of minority owned business and women owned businesses during the three-month period ending one month before the due date of the report. Each report shall be submitted to the Division of Equal Employment Opportunity. Failure by any Department to submit any reports required by this section shall be grounds for discipline by the County Executive, except that for those Departments whose head are elected, the legislature shall determine the appropriate remedy for non-compliance with of the provisions of this law.

C. As evidence of a Department's good faith efforts to attain the goals set forth in its annual policy, a Department seeking approval by the Legislature of a matter which may involve the utilization by the County of professional, technical or other consultant services, must attach to each such request, a copy of its current status report on its policy goals.

D. The Division of Equal Employment Opportunity shall: (1) monitor the achievement of the annual goals established by each Department and (2) prepare a quarterly report on each Department's goal achievement, including each Department's good faith efforts to each those goals. The report shall be submitted to each Department that submitted a report, the County Executive, the Department and the Legislature.

E. Reasonable efforts shall include, but not limited to:

1. Utilizing a source list of MBEs and WBEs;
2. Solicitation of bids, RFQS and RFPs from WBEs and MBEs
3. Providing MBEs and WBEs sufficient time to submit proposals in response to solicitations;
4. Maintaining records showing utilization of MBEs and/or WBEs, as well as the specific efforts to identify and utilize these companies;
5. Causing its prime contractors to enter into sub-contracts with MBE/WBE firms, if appropriate and feasible, to effectuate the policy goal set forth herein;
6. Building the capacity of local and regional MBE and/or WBE firms to provide quality technical and professional services.

F. The Division of Equal Employment Opportunity shall prepare an annual report to the County Executive and the Legislature on the compliance of Departments with the requirement of this law.

Section 6. Applicability to contractual agreements for professional, technical or other consultant services. Notwithstanding any other application, this local law shall apply to any and all contractual agreements for professional, technical or other consultant services made in accordance with Section 19.08 of the Erie County Administrative Code. Waiver of Section 19.08, in accordance with the Erie County Legislature's authority to make a finding of necessity that the special service or skill must be provided immediately, or a determination that the procedure is impracticable, shall not constitute waiver or inapplicability of the provisions of this local law.

Section 7. Effective Date. This Local Law shall take effect immediately upon filing with the Secretary of State pursuant to Section 27 of the New York State Municipal Home Rule Law.

GEORGE A. HOLT, JR.

DEMONE SMITH

ALBERT DEBENEDETTI

LYNN M. MARINELLI