

REAUTHORIZATION OF ARTICLE 15-A FREQUENTLY ASKED QUESTIONS



Division of Minority
and Women's
Business Development

ABOUT THE DIVISION OF MINORITY AND WOMEN'S BUSINESS DEVELOPMENT ("DMWBD")

DMWBD's mission is to promote equality of economic opportunities for **minority and women-owned business enterprises ("MWBEs")** and to eliminate barriers to their participation in State contracting. DMWBD provides information and resources that increase access to opportunities for minority and women-owned business enterprises throughout New York State.

WHAT IS ARTICLE 15-A?

New York State Executive Law Article 15-A §§ 310-317 ("Article 15-A") governs requirements for the participation of MWBEs in New York State contracting and provides the

DMWBD with the legislative authority to administer and advance the MWBE program. On July 15, 2019, Governor Cuomo signed legislation that reauthorizes Executive Law Article 15-A, extends the program to December 31, 2024 and includes several enhancements that expand the program to further benefit NYS certified minority and women owned businesses. The provisions of the new Article 15-A will go into effect in January 2020.



CHANGES TO MWBE CERTIFICATION

The reauthorization of Article 15-A does not alter the current eligibility requirements for certification. In order to be eligible for certification, a for-profit firm must be fifty-one percent (51%) owned, operated, and controlled by citizens or permanent resident aliens who are either a minority and/or woman, and the ownership is real, substantial and continuing.

Under the new Article 15-A the term of MWBE certification will be extended from three to five years.

Additionally, to facilitate and expedite the processing of applications, the New York State Tax & Finance Agency and the Department of Labor will be required to share records with DMWBD.

PERSONAL NET WORTH

Under the previous Article 15-A, the personal net worth ("PNW") of each individual upon which certification is relied upon could not exceed \$3.5 million, adjusted for inflation annually.

The reauthorization of Article 15-A increases the personal net worth certification cap to \$15 million and authorizes the Director of the DMWBD to establish by regulation additional PNW limits on an industry-by-industry basis.

In addition, exclusions to PNW calculations have been expanded to exclude the need to report ownership of holding companies established to lease machinery, equipment, or vehicles to the certified business, and also increased the cash value of retirement savings from \$500,000 to \$750,000.

BENEFITS TO THE MWBE COMMUNITY

The reauthorization of Article 15-A expands the benefits of the NYS MWBE program and enhances opportunities for currently certified firms in several ways:

1. The discretionary purchasing threshold for agencies and authorities will be increased from \$200,000 to \$500,000 without a formal competitive bidding requirements for commodities, services and technology that are recycled or remanufactured;
2. For MWBE prime contractors, a ten percent bidding credit will be established for low-bid construction projects subject to public buildings law §8 that are up to \$1.4 million in value; and,
3. The Director of the DMWBD's authority to conduct outreach events, seminars, training workshops, and identify and establish mentorship opportunities for MWBEs throughout New York State will also be codified in law.

ENHANCED REPORTING BY NYS AGENCIES AND AUTHORITIES

In order to increase transparency with the program, Article 15-A will require enhanced reporting from New York State Agencies and Authorities on MWBE contracting; including, projected growth plans, procurement strategies as well as advocacy measures undertaken by the State on behalf of MWBEs.

The reauthorization will also expand the authority of the Statewide Advocate to, among other things, investigate complaints from MWBEs during the procurement process and other claims of violations of Article 15-A by agencies and contractors.

WORKFORCE DIVERSITY GOALS

To increase diversity in the workforce, the new Article 15-A will create a workforce program, which will establish regional aspirational goals for the employment of minority and women group members on state construction and construction related contracts.

The requirements of this program will be outlined in forthcoming regulations.

NEXT STEPS FOR THE REAUTHORIZATION OF ARTICLE 15-A

Once Article 15-A of the Executive Law becomes effective in January 2020, the Director of DMWBD will promulgate regulations which to further delineate the requirements of the MWBE program and the various expansions noted within the statute.

Additionally, the reauthorization legislation requires that the Division submit the next NYS Disparity Study to the NYS Legislature in 2023.

NEED MORE INFORMATION?

<https://esd.ny.gov/doing-business-ny/mwbe>