

**ALBANY CONVENTION CENTER AUTHORITY  
("ACCA")**

**AFFIRMATIVE ACTION  
&  
ECONOMIC INCLUSION PLAN**

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Section I:  
Introduction

## **AFFIRMATIVE ACTION AND ECONOMIC INCLUSION PLAN**

### **I. INTRODUCTION**

The Albany Convention Center Authority (ACCA) was created as a public benefit corporation by the New York State Legislature and signed into law on September 21, 2004 by Governor George Pataki. The purpose of ACCA is to design, develop, plan, finance, create site, construct, renovate, administer, operate, manage, and maintain the convention facility of the ACCA.

The capital budget to support the Albany Convention Center and hotel complex will include both New York State and Albany County resources and will be one of the largest public construction projects in the region. The size and potential impact of this project, gives it the potential to emerge as one of the most significant development projects in the region.

Economic development and inclusion activities associated with ACCA can create substantial direct and indirect benefits. Through ACCA's commitment and use of visionary and socially conscious management practices and outcome-oriented initiatives, it is the intention to promote high levels of participation of local community residents, who have historically been overlooked. Such activities will not only contribute to individual success, but would also contribute to the economic growth of our entire community. It is the desire of ACCA to continue to engage in such activities to increase sustainability for many of the local community's most vulnerable populations for years to come. Specifically, economic inclusion activities will expand opportunities for minorities and women as both workforce participants and business owners. While the ACCA is bound by and committed to the requirements of Executive Law 15-A for the establishment of certain participation goals, the ACCA desires, to the greatest extent feasible, that local minority, women and other residents as well as local minority owned, women owned and other businesses have an opportunity to participate in the ACCA project.

ACCA understands that economic inclusion goals cannot be realized without diligent work, steadfastness, coalition building, support and evaluation. To that end, ACCA will secure and maintain the services of compliance personnel to engage in activities that will ensure intended outcomes. Through engaging in these specific activities it will enable individuals and local enterprises to take advantage of opportunities presented by this project. ACCA aspires to be a model and to include in its objectives the creation and maintenance of mutual trust, public confidence and transparency.

Through an aggressive process of identifying opportunities that can be made available to underserved populations, specifically women, minorities and local community members; the ACCA will collaboratively support and promote programs in conjunction with any potential community benefits program, to include the following:

- Existing and new Apprenticeship programs;
- Existing and new MWBE development & support; and
- Existing and new Training programs (including hotel management, etc.).

In furtherance of such, on April 27, 2006 the ACCA board passed the following resolution:

**RESOLUTION REQUIRING ECONOMIC INCLUSION FOR GEOGRAPHIC AREA RESIDENTS AND BUSINESSES; MINORITY AND WOMEN WORKERS; AND MINORITY AND WOMEN OWNED BUSINESSES**

WHEREAS, funding to support a several hundred million dollar Albany Convention Center and Hotel Complex will include support from the State and Albany County; and

WHEREAS, this economic development activity has the potential to create substantial positive economic impact and direct and indirect support for a number of jobs in the area; and

WHEREAS, Article 15-A of the Executive Law, is designed to promote employment and business opportunities on state contracts for minorities and women and under this statute, state agencies and Authorities are charged with establishing employment and business participation goals for minorities and women; and

WHEREAS, the Albany Convention Center Authority through the use of socially conscious and responsible management practices intends, to provide opportunities and to actively promote the participation of local community residents who are frequently overlooked in major economic endeavors thereby contributing to the economic growth of our entire community; and

WHEREAS, it is in the long term interest of the Albany Convention Center Authority and the larger community to actively develop and engage in management practices that will increase the economic earning power of all area residents and business entities; and

WHEREAS this resolution is designed to provide economic benefits to the area by increasing tax revenues via improvements in the community's economic base, and

WHEREAS, in addition, the Albany Convention Center Authority will have a social and community impact by maximizing, where possible , the creation of "living-wage" jobs for area residents; and increasing prosperity for all local community members and businesses, especially those who have been denied access to participation in large and profitable endeavors; and

WHEREAS, the development of the Albany Convention Center, will provide increased opportunities for all residents, particularly minorities and women in employment and training; on-the-job training, and apprenticeship opportunities,

For purposes of this Resolution the following definitions are applicable

**Geographic Area** means:

- a. the city and county of Albany ; and
- b. the surrounding Capital District Region area.

**Minority Or Women-Owned Business Enterprise ( MWBE )** means firms that are:

- i. at least 51% owned and controlled by the minority members and/or women; and
- ii. the minority and/or women ownership interest, is real, substantial and continuing; and
- iii. the minority and/or women ownership has and exercises the authority to independently control the day-to-day business decisions; and

- iv. independently owned, operated and authorized to do business in New York State.

*Minority Group Member* means a United States citizen or permanent resident alien who has and can demonstrate membership in one of the following groups:

- i. African Descendant persons having origins in any of the Black African racial groups;
- ii. Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race;
- iii. Native American or Alaskan native persons having origins in any of the original peoples of North America; or
- iv. Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

THEREFORE; BE IT RESOLVED: that in order to take full advantage of resources and opportunities in the local economy, an economic inclusion program initiated by the Albany Convention Center Authority is essential to ensure that minority and women and other geographic area residents; and minority and women business enterprises and other local geographic area businesses have to the greatest extent feasible, an equitable opportunity to participate in the economic and employment opportunities generated by the Albany Convention Center and Hotel; and

BE IT FURTHER RESOLVED that the Albany Convention Center Authority shall adopt such an economic inclusion program within its Affirmative Action Plan that would include activities and programs consistent with the foregoing resolution and the applicable rules and regulations of Article 15-A of the New York State Executive Law.

### **GOALS & OBJECTIVES:**

The goal of this Affirmative Action and Economic Inclusion plan is to assure, promote and maximize opportunities for all segments of the population throughout the City of Albany, the County of Albany and the surrounding Capital District Region to experience economic progress and to encourage all personnel associated with ACCA's hiring, contracting and procurement activities to commit themselves to its success through good-faith efforts and appropriate purchasing procedures and the evaluation of such.

This project will comply with all applicable and affirmative action laws including, but not limited to Executive Law Article 15-A. It is anticipated that the project will be bid in several stages and with multiple contracts. Bid and Contract documents will require each contractor to meet the applicable MWBE goals and minority and women workforce participation goals as outlined in this plan.

### **PROMOTION OF EQUAL OPPORTUNITY:**

It is the policy of the ACCA that the unlawful discrimination against individuals and/or businesses on the basis of race, color, national origin, or gender is prohibited. To this end, it is the policy of the ACCA to encourage and promote increased contracting opportunities for all businesses; to assist and protect the interests of all business owners against unlawful discrimination; to promote and encourage full and open competition in ACCA procurement and purchasing; to promote equal employment opportunities among the various contractors and vendors that do business with the ACCA; to protect the ACCA from becoming a passive

participate in any unlawful discrimination and to otherwise spur economic development in the public and private sectors of the local economy. The minority and women participation procedures that are outlined in this document and shall be incorporated into all applicable contracts with ACCA.

## Section II:

# ACCA's Policy & Plan as an Employer

## **II. ACCA's AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY POLICY AS AN EMPLOYER:**

### **POLICY STATEMENT:**

It is the policy of the ACCA to provide equal employment opportunities for all people without regard to race/color, sex, sexual orientation, religion, age, national origin disability or Vietnam veteran status. ACCA's board and Executive Director are collectively committed to assuring that the ACCA will affirmatively develop avenues of entry and mobility for minorities, women, individuals having disabilities and Vietnam veterans through the following activities:

- The development of programmatic approaches to the elimination of all unjust exclusionary employment practices policies and consequences;
- The development of educational and training program for employees with due emphasis on all the goals of promoting minorities, women, individuals a disabilities and Vietnam Era veterans;
- The development of personnel practices, policies and career ladders to assist and encourage upward mobility of employees typically restricted to lower positions; and
- The development of mechanisms for swift and judicious resolution of problems of human rights discrimination, consistent with our policy, and other applicable legal provisions.

To effectuate this policy, we have designed an Affirmative Action and Equal Opportunity plan which conforms to all relevant Federal and State and Local non-discrimination and affirmative action statutes and regulations, including but not limited to: the New York State Human Rights Law and Article 15A of NYS Executive Law. It applies equally to all job titles in all types of appointments under ACCA's jurisdiction. It governs all ACCA employment policies, practices and actions, including but not necessarily limited to: recruitment, employment, disciplinary actions, rate of pay, or other compensation, advancement, reclassification, reallocation, training, promotion, demotion, and all employee benefits. Reasonable accommodations will be made for individuals having disabilities.

### **Work Force Goals:**

The ACCA will establish a combined woman and minority work force participation goal of 30%. This is an initial benchmark that is subject to adjustment as the project evolves and specific staffing needs are established.

## **PLAN IMPLEMENTATION:**

The ACCA will undertake the activities listed below to implement its Affirmative Action and Equal Opportunity Policy.

### **A. Internal Dissemination**

1. A copy of ACCA's Affirmative-Action and EEO policy will be posted at ACCA's office in a place that is conspicuous and assessable to employees, consultants, contractors.

2. Of a copy of ACCA's Affirmative-Action and EEO policy and Plan will be distributed to all current employees and routinely distributed to all new hires. It will also be included in the agency's policy and/or procedures manual.

3. The policy and description of the Affirmative Action and EEO Plan will be included in employee handbooks and other publications, as well as in at least one addition of the agency's newsletter each year.

4. If at any time an Affirmative-Action and EEO Committee is established, a copy of the Affirmative-Action and EEO Policy and Plan shall be made available to each member of said committee.

5. A copy of the Affirmative-Action and EEO Policy shall be available to individuals, groups and coalitions working with ACCA.

### **B. External Dissemination**

1. The Affirmative Action and EEO Policy and Plan will be made available for review to the public upon request to the administrative office of the ACCA.
2. ACCA's Affirmative-Action and EEO Policy will be made known to recruitment sources through oral and written communication, including methods that are accessible to individuals living disabilities.
3. ACCA's Affirmative-Action and EEO Policy shall be made known to organizations, colleges, personnel services and community groups interested in encouraging equal employment opportunities for minorities, women, individuals having disabilities and Vietnam Era veterans.
4. All applicants will be informed of ACCA's Affirmative-Action and EEO Policy.

5. A statement attesting that "the Albany Convention Center Authority is an equal opportunity employer" or a similar statement will be attached to all purchase orders, leases and contracts on a routine basis.
6. ACCA's designated Affirmative-Action and EEO Policy statement will be on ACCA's employment application forms.
7. Recruitment information including videos and electronic media, position announcements, posters and advertising will contain ACCA's Affirmative-Action and EEO Policy Statement.
8. ACCA will periodically provide written information to minority organizations, women's organizations, veterans groups, groups concerned with disabilities and community agencies of its Affirmative-Action and EEO policy.
9. When necessary, access to various communities shall be effectuated through the appropriate use of bilingual materials.
11. All bid documents and contracts will include ACCA's Affirmative-Action and EEO Policy as well as the required Executive Law Article 15-A provisions.
12. The Affirmative Action and EEO policy statement will be distributed to relevant community and faith-based organizations such as neighborhood associations, grassroots coalitions, churches and community-based organizations.
13. The agency's Affirmative Action and EEO Policy statement shall be included in the Annual Report each year.
14. The entire Affirmative Action and EEO Policy and Plan shall be available for persons to see and review at the ACCA office during regular business hours.
15. ACCA will post the Affirmative Action and EEO Policy and Plan on its website and note availability via electronic notice.

C. Other Methods of Affirmative Action and Equal Opportunity Policy Implementation

In addition to the implementation of the above-mentioned action items, ACCA will insure that its Affirmative-Action Policy is implemented in the following ways.

1. Each position description is reviewed when a vacancy occurs, and maybe updated before the position is posted. This will ensure accurate up-to-date information reflected in both the requisition/advertisement and the position description, and supervisors become fully involved in all aspects of recruitment, screening, selection and promotion.

2. Special attention will be given to education and experience requirements, as well as necessary skills, to assure that all information included in a job posting is essential. This seeks to exclude anything that might constitute an inadvertent discriminatory practice. If it is determined that a position is incorrectly classified, then a reclassification study of the position is undertaken before recruitment efforts began.
3. The Affirmative-Action/Equal Opportunity Compliance Officer will establish and maintain all communication with organizations representing the interests of minorities, women, people with disabilities, Vietnam era and disabled veterans and community and faith-based organizations, as well as stakeholders and community leaders about the Affirmative-Action Plan and ACCA's affirmative-action policy.
4. Attention will be given in the preparation of printed and electronic materials, including but not limited to handbooks, brochures and web sites; reflecting pictures and graphics. The participation of women, minorities, people disabilities and Vietnam era and disabled veterans in a wide range of activities will be reflected.
5. Affirmative-Action and EEO Plan goals, objectives and initiatives will be developed and reviewed periodically, no less than twice a year by ACCA staff and board.

## **FEEDBACK**

Procedures will be utilized to obtain information from employees, advocacy groups, representative community groups and customers of the ACCA services about efficacy of and the need to improve ACCA's Affirmative-Action Plan. These may include:

- Interviewing protected class employees, consultants and contractors;
- Surveying employees, consultants, contractors and advocacy and representative community groups; and
- Obtaining evaluations from affirmative-action training program participants.

In addition, ACCA will conduct the following activities:

## **INTERNAL:**

1. Annual canvass (questionnaire) of ACCA staff, consultants and contractors, which will provide all staff, consultants and contractors and opportunity to evaluate the Affirmative-Action Plan, while allowing ACCA staff, consultants and contractors to voice their concerns and provide input.
2. The Affirmative-Action/Equal Opportunity Compliance officer will engage in a Annual Review of ACCA's Affirmative-Action Plan for the purpose of evaluating the Plan's success (or lack

thereof) and provide constructive input to the ACCA Board and Executive Director in a timely manner.

**EXTERNAL:**

1. Annual outreach by ACCA to agencies and organizations with whom ACCA has been communicating, to ascertain what affirmative-action materials and information were received, the usefulness of information, and other areas of concern as it relates to the ACCA's Affirmative-Action Plan.

**IMPLEMENTATION AND RESPONSIBILITY**

The ultimate responsibility for compliance with applicable nondiscrimination and Affirmative-Action laws and policies rest solely with the Albany Convention Center Authority Board of Directors.

The ACCA under the direction of the Executive Director upon the advice of the Affirmative Action/Equal Employment Opportunity Compliance Officer assume responsibility for the successful implementation of the Affirmative Action Policy and the achievement of performance targets and outcomes.

The ACCA Executive Director will make said responsibilities the charge of the Affirmative Action/Equal Opportunity Compliance Officer and/or other personnel as deemed appropriate.

## Section III:

# ACCA's Policy & Plan as a Contracting Entity

### III. ACCA's Policy and Plan as a Contracting Entity

#### POLICY

While the ACCA is bound by and committed to the requirements of Executive Law Article 15-A for the establishment of goals for the participation of NYS certified minority owned business enterprises ("MBE") and women owned business enterprises ("WBE") as well as goals for minority and women work force participation, the ACCA desires, to the greatest extent feasible, that local minority, women and other residents as well as local minority owned, women owned and other businesses have an opportunity to participate in the ACCA project.

#### PLAN

The ACCA, acting through its contractors and their subcontractors, will encourage the use of local or regional businesses and residents, particularly NYS certified MBE and WBE, and minority and women residents. The ACCA will consider the severability of construction projects and/or other bundled procurements in order to enhance the opportunity for participation by NYS certified MBEs and WBEs.

The following NYS certified MBE and WBE goals and work force participation goals were initially established pursuant to local study contracted by the ACCA (See Exhibit 10). The following goals were subsequently modified in accordance with the results of a State commissioned disparity study dated April 29, 2010 and codified in Chapter 175 of the Laws of 2010:

|                                     | <u>MWBE Utilization Goals</u> | <u>Work Force Participation Goals</u>                |
|-------------------------------------|-------------------------------|--|
| Non-Construction Services:          | M = 19.60%<br>W = 17.44%      | Pre-Development: M&W = 22%<br>Operational: M&W = 60% |
| Commodities:                        | M = 16.12%<br>W = 10.93%      |  |
| Construction:                       | M = 14.34%<br>W = 8.41%       | Construction: M&W = 30%                              |
| Construction Professional Services: | M = 13.21%<br>W = 11.32%      |  |

The MBE and WBE goals will be reviewed by the ACCA at key project milestones and adjusted as appropriate based upon the availability of MBEs and WBEs and the industry classification of the type of contract.

The ACCA, in determining compliance with its participation goals, may only recognize MBEs and WBE that are certified by New York State pursuant to Executive Law 15-A.

In those situations where the ACCA has waived a contractor's goals following good faith efforts to solicit participation of NYS certified MBEs and WBEs, the ACCA encourages the use of City of Albany and County of Albany certified MBEs and WBEs as well as other programs relevant to efforts to maximize opportunities for women, minorities, and disadvantaged businesses such as the US Small Business Administration's Small Disadvantaged Business program ("SDB"), the US Department of Transportation Disadvantaged Business Enterprise program ("DBE") and the Historically Underutilized Business Zone Empowerment program ("HUBZones").

## **IMPLEMENTATION**

All contractors, subcontractors, vendors and suppliers with whom ACCA conducts business will be notified of ACCA's Affirmative-Action and Equal Employment Opportunity Policy and their adherence to the policy will be required.

The ACCA through its Affirmative Action/Equal Opportunity Compliance Office will provide technical assistance to minority and women owned businesses to enable them to better participate in Authority initiatives. Such technical assistance may include assistance in the completion of NYS certification applications, business planning support and referrals.

The ACCA through its Affirmative Action/Equal Opportunity Compliance Office will assist contractors, subcontractors, vendors and suppliers with the recruitment of minorities and women.

The ACCA through its Affirmative Action/Equal Opportunity Compliance Office will encourage contractors, subcontractors, vendors and suppliers to provide on the job training opportunities or participation in training programs for minorities and women.

Upon execution of an ACCA Contract, the ACCA will post the utilization plan or waiver, if granted, on the ACCA's website within 10 days after approval. The ACCA will also post the contractor name and address, the award date, the estimated date of completion and the amount obligated under the contract.

The ACCA will include in its contracts a provision expressly providing that any contractor who willfully and intentionally fails to comply with the minority and women-owned participation requirements shall be liable to the ACCA for liquidated damages as specified in the contract.

On all ACCA contracts in the amount of \$250,000 or greater, and not a contract for commodities or otherwise based on lowest price, the ACCA shall determine whether it is practical, feasible and appropriate to include in the evaluation of bids or proposals the diversity practices of all contractors making submissions. A determination that the evaluation of diversity practices is not practicable must be in writing and reviewed by the

ACCA's Chairman. Provided diversity practices will be evaluated, the ACCA shall request information to be submitted by the contractor as set forth in 5 NYCRR Section 142.3(c).

## Section IV:

# Compliance Officer Role & Responsibilities

#### **IV. AFFIRMATIVE-ACTION/EQUAL OPPORTUNITY COMPLIANCE OFFICER:**

Day-to-day programmatic responsibilities for ACCA's affirmative-action program will be designated to the Affirmative-Action/Equal Opportunity Compliance Officer, who, as an employee or as a key consultant will report directly to the Executive Director.

The Affirmative-Action/Equal Opportunity Compliance Officer, (“Compliance Officer”), will be responsible for preparing an initial Action Plan for the implementation of the activities in the Affirmative Action & Economic Inclusion Plan and will identify periodic performance targets. The Compliance Officer will have oversight and reporting responsibilities under the Plan for the ACCA as an employer and as a contracting entity.

The duties of the Compliance Officer include, but are not limited to, the following:

- Planning, developing coordinating, implementing and monitoring the ACCA’s Affirmative-Action Plan.
- Working with the ACCA Board, Executive Director, stakeholders and community and faith-based organizations to meet Plan goals.
- Reviews, monitors, and makes recommendations regarding ACCA's hiring policies.
- Developing procedures to maximize women and minority workforce and certified MWBE participation.
- Consulting, developing and reviewing affirmative-action programs including training and assessment activities.
- Assuring that reasonable accommodations are provided to all known qualified disabled employees, applicants, consultants and stakeholders.
- Researching, compiling and analyzing data related to minority and women workforce and certified MWBEs.
- Participating in conferences, meetings, forums, discussions, panels and seminars concerned with affirmative-action, equal employment opportunity, MWBE participation and workforce participation.
- Keeping abreast of laws, rules, regulations and court decisions that may impact ACCA’s Affirmative-Action Plan.
- Coordinating affirmative-action activities and assuring compliance with all laws, rules and regulations, and policies.
- Monitoring and modifying employment and procurement procedures and goals.

- Developing and implementing systems for monitoring and obtaining such goals;
- Developing internal discrimination complaint procedures.
- Investigating and resolving complaints of discrimination by applicants and employees of the ACCA and its contractors and sub-contractors who are members of protected classes.
- Informing complainants of rights and external avenues of redress.
- Assisting ACCA in the development and maintenance of all personnel directives that are consistent with applicable laws and regulations, and the Affirmative-Action Plan.
- Designing and implementing an affirmative-action recruitment plan to enable protected class individuals to have equal access to employment opportunities available.
- Establishing and maintaining procedures for continual communication and outreach to women and minorities businesses.
- Providing technical assistance to minority and women owned businesses to enable them to better participate in ACCA initiatives. Such technical assistance may include assistance in the completion of NYS certification applications, business planning support and referrals.

## Section V:

# ACCA Reporting Requirements to the State Pursuant to Executive Law Article 15-A

## **V. Executive Law Article 15-A: ACCA Reporting to New York State**

### **DEFINITIONS:**

ACCA Contract – (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000, whereby the ACCA is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the ACCA; (ii) a written agreement in excess of \$100,000 whereby the ACCA is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (iii) leases of real property where such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements that exceed \$100,000. The term “services” shall not include banking relationships, the issuance of insurance policies or contracts, or contracts with the ACCA for the sale of bonds, notes or other securities.

### **ACCA CONTRACT MWBE PARTICIPATION GOALS:**

The ACCA will establish separate goals for participation of NYS certified minority owned business enterprises (“MBE”) and women owned business enterprises (“WBE”) on all ACCA Contracts. Contractors will be notified in bid documents, request for proposals, contract announcements or advertisements or otherwise in writing of the goals established on ACCA Contracts.

The ACCA and/or its contractors and subcontractors shall use good faith efforts to meet the MBE and/or WBE participation goals by soliciting active participation by enterprises identified in the State of New York’s Directory of certified MWBEs, which is located at [www.nylovesbiz.com/Small-and-GrowingBusinesses.mwbe.asp](http://www.nylovesbiz.com/Small-and-GrowingBusinesses.mwbe.asp).

### **ACCA ANNUAL MWBE GOAL PLAN SUBMISSION:**

The ACCA will prepare and submit an annual MWBE Goal Plan to the Director of the Empire State Development, Division of Minority and Women’s Business Development by January 15<sup>th</sup> of each year. The Goal Plan will include the following information:

- A.) Separate goals for participation by certified minority owned and certified women owned businesses expressed as a percentage of aggregate ACCA Contract expenditures expected to be made in the upcoming fiscal year pursuant to:
  - 1.) Capital project appropriations by type of contract, including:
    - (i) design, planning, construction, renovation, replacement and demolition;
    - (ii) architectural, engineering, surveying or other personal services;
    - (iii) machinery, furnishings, and equipment purchase; and

- (iv) acquisition of real property and improvements thereon
- 2.) All funds appropriations by type of contract, including:
- (i) equipment, material and supply purchases; and
  - (ii) contractual services
- B.) An estimate of the number of ACCA Contracts in respect to which separate employment goals will be set for minority group members and women by type of contract, including those listed in A. above.
- C.) A description of the procedures that the ACCA will take to implement and comply with the requirements of Executive Law Article 15-A and the regulations promulgated there under.
- D.) A list of personnel responsible for the implementation of Executive Law Article 15-A, which includes their title, job responsibilities, percentage of time allocated, and place in line of authority for reporting to executive staff.

(see Exhibit #1)

#### **ACCA QUARTERLY GOAL PLAN COMPLIANCE REPORTING:**

The ACCA shall submit a Compliance Report to Empire State Development, Division of Minority and Women's Business Development on the 15<sup>th</sup> day of July (April through June), October (July through September), January (October through December) and April (January through March) of each year. The Compliance Report must contain the following information concerning ACCA Contracts awarded in the interval since the last Compliance Report:

- A. the number of ACCA Contracts awarded, the maximum dollar amount obligated, and total expenditures pursuant to all such contracts;
- B. the number of ACCA Contracts awarded to certified minority owned and certified women owned businesses, the maximum dollar amount obligated, and total expenditures pursuant to all such contracts;
- C. the number of ACCA Contracts awarded which include a utilization plan for participation by certified minority owned and certified women owned businesses, the maximum dollar amount obligated, and total expenditures pursuant to all such contracts;
- D. the number of ACCA Contracts awarded upon which include a waiver was granted from the goals required by ACCA Contract for participation by certified minority owned and certified women owned businesses, the maximum dollar amount obligated, and total expenditures pursuant to all such contracts;
- E. the number of ACCA Contracts awarded which required goals for employment of minority group members and women;
- F. the number of ACCA Contracts awarded which waivers of required goals for employment of minority group members and women have been granted;
- G. a justification of any waivers granted pursuant to this section;
- H. a determination by the ACCA of whether it is in compliance with its goal plan based upon the information provided in the compliance report, or if not in compliance, a description of any actions that will be taken to become in compliance.

- I. a description of a remedial plan and the extent to which the ACCA has complied with the elements of the plan, if required by the Director of the State's M/WBE Program.

(See Exhibit #2)

### **ACCA QUARTERLY EEO REPORTING ON WORKFORCE UTILIZATION:**

The ACCA shall report to Empire State Development, Division of Minority and Women's Business Development on the 15<sup>th</sup> day of January, April, July, and October of each year, information contained in the work force employment utilization reports. The Report must contain the following information concerning ACCA Contracts awarded in the interval since the last Report:

- A. An aggregation, by location of work, of the work forces employed on all ACCA Contracts in the industries of commodities, services/consulting, and construction consulting broken down by ethnic background, gender and Federal occupational categories;
- B. For construction contracts, an aggregation, by location of work, the hours worked during the reporting period on activities related to ACCA Contracts, and a breakdown of those hours by ethnic background, gender and the construction related job titles that fall within relevant Federal occupational categories; and
- C. A list of all contracts included in the aggregation of data, the contract amount and the location of work.

(See Exhibit #3)

### **REPORTING FORMAT**

The following forms are to be used by the ACCA for reporting to the Director of Empire State Development, Division of Minority and Women's Business Development:

- Exhibit 1 – Annual Goal Plan Submission
- Exhibit 2 – Quarterly Goal Plan Compliance Reporting
- Exhibit 3 – Quarterly EEO Reporting on Workforce Utilization

## Section VI:

# Contractor Requirements Pursuant to Executive Law Article 15-A

**VI. Executive Law Article 15-A: CONTRACTOR REQUIREMENTS**

- A. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the ACCA, to fully comply with and cooperate in the implementation of Affirmative Action Plans, including the Contractor's Workforce Utilization Plan designed to provide for equal employment opportunities for Minorities and Women, and a goal oriented Utilization Plan for Minority/Women Business Enterprise (M/WBE) participation in the performance of the Work, in such form and substance as herein stated. Failure to demonstrate good faith efforts to comply with its approved Utilization Plan for Minority/Women's Business Enterprise participation will be a primary consideration for future responsibility determinations. The Contractor further agrees to incorporate all Affirmative Action provisions of the Contract in all subcontracts, regardless of tier.
- B. The Contractor must submit to the ACCA, and the prospective Subcontractors must submit to the Contractor, Affirmative Action Plans, including the Contractor's Workforce Utilization Plan which demonstrates its best efforts to provide for equal employment opportunities for Minorities and Women, and a goal oriented Utilization Plan for MBE/WBE participation in the performance of the Work, in such form and substance as may be required by the ACCA. A meeting to review these submissions may be scheduled by the ACCA.
- C. These Affirmative Action provisions shall be deemed supplementary to, and not in lieu of the nondiscrimination provisions required by N.Y.S. Labor Law or other applicable Federal, State or local laws.

**UTILIZATION OF CERTIFIED MWBEs**

- D. In Accordance with Article 15A of the Executive Law and in conformance with the Regulations promulgated by the Minority and Women's Business Development Division of the New York State Department of Economic Development, the Contractor agrees to be bound by the following clauses. In any circumstances of uncertainty or conflict, the Regulations of the Minority and Women's Business Development Division supersede this information.

**PRE-AWARD OF CONTRACT**

- 1. M/WBE Utilization Plan; Waivers.
  - a. The Contractor shall submit to the ACCA a Utilization Plan on forms provided by the ACCA within the time-frame stated in the Request for Proposal. The Utilization Plan shall list all subcontractors and suppliers the Contractor intends to use on the Contract and indicate which ones are certified M/WBEs. The

Utilization Plan shall be prepared to achieve the participation goals indicated in the Request for Proposal. (See Exhibit #4)

- b. The ACCA will review the Utilization Plan and will issue to the Contractor a written notice of acceptance or deficiency within twenty (20) days of its receipt. A notice of deficiency shall include (i) the name of any M/WBE which is not acceptable for the purpose of complying with the M/WBE participation goals and the reasons why it is not acceptable; (ii) elements of the Contract scope of work which the ACCA has determined can be reasonably structured by the Contractor to increase the likelihood of participation in the Contract by M/WBEs; and (iii) other information which the ACCA determines to be relevant to the Utilization Plan.
- c. The Contractor shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the ACCA a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the ACCA to be inadequate, the ACCA shall notify the Contractor and direct the Contractor to submit, within five (5) business days, a request for a partial or total waiver of M/WBE participation goals on forms provided by the ACCA. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid.
- d. The Contractor who has made good faith efforts to obtain commitments from M/WBE subcontractors and suppliers prior to submitting its Utilization Plan may submit a Request For Waiver at the same time it submits its Utilization Plan. If a request for waiver is submitted with the Utilization Plan and is not accepted by the ACCA at that time, the provisions of clauses (b) and (c), regarding the notice of deficiency and written remedy will apply. In this case, the Contractor may submit a second request for waiver as directed by the ACCA. (See Exhibit #5)
- e. If the Contractor does not submit a Utilization Plan, remedy deficiencies in a Utilization Plan, submit a request for waiver, or if the ACCA determines that the Utilization Plan does not indicate that the M/WBE participation goals will be met and/or that the Contractor has failed to document good faith efforts, the ACCA may disqualify the Contractor as being not-responsible.
- f. The Contractor shall attempt to utilize, in good faith, any MBE or WBE identified within its Utilization Plan, at least to the extent indicated in the Plan.

2. Administration Hearing on Disqualification

- a. If the ACCA disqualifies a bid for any of the reasons set forth in (1) (e) above, the Contractor shall be entitled to an administrative hearing, on the record, before a hearing officer appointed by the ACCA to review the determination of disqualification of the bid and determination of non-responsibility of the Contractor.
- b. The hearing officer's determination shall be the final determination of the ACCA. Such final administrative determination shall be reviewable by a proceeding brought pursuant to Article 78 of the Civil Practice Law and Rules, provided such proceeding is commenced within thirty (30) days of notice given by certified mail, return receipt requested, rendering such final administrative determination in accordance with the provisions of Section 313 of the Executive Law.

**PRE AND POST-AWARD OF CONTRACT**

3. Good Faith Efforts

In order to show that it has made good faith efforts to comply with the M/WBE participation goals of this Contract, the Contractor shall submit such documentation as will enable the ACCA to make a determination in accordance with the criteria set forth in Section 313 of the Executive Law and the Rules and Regulations promulgated there under.

All firms that are responding to a Request for Proposal or are awarded a contract by the ACCA should use these Guidelines for the preparation of all “good faith efforts” documentation. If your firm incurs difficulty in meeting your Minority and Women-owned Business Enterprises (M/WBE) goals, these Guidelines can be utilized to assist your firm in preparing the required “good faith efforts” documentation.

Responses to information in the Guidelines should be given in an item-by-item format following the numerical sequence as presented and submitted with your Request for Waiver to the Affirmative Action Compliance Officer (“AACO”). If you fail to adequately document and respond to each item, it may result in a finding of non-compliance. If you need assistance, please contact the AACO at (518) 434-1217.

**GUIDELINES**

- a. Attach a copy of your completed Utilization Plan in accordance with your contractual M/WBE goals established in the ACCA request for Proposal for Proposal.
- b. Provide a record of advertisements placed in general circulation, trade and minority and women oriented publications. Include the name of publications and dates of advertisements.
- c. Provide a record of ALL written solicitations made to New York State certified minority and women-owned business enterprises obtained from the directory of certified businesses. Include dates and copies of solicitation made.
- d. Provide a record of ALL responses received from New York State certified minority and women-owned business enterprises to any such advertisements and solicitations made. Include dates and copies of any written responses.
- e. Provide a list of any pre-bid, pre-award, or other meetings attended with New York State certified minority or women owned businesses.
- f. List the efforts undertaken to subdivide portions of the work into smaller components in order to increase New York State certified minority and women-owned business enterprise participation.
- g. Did your firm seek additional assistance from the ACCA's AACO? Please provide documentation of your interaction.
- h. Did your firm solicit any New York State certified minority and women-owned business enterprises located outside the region where the scope of work is to be performed? If so, what actions were taken to contact and assess the financial ability of those firms to participate?
- i. Provide a description of all relevant contract documents, plans or specifications, or documents describing the scope of work which were made available to New York State certified minority and women-owned business enterprises for the purposes of soliciting their bids. Include the dates and manner in which these documents were made available.
- j. Were the same subcontract terms and conditions offered to New York State certified minority and women-owned business enterprises as those offered in the ordinary course of business and to other subcontractors?

- k. Has your firm made payments for work performed by New York State certified minority and women-owned business enterprises in a timely fashion for past work so as to facilitate continued performance by the certified businesses?
- l. List any special considerations and/or concerns, which are preventing adequate New York State certified minority and women-owned business enterprises to participate.

### **POST-AWARD OF CONTRACT**

#### 4. Compliance Reports

The Contractor shall submit, and shall require subcontractors to submit, MWBE Utilization Compliance Reports on forms and at intervals established by the ACCA. Reports not submitted at such times as required by the ACCA shall be cause for the ACCA to delay implementing scheduled payments to the Contractor. (See Exhibit #6)

#### 5. Contractor's Failure to Meet M/WBE Participation Goals

- a. If the Contractor, after making good faith efforts, is unable to comply with a Contract's M/WBE participation goals, the Contractor may submit a request for a partial or total waiver on forms provided by the ACCA documenting good faith efforts by the Contractor to meet such goals. If the documentation required with the request for waiver is complete, the ACCA shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- b. If the ACCA, upon review of the Contractor's Utilization Plan and compliance reports, determines that the Contractor is failing or refusing to comply with the Contract's M/WBE participation goals, and no waiver has been issued in regards to such non-compliance, the ACCA may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice to deficiency within seven (7) days of receipt. Such response may include a request for partial or total waiver of M/WBE participation goals.

#### 6. Contractor and ACCA Complaints; Arbitration

- a. Subsequent to the award of the Contract, if the Contractor submits a request for waiver of M/WBE participation goals and the ACCA denies the request or fails to respond in any way within twenty (20) days of receiving it, or if the Contractor has received a written

determination from the ACCA that the Contractor is failing or refusing to comply with goals, the Contractor may file a complaint with the Director, Division of Minority and Women's Development in the Department of Economic Development ("Director"), according to the provisions of Section 316 of the Executive Law. The complaint must be filed within twenty (20) days of the ACCA's receipt of the request for waiver, if the ACCA has not responded in that time, or within twenty (20) days of a notification that the request has been denied by the ACCA or within twenty (20) days of receipt of notification from the ACCA that the Contractor is failing or refusing to comply with goals.

- b. If the Contractor fails or refuses to comply with goals for participation by M/WBEs as established by the Contract, the ACCA may file a complaint with the Director pursuant to Section 316 of the Executive Law.
- c. A complaint shall set forth the facts and circumstances giving rise to the complaint together with a demand for relief.
- d. The party filing a complaint, whether the Contractor or the ACCA, shall deliver a copy to the other party. Both the complaint and the copy shall be delivered by either personal service or by certified mail, return receipt requested.
- e. Upon receipt of a complaint the Director shall provide the party against whom the complaint has been filed with an opportunity to respond to the complaint. If within thirty (30) days of receipt of the complaint the Director is unable to resolve the complaint to the satisfaction of the ACCA and the Contractor, the complaint shall be referred to the American Arbitration Association for resolution pursuant to Section 316 of the Executive Law and the applicable requirements of Article 75 of the Civil Practice Law and Rules.
- f. Upon conclusion of the arbitration proceeding, the arbitrator will submit to the Director his or her award regarding the alleged violation of the Contract or refusal of the ACCA to grant a waiver request by the Contractor. The award of the arbitrator with respect to the alleged violation of the Contract or the refusal of the ACCA to grant a waiver shall be final and may be vacated or modified only as provided by Article 75 of the Civil Practice Law and Rules.
- g. Upon conclusion of the arbitration proceedings and the rendition of an award, the arbitrator will also recommend to the Director a remedy including, if appropriate, the imposition of sanctions, fines or penalties. The Director will either (i) adopt the recommendation

of the arbitrator; (ii) determine that no sanctions, fines or penalties should be imposed; or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or impose any new sanction, or increase the amount of any recommended fine or penalty.

- h. The Director, within ten (10) days of receipt of the arbitrator's award and recommendations, will issue a determination of such matter and shall cause a copy of such determination to be served upon the respondent by personal service or by certified mail, return receipt requested. The determination of the Director as to the imposition of fines, sanctions, or penalties shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.
- i. The determination of the ACCA or the Contractor to proceed with a complaint shall not preclude the ACCA, in its discretion, from pursuing any other remedies which it may have pursuant to law and Contract, including withholding from payments to the contractor the estimated amount of the fines and penalties which may be imposed pursuant to subdivisions 6g. and 6h. of this paragraph. Said amounts shall be the difference between the planned dollar amount of MBE/WBE sub-contract awards and the actual dollar amount of such awards.

7. Subcontracts

The Contractor will include the provisions of paragraphs three (3.) and six (6.) above in every subcontract, in such manner that such provisions will be binding upon the subcontractor as to work in connection with this Contract.

**EQUAL EMPLOYMENT OPPORTUNITIES**

- E. In accordance with Article 15 A of the Executive Law and in conformance with the proposed Regulations promulgated by the Minority and Women's Business Development Division of the New York State Department of Economic Development, the Contractor agrees to be bound by the following clauses. In any circumstances of uncertainty or conflict, the proposed Regulations of the Minority and Women's Business Development Division supersede this information.
  - 1. Contractors and subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, affirmative action shall

apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

2. Prior to the award of the contract, the Contractor shall submit an Equal Employment Opportunity (EEO) Policy Statement to the ACCA.
3. The Contractor's EEO Policy Statement shall contain, but not necessarily be limited to, and the contractor, as a precondition to entering into a valid and binding Contract with the ACCA, shall, during the performance of the contract, agree to the following:
  - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
  - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
  - c. At the request of the ACCA, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
4. The Contractor shall include the provisions of this subdivision E in every subcontract in such a manner that the requirements of the provisions will be binding upon each subcontractor as to work in connection with this contract, including the requirement that subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the Contractor information on the ethnic background, gender, and Federal Occupational Categories of the employees to be utilized on the contract.

5. The ACCA may require the contractor and any subcontractor to submit compliance reports relating to their operations and implementation of their affirmative action or equal employment opportunity program in effect as of the date the contract is executed.
6. If a contractor or subcontractor does not have an existing affirmative action program, the ACCA may provide to the contractor or subcontractor a model plan of an affirmative action program.
7. Post-award reports shall be submitted at intervals established herein. Reports not submitted at times shall be cause for the ACCA to delay implementing scheduled payments to the Contractor.
8. Except for construction contracts, prior to the award of an ACCA Contract the Contractor shall submit a Staffing Plan of the anticipated work force to be utilized on the ACCA Contract broken down by specific ethnic background, gender, and Federal occupational categories. In the case where the work force on the ACCA Contract cannot be separated out, then the Contractor shall submit a staffing plan on its entire work force. (See Exhibit #7)
9. After the award of an ACCA Contract, the Contractor must submit to the ACCA a Work Force Employment Utilization Report, to include:
  - a. The total number of employees performing work on the ACCA Contract;
  - b. For commodities, services/consulting, and professional construction consulting contracts, the Contractor's and subcontractor's work force on the ACCA Contract broken down by specific ethnic background, gender, and Federal occupational categories; (See Exhibit #8)
  - c. For construction contracts, the hours the Contractor's and Subcontractor's employees worked on activities related to that contract, and a breakdown of those hours by ethnic background, gender and the construction related job titles that fall within relevant Federal occupational categories. (See Exhibits #'s 9-A & 9-B)
10. For construction contracts, the Contractor must submit the Work Force Employment Utilization Report on a monthly basis throughout the life of the contract to the ACCA. For all other contracts where the work force on the ACCA contract can be separated out from the contractor's total work force, the Work Force Employment Utilization Report must be submitted on a quarterly basis. Where the work force cannot be separated out, the Work Force Employment Utilization Report must be submitted on a semi-annual basis during the life of the contract.

11. If the Contractor does not submit an EEO Policy Statement, the Staffing Plan (if applicable), and the Contractor's Workforce Employment Utilization Report, or if the ACCA Determines that the information submitted does not meet the Request for Proposal requirements and/or that the Contractor has failed to document good faith efforts, the ACCA may disqualify the Contractor as being not-responsible or determine the contractor to be in noncompliance.
12. In order to show that it has made good faith efforts to comply with the Minority Groups and Women Workforce requirements of this Contract, the Contractor shall submit and/or have available for inspection such documentation as will enable the ACCA to make a determination in accordance with the criteria set forth in Section 313 of the Executive Law and the Rules and Regulations promulgated there under.
13. In determining whether the Contractor has made good faith efforts to comply, the ACCA shall consider:
  - a. Whether the contractor established and maintained a list of recruitment sources for minority group members and women, and whether the Contractor provided written notification to such recruitment sources that it had employment opportunities;
  - b. Whether the contractor sent letters to recruitment sources, labor unions, or authorized representatives of workers with which the contractor has a collective bargaining or other agreement or understanding requesting their assistance in locating minority group members and women for employment;
  - c. Whether the contractor disseminated its equal employment opportunity policy by including it in any advertising in the news media and, in particular, minority and women news media;
  - d. Whether the contractor notified other contractors and subcontractors with whom it does business to discuss the contractor's equal employment opportunity policy;
  - e. Whether internal procedures exist for, at minimum, annual dissemination of the contractor's equal employment opportunity policy to employees, specifically to employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions;
  - f. Whether the contractor encourages and utilizes minority group members and women employees to assist in recruiting other employees; and

g. Whether the contractor has apprentice training programs approved by the NYS Department of Labor which provide for the training and hiring of minority group members and women.

14. If the ACCA determines that the Contractor is not in compliance with the requirements of this subdivision E, and the ACCA is unsuccessful in its efforts to resolve the matter and bring the Contractor into compliance with the requirements, the ACCA may file a complaint with the Director, Division of Minority and Women's Development in the Department of Economic Development ("Director"), according to the provisions of Section 316 of the Executive Law.
  - a. The complaint shall set forth the facts and circumstances giving rise to the complaint.
  - b. A copy of the complaint shall be served upon the Contractor or subcontractor by personal service or by certified mail, return receipt requested.
  - c. If within thirty (30) days of receipt of complaint the Director is unable to resolve the complaint to satisfaction of the ACCA and the Contractor, the complaint shall be referred to the American Arbitration Association for resolution pursuant to Section 316 of the Executive Law and the applicable requirements of Article 75 of the Civil Practice Law and Rules.
  - d. Upon conclusion of the arbitration proceeding, the arbitrator will submit to the Director his or her award regarding the alleged violation of the Contract. The award of the arbitrator with respect to the alleged violation of the Contract shall be final and may be vacated or modified only as provided by Article 75 of the Civil Practice Law and Rules.
  - e. Upon conclusion of the arbitration proceedings and the rendition of an award, the arbitrator will also recommend to the Director a remedy including, if appropriate, the imposition of sanctions, fines or penalties. The Director will either (i) adopt the recommendation of the arbitrator; (ii) determine that no sanctions, fines or penalties should be imposed; or (iii) modify the recommendation of the arbitrator, provided that such modification shall not expand upon any sanction recommended or impose any new sanction, or increase the amount of any recommended fine or penalty.
  - f. The Director, within ten (10) days of receipt of the arbitrator's award and recommendations, will issue a determination of such

matter and shall cause a copy of such determination to be served upon the respondent by personal service or by certified mail, return receipt requested. The determination of the Director as to the imposition of fines, sanctions, or penalties shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.

g. The determination of the ACCA to proceed with a complaint shall not preclude the ACCA, in its discretion, from pursuing any other remedies that it may have pursuant to law and contract.

F. The following forms are to be used by the Contractor in submitting Affirmative Action Plans and are hereby made a part of the Request for Proposal and/or Contract:

Exhibit 4 – MWBE Utilization Plan

Exhibit 5 – Request For Waiver

Exhibit 6 – MWBE Utilization Compliance Report

Exhibit 7- Staffing Plan

Exhibit 8 – Quarterly or Semi-Annually Work Force Employment Utilization

Report – Non Construction

Exhibits 9-A & 9-B – Monthly Work Force Employment Utilization Report -

Construction

## **VII. EXHIBITS**

### **EXHIBIT #1**

#### **ACCA ANNUAL GOAL PLAN**

Note: Electronic Submission to Empire State Development Division of Minority and Women Business Development will be utilized.

Information required by October 1<sup>st</sup> of each year:

- E.) Separate goals for participation by certified minority owned and certified women owned businesses expressed as a percentage of aggregate ACCA Contract expenditures expected to be made in the upcoming fiscal year pursuant to:
- 1.) Capital project appropriations by type of contract, including:
    - (i) design, planning, construction, renovation, replacement and demolition;
    - (ii) architectural, engineering, surveying or other personal services;
    - (iii) machinery, furnishings, and equipment purchase; and
    - (iv) acquisition of real property and improvements thereon
  - 2.) All funds appropriations by type of contract, including:
    - (i) equipment, material and supply purchases; and
    - (ii) contractual services
- F.) An estimate of the number of ACCA Contracts in respect to which separate employment goals will be set for minority group members and women by type of contract, including those listed in A. above.
- G.) A description of the procedures that the ACCA will take to implement and comply with the requirements of Executive Law Article 15-A and the regulations promulgated there under.
- H.) A list of personnel responsible for the implementation of Executive Law Article 15-A, which includes their title, job responsibilities, percentage of time allocated, and place in line of authority for reporting to executive staff.

## **EXHIBIT #2**

### **ACCA QUARTERLY GOAL PLAN COMPLIANCE REPORTING**

Note: Electronic Submission to Empire State Development Division of Minority and Women Business Development will be utilized.

Information required by the 15<sup>th</sup> day of January, April, July and October of each year:

- J. the number of ACCA Contracts awarded, the maximum dollar amount obligated, and total expenditures pursuant to all such contracts;
- K. the number of ACCA Contracts awarded to certified minority owned and certified women owned businesses, the maximum dollar amount obligated, and total expenditures pursuant to all such contracts;
- L. the number of ACCA Contracts awarded which include a utilization plan for participation by certified minority owned and certified women owned businesses, the maximum dollar amount obligated, and total expenditures pursuant to all such contracts;
- M. the number of ACCA Contracts awarded upon which include a waiver was granted from the goals required by ACCA Contract for participation by certified minority owned and certified women owned businesses, the maximum dollar amount obligated, and total expenditures pursuant to all such contracts;
- N. the number of ACCA Contracts awarded which required goals for employment of minority group members and women;
- O. the number of ACCA Contracts awarded which waivers of required goals for employment of minority group members and women have been granted;
- P. a justification of any waivers granted pursuant to this section;
- Q. a determination by the ACCA of whether it is in compliance with its goal plan based upon the information provided in the compliance report, or if not in compliance, a description of any actions that will be taken to become in compliance.

### **EXHIBIT #3**

#### **ACCA QUARTERLY EEO REPORTING ON WORKFORCE UTILIZATION**

Note: Electronic Submission to Empire State Development Division of Minority and Women Business Development will be utilized.

Information required by the 15<sup>th</sup> day of January, April, July and October of each year:

- D. An aggregation, by location of work, of the work forces employed on all ACCA Contracts in the industries of commodities, services/consulting, and construction consulting broken down by ethnic background, gender and Federal occupational categories;
- E. For construction contracts, an aggregation, by location of work, the hours worked during the reporting period on activities related to ACCA Contracts, and a breakdown of those hours by ethnic background, gender and the construction related job titles that fall within relevant Federal occupational categories; and
- F. A list of all contracts included in the aggregation of data, the contract amount and the location of work.

EXHIBITS 4 THROUGH 9-B SEE ATTACHMENTS

EXHIBIT 10

Deborah Williams-Muhammad Associates, LLC

Memo

**To:** Duncan Stewart: Executive Director, ACCA  
**CC:** L. Lloyd Stewart: Board member, ACCA  
**From:** Deborah Williams-Muhammad

**Date:** June 29, 2007  
**Re:** Economic Inclusion Goals Explanation

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## **BACKGROUND:**

On May 18<sup>th</sup> Deborah Williams-Muhammad Associates (DWM) began a study to produce information for use by the Albany Convention Center Authority (ACCA) in order to assist the development of economic inclusion goals. The specific study areas were:

1. Compile a list of certified MWBE's in the City of Albany
2. Compile a list of MWBE's in the City of Albany
3. Examine goals and achievement on other local development projects
4. Assessment of local MWBE's
5. Local Workforce Analysis

## **How the Work Was Conducted:**

On Friday, May 18<sup>th</sup>, DWM Associates began a study to assess the following:

- Local and state MWBE lists;
- Past local development project MWBE & EEO goal outcomes;
- Local hospitality industry analysis; and
- Survey of minority and women-owned business community; and
- Survey of local hotels regarding workforce demographics and occupational breakdown.

In 34 days DWM accomplished the following:

- Developed a study plan and survey tools;
- Develop a study work-plan;
- Trained surveyors;
- Secure local and NYS MWBE Lists;
- Conducted 201 surveys of MWBE's;
- Conducted two focus groups;
- Surveyed local hotels and motels;
- Assessed hospitality industry information; and
- Conferred with local workforce development professionals.

## **Our Recommendations:**

### MWBE Utilization Goals

Pre-Construction: \*MBE = 8%  
WBE = 15%

### Work Force Participation Goals

\*\*M&W = 22%



The data utilized by DWM Associates, LLC (DWM) came primarily from the US Census and NYS Department of Labor and a variety of other federal and state agencies such as the NYS Department of Corrections and the United States Department of Defense. Additionally, our recommendations were informed by reports of past, local, public development projects. Some of those projects included are the Albany County Court Judicial Center, the City School District of Albany, Albany County Family Court and the New York State Comptroller's Building.

According to data sources used, there are 149,744 people between ages 20 – 54 residing in Albany County. Of that total, 48% or 71,877 of individuals are male. In order to establish a base level of the number of potentially available male workers, the entire 71,877 was utilized. To establish a baseline number for potential female workforce participants, DWM reviewed data from local development projects. That data revealed a range of percentages of female workforce participation. In examining that range, it was apparent that 4% representing a mid-point. 4% of female Albany County residents between ages 20 – 54 equal 3,115. Thus, the total potential maximum number of construction phase of workforce participants is 74,993.

While our previous data is county-wide, projections for people of color can only be obtained for this use from the City of Albany. That data reveals that 40.5 % or 30,372 of the residents are people of color, representing a combined number of males and females across all age groupings. This combination of data represents some significant challenges with regard to setting exact goals.

A more detailed look at the potentially available workforce requires an additional series of adjustments that take in to account the following:

- Incarceration;
- Disability;
- Military participation;
- Out of area employment; and
- Out of area educational pursuits.

Based upon available information regarding these factors a total adjustment of 7,117 was made to thus leaving a potential workforce of 23,255. Based upon published unemployment rates, DWM assumed a generalized unemployment figure of 4% people, which represents a potentially immediately available of workforce of 930. Therefore, projecting for 30% (adjusted percentage of people of color), of 23,255 equal 6,698 minorities and women to be in the workforce and potentially available during the construction phase of the project.

The goal numbers recommended by DWM are based upon currently best available information for projecting workforce participation using federal, state and county data sets. This is coupled with the commitment by the Albany Convention Center Authority to maximize workforce participation and economic inclusion of minorities and women.

**Our Recommendation Was Informed By The Following Information:**

- According to the 2000 US Census, the City of Albany had a total population of 95,658;
- 40.5 % of the population were people of color, including African –American, American Indian, Asian and Latino;
- 53.9 % of the population was age 20 – 54;
- There are 112 Albany County certified women or minority businesses as of May 1, 2007;
- There are only 28 New York State certified women or minority businesses as of May 1, 2007 in Albany County;
- Preliminary analysis of existing local (City of Albany) women and minority enterprises, identify over 150 businesses that are eligible for New York State certification based on ownership and length of operation.
- According to the New York State Department of Labor, one of the occupations with the most expected hiring in the Capital Region is “Construction Laborers”.
- According to the New York State Department of Labor, in “Accommodation & Food Services”, 60.8% of the occupations locally are waiters, waitresses, cooks, food prep staff, bartenders, dishwashers and housekeeping staff, where women and minorities are overly represented;
- 43.18% of employees at local hotels worked in housekeeping or food service; and
- 74% of employees at local hotels were either minorities or women.

**PAST PROJECT REPORT:**

**EXAMPLE #1:**

Overall Goals

|     | Goal | Achieved |
|-----|------|----------|
| MBE | 6%   | 19.3%    |
| WBE | 6%   | 1%       |

EEO

|          | Goal | Achieved |
|----------|------|----------|
| Combined | 20%  | 17.7%    |

BREAKDOWN:

Plumbing

|     | Goal | Achieved |
|-----|------|----------|
| MBE | 4%   | 3.9%     |
| WBE | 6%   | 6.6%     |

Electrical

|  | Goal | Achieved |
|--|------|----------|
|--|------|----------|

|     |    |     |
|-----|----|-----|
| MBE | 3% | 28% |
| WBE | 4% | 71% |

HVAC

|     |      |          |
|-----|------|----------|
|     | Goal | Achieved |
| MBE | 3%   | 10.6%    |
| WBE | 5%   | .07%     |

Elevator

|     |      |          |
|-----|------|----------|
|     | Goal | Achieved |
| MBE | 0%   | .7%      |
| WBE | 1%   | 6.5%     |

**EXAMPLE #2:**

EEO

|          |      |          |
|----------|------|----------|
|          | Goal | Achieved |
| Combined | 7%   | 10.6%    |

BREAKDOWN:

Plumbing

EEO

|          |      |          |
|----------|------|----------|
|          | Goal | Achieved |
| Combined | 7%   | 8.01%    |

Electrical

EEO

|          |      |          |
|----------|------|----------|
|          | Goal | Achieved |
| Combined | 7%   | 7.22%    |

HVAC

EEO

|          |      |          |
|----------|------|----------|
|          | Goal | Achieved |
| Combined | 7%   | 7.95%    |

Elevator

EEO

|          | Goal | Achieved |
|----------|------|----------|
| Combined | 3%   | 9.3%     |

Elevator

|     | Goal | Achieved |
|-----|------|----------|
| MBE | 7%   | .7%      |
| WBE | 1%   | 6.5%     |

**EXAMPLE #3:**

EEO

|            | Goal | Achieved |
|------------|------|----------|
| Minorities | 6%   | 12.9%    |
| Women      | 2%   | 4.8%     |

|     | Goal                        | Achieved                    |
|-----|-----------------------------|-----------------------------|
| MBE | No Specific Goal Identified | No Specific Goal Identified |
| WBE | No Specific Goal Identified | No Specific Goal Identified |

Of the 100 MWBE's used in this project, 25 or ¼ of them were local (Albany County) MWBE's, 13 of which were City of Albany based MWBE's

**ADDITIONALLY, WE RECOMMEND THE FOLLOWING:**

- The establishment of a user-friendly database of local women and minority-owned business enterprises. Such a database will not only provide easy-to-access data, but will also support teaming and partnerships;
- The support of the commissioning of a Disparity Study for the City of Albany that will include a comprehensive Availability Analysis, Historical Impact of New York State and local programs, Disparity Findings and an all-inclusive Historical Utilization Analysis. This information will offer a strong evidentiary framework for any MWBE program initiatives and will provide baseline data for program development and/or modification.

- The immediate establishment of a very public outreach/in-reach campaign to encourage MWBE's "get on the list" of local businesses. This list which would be developed and maintained for the ACCA, but would be available to the public. This list would include MWBE's regardless of certification status. Since the listing would not require certification or any specific capacity, it could serve baseline information for any future studies or programming initiatives.