

MWBE REQUIREMENTS REMAIN A MAJOR INDUSTRY ISSUE



By Hank Kita, *Executive Director*

Among the major issues that you can expect to see impacting the New York construction industry in 2017, are the ongoing requirements and goals that contractors will continue to face where minority and women based enterprises (MWBE) are concerned.

Those MWBE’s around New York would in many instances say that the state and the city are not doing enough to give them contracts. The goals that have been set at the state level are ambitious if not unattainable in many instances. The MWBE participation goals were raised from 10 percent of state contracts in 2011 to 30 percent in 2014. The major hike to the 30 percent goal was established by Governor Cuomo in 2014 after his administration maintained that it had exceeded the 20 percent goal he proposed during his initial State of the State address in 2011.

There are many in our industry who say that the state MWBE goals above are not attainable, given the real capacity of those existing MWBE companies that are capable of handling state projects. General and prime contractors who cannot meet these state goals, often find that they may be penalized for not achieving these lofty goals in spite of the fact that best efforts are made to identify and include MWBE’s on their projects. Many say that the capacity just does not exist to meet these State MWBE goals. In many instances (especially with smaller companies), MWBE’s do not have the wherewithal to take on any sizable projects. General and prime contractors are also constrained by the approach that many law enforcement entities take in scrutinizing any assistance that might be given by those contractors to MWBE contractors on these projects. The threat of financial penalties as well as jail time has put a dampening effect on any assistance that might be given to these MWBE’s by the larger more established contractors on a given project.

A disparity study currently being conducted at the state level will perhaps shed some light on the ability of existing MWBE’s to meet the state’s 30 percent participation goal. It remains to be seen what the outcome of the disparity study might be. The more cynical observers might say that the outcome will simply be to justify the current goal. At the same time, the STA will await the results of a capacity study of MWBE’s being undertaken by the Building Trades Employers’ Association (BTEA) here in New York City. This study will offer a snapshot as to the capacity of MWBE’s to take on construction projects here in New York City. The results of the BTEA study should be helpful in assessing the capacity of local MWBE’s in the local construction market.

In the meantime, STA members need to monitor the ongoing MWBE requirements of the State and City, and make value judgements on their ability to reach mandated goals before bidding. The STA will continue to monitor this issue on an ongoing basis and keep its members informed.