

# **New York State Enhanced Utilization Credit Initiative (EUCI)**

## **Program Concept Paper – September 2025**

### **Program Purpose**

The NYS Enhanced Utilization Credit Initiative (EUCI) is designed to incentivize the use of MWBE firms that have had limited or no opportunity to engage in contracting with the MTA.

The EUCI will be aligned with the state's overall MWBE goals and be administered by the MTA for MTA-issued contracts and in partnership and with the oversight and approval of the NYS Division of Minority and Women's Business Development (DMWBD).

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### **Program Summary**

The EUCI allows for subcontractor utilization credit enhancement (1.5 times the dollar value) for target MWBE firms to work with Primes. The ability to offer enhanced utilization credit will rest with the certified NYS firm which can market this added value as an incentive for subcontract engagement.

Total Prime Contract Value: \$135M

MWBE Goal: 30%

Total MWBE Contract Value attainment required: \$40.5M

Total Subcontract Value: \$6M

Total Credit Value under EUCI: \$9M

Balance of contract value required to attain MWBE goal: \$31.5M

This initiative may result in a potential impact on the annual utilization attainment of the MTA which the Authority is prepared to absorb as needed to ensure the success of this initiative.

### **Program Goals**

- Increase MWBE participation in public and private sector contracting with an emphasis on those firms which have had no or limited opportunity for MTA contracting engagement.
- Secure the MWBEs understanding of state and federal regulations and compliance requirements.
- Educate prospective vendors on MTA administrative requirements to facilitate streamlined bidding, contracting, invoice submissions and payments.

### **Eligibility Criteria**

#### *Program Requirements*

- MWBE firms seeking to participate in the MTA's EUCI must be independent business entities that meet eligibility requirements.

- Once participating MWBE firms have completed two distinct/unrelated contracts under the EUCI they will be deemed ineligible for future program participation/credit enhancement for contracts with the MTA.
- The full scope for sub-contracts to be considered for inclusion in the EUCI cannot exceed \$20M in value for each participating MWBE firm.
- Primes will not receive enhanced credits exceeding \$10M on any given contract.

#### *Participating Firms*

- Must be NYS- Certified as a NYS firm for the scope of work for which they are to be engaged certified MWBE firms.
- Have been in business for at least 2 years.
- Have not been engaged on prime or subcontracting opportunities with the MTA within the past three (3) calendar years and/or have not performed on MTA prime or subcontracts larger than \$500,000.
  - Firms that are current participants of the MTA's Small Business Mentoring Program (SBMP) are exempt from this requirement
- Certified as completing one (1) advanced education course cycle. Eligible programs include:
  - "How to do Business with the MTA" offered by the MTA
  - Small Business Mentorship Program Training offered by the MTA
  - Business Growth Accelerator (BGA) 2.0 Program offered by ESD

### **MTA EUCI Implementation Process**

#### *Pre-Solicitation*

- The MTA's Construction and Development Department (C&D) will revise the respective boilerplate language to include the EUCI requirements.
- C&D will submit a MWBE/SDVOB goal request for the contract and designate the contract for inclusion in the EUCI.
- DDCR Contract Compliance (CC) will provide the appropriate MWBE/SDVOB goal with a list of eligible firms.
  - DDCR will review the scope of work as part of its goal determination process and identify the relevant and required NAICS codes for subcontracting participation.
  - Utilizing the NAICS codes, DDCR will pull a list of firms from the NYS MWBE Certification Directory eligible for the EUCI.
  - That list will be included with the bid package shared by the MTA for bid solicitation.

#### *Solicitation*

- C&D will solicit the contract with EUCI requirements. A separate 15A1 and 15A4 form will be required for the EUCI to identify:
  - The description of the pilot scope of work and dollar value.
  - The proposed the EUCI MWBE subcontractor(s) with respective subcontract dollar value.

#### *Post Bid Opening*

- C&D will review the EUCI 15A1 and 15A4 utilization plan for responsiveness.

- DDCR will confirm engagement into the EUCI and finalize appropriate goals proportionate to the value of the proposed EUCI contract value.
- CC will approve the pilot 15A1 and 15A4 utilization plans once:
  - It is confirmed that the EUCI MWBE subcontractor(s) have met the eligibility criteria and are certified for the scope of work.
  - The EUCI MWBE subcontractor(s)'s respective subcontract dollar value(s) are accurate.

#### *Contract Terms*

- To be developed by the MTA.

#### *Post Award*

- CC will undertake the following compliance activities:
  - Add the EUCI MWBE subcontractor(s) to B2G after the contract award, which includes the 1.5 credit adjustment in B2G.
  - Conduct site visits on the EUCI MWBE subcontractor(s)
  - Conduct quarterly EUCI MWBE subcontractor(s) evaluations with the prime contractor.
  - Submit a quarterly summary of the EUCI MWBE subcontractor(s) activity to ESD which will include:
    - Prime contractor's evaluation of the EUCI MWBE subcontractor(s) work performed
    - The EUCI MWBE subcontractor(s) payments to date
    - Any issues that should be noted.
- All EUCI waiver/exclusion requests will require C&D project management concurrence, and DDCR and ESD approval.
- EUCI waivers/exclusion requests are entertained at 75% completion of the contract value and beyond unless requested earlier by C&D project management.

## **EUCI Contract Language – Proposed/Pending Final Legal Review**

### **1.1 New York State Enhanced Utilization Credit Initiative (EUCI) *[Include Only if Applicable]***

#### **A. POLICY**

- i. The EUCI is designed to incentivize the use of MWBE firms that have had limited or no opportunity to engage in contracting with the MTA (EUCI-Eligible MWBEs). A list of the EUCI-Eligible MWBEs is available at *[Insert Hyperlink]*.
- ii. The Proposer/Bidder may choose to participate in the EUCI to meet their MWBE Goals under this Contract, which are set forth in the Design-Build Agreement/Construction Agreement. The Design-Builder's/Contractor's successful participation in the EUCI will result in subcontractor utilization credit enhancement (1.5 times the dollar value) for EUCI-Eligible MWBEs.
- iii. A Design-Builder/Contractor will not receive enhanced credits exceeding \$10M on any given contract.

#### **B. PARTICIPATION**

- i. If interested in participating in the EUCI, the Proposer/Bidder shall submit a separate MBE/WBE Utilization Plan Form (Section V of the DDCR Forms Package) and Intent to Perform as Subcontractor/Subconsultant (Section VIII of the DDCR Forms Package) form (EUCI Utilization Plans) with their Proposal/within 5 days after the Bid Due Date. The EUCI Utilization Plans must
  - (1) Describe the Contract's scope of work and dollar value, and
  - (2) Identify the proposed EUCI-Eligible MWBE subcontractor(s) with respective subcontract dollar value.
- ii. After submission, MTA C&D will review the EUCI Utilization Plans for responsiveness.
- iii. The MTA Department of Diversity and Civil Rights will thereafter confirm the Design-Builder's/Contractor's engagement into the EUCI and finalize the appropriate goals proportionate to the value of the proposed EUCI contract value. The MTA Department of Diversity and Civil Rights will approve the EUCI Utilization Plans once:
  - (1) it is confirmed that the EUCI-Eligible MWBE subcontractor(s) have met the eligibility criteria and are certified for the scope of work, and
  - (2) the EUCI-Eligible MWBE subcontractor(s)'s respective subcontract dollar value(s) are accurate.

## C. COMPLIANCE

- i. The MTA Department of Diversity and Civil Rights is responsible for determining the Design-Builder's/Contractor's compliance with the EUCI requirements. The Design-Builder/Contractor shall cooperate fully with MTA Department of Diversity and Civil Rights staff and shall provide all requested documents immediately upon request.
- ii. The MTA Department of Diversity and Civil Rights will undertake the following compliance activities:
  - (1) Add the EUCI-Eligible MWBE subcontractor(s) to B2G New York State Contract System (NYSCS) after Contract Award, including the 1.5 credit adjustment;
  - (2) Conduct site visits on the EUCI-Eligible MWBE subcontractor(s);

## D. WAIVERS

- i. If participating in the EUCI, the Design-Builder/Contractor shall attempt to utilize in good faith the EUCI-Eligible MWBEs designated in their ECUI Utilization Plans during the performance of the Contract. If at any time the Design-Builder/Contractor feels they can no longer adhere to their ECUI Utilization Plans, the Design-Builder/Contractor may:
  - (1) Request a waiver by submitting the Request for Total or Partial Waiver of MBE/WBE Goal(s) Pursuant to MBE/WBE Utilization Plan Form (Section VI of the DDCR Forms Package) to the MTA Department of Diversity and Civil Rights,
- ii. All EUCI waiver/exclusion requests will require C&D project management concurrence, as well as MTA Department of Diversity and Civil Rights and Empire State Development approval.
- iii. EUCI waivers/exclusion requests for the purpose of removing partial or full value of the EUCI-Eligible MWBE subcontractor(s) payments to date are entertained at 75% completion of the contract value and beyond unless requested earlier by MTA C&D project management.
- iv. The EUCI-Eligible MWBE subcontractor may be replaced with another EUCI-Eligible MWBE subcontractor. If the enhanced subcontractor is replaced with a non-EUCI-Eligible MWBE subcontractor, the appropriate crediting will apply. Both cases require DDCR approval, and a waiver is not applicable.