**GUIDANCE RELATIVE TO MINORITY BUSINESS ENTERPRISE AND WOMEN BUSINESS ENTERPRISE PARTICIPATION ON PUBLIC BUILDING PROJECTS DELEGATED TO OR OTHERWISE UNDER THE CONTROL OF A STATE AGENCY OTHER THANTHE DIVISION OF CAPITAL ASSET MANAGEMENT POLICY**

It is the policy of the commonwealth to promote equity of opportunity among minority business enterprises and women business enterprises in all areas of state contracting, especially contracts for construction and design services.

**II.   DEFINITIONS**

As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

“Building project”, shall have the same meaning as the term found in section 39A of chapter 7 of the Massachusetts General Laws;

 “Design services”, shall have the same meaning as defined in section 38A1/2 of chapter 7 of the Massachusetts General Laws;

“Minority business enterprise” or “MBE”, shall have the same meaning as the term is defined in section 58 of chapter 7 of the Massachusetts General Laws/

 “Women business enterprise” or “WBE”, shall have the same meaning as the term is defined in section 58 of chapter 7 of the Massachusetts General Laws.

**III.  MBE AND WBE PROGRAM AND PARTICIPATION GOALS**

1. The participation goals for minority business enterprises and women business enterprises established pursuant to paragraph (d) of section 40N of chapter 7 of the Massachusetts General Laws shall apply to building projects delegated to a state agency by the commissioner of the division of capital asset management pursuant to section 40B of chapter 7 of the Massachusetts General Laws or which are otherwise under the control and/or supervision of a state agency.
2. Said MBE and WBE participation goals shall be expressed as an overall, annual program goal or goals which shall be applicable to the total dollar amount of contracts awarded for construction work and for design services on said building projects for the calendar year.
3. Said MBE and WBE participation goals shall remain in effect until revised participation goals are published and established pursuant to paragraph (d) of section 40N of chapter 7 of the Massachusetts General Laws.
4. Each state agency, whose MBE and WBE participation goals are established pursuant to paragraph (a) of this section, in consultation with the commissioner of the division of capital asset management , shall develop a written procedure by which the state agency, for an individual building project may adjust the participation goals for minority business enterprise and women business enterprise based upon the actual availability of minority business enterprises and women business enterprises, the geographic location of the building project, the scope of work of the building project, and/or other relevant factors.
5. Each state agency, whose MBE and WBE participation goals are established pursuant to paragraph (a) of this section, shall develop a written, good faith efforts waiver procedure by which the state agency may determine, at any time before the award of a contract, that compliance with the MBE and WBE participation goals is not feasible and by which the state agency may reduce or waive the goals for an individual contract.  In developing said written, good faith efforts waiver procedure, the state agency may consult with and/or adopt the good faith waiver procedure established by the division of capital asset management.
6. Each state agency shall be responsible for the overall management, monitoring, and enforcement of the MBE and WBE program established pursuant to this Bulletin.  Each agency may appoint a program director to assist in program development, coordination and compliance.  The program director shall also have responsibility for monitoring contract compliance within the agency, addressing potential program violations and coordinating agency enforcement activities.

**IV. EFFECTIVE DATE OF BULLETIN**

This Administrative Bulletin shall take effect 30 days after its approval date.