

NEW YORK STATE TEACHERS' RETIREMENT SYSTEM
MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES ("MWBE")
ASSET MANAGEMENT AND FINANCIAL INSTITUTION GUIDELINES
FOR CERTIFICATION, REPORTING AND COOPERATION
WITH OTHER FIDUCIARY-CONTROLLED ENTITIES

- I. PURPOSE. In accordance with subdivisions 4, 5, 6, 7, 8 and 9 of section 176 of the Retirement and Social Security Law and section 508-a of the Education Law, the Retirement Board, acting as trustees of the New York State Teachers' Retirement System ("NYSTRS"), establishes these guidelines for the purpose of increasing the utilization of MWBE Asset Managers, MWBE Financial Institutions and MWBE Financial and Professional Service Firms.

These guidelines shall be implemented in accordance with, and subject to, the Retirement Board's fiduciary duties and obligations as trustees of NYSTRS to the members, retirees and beneficiaries of NYSTRS and in accordance with, and subject to, such other investment limitations as may be prescribed by the Education Law, the Retirement and Social Security Law and any other law or rule as may be applicable, including but not limited to the regulations of the Commissioner of Insurance.

These guidelines shall relate to the following activities:

- A. Contracting with MWBE Asset Managers to invest assets of NYSTRS;
- B. Subject to Best Execution:
 - 1. Conducting trades of public equity securities with MWBE Financial Institutions; and
 - 2. Conducting trades of fixed-income securities with MWBE Financial Institutions;
- C. Allocating investments of assets of NYSTRS either:
 - 1. Directly through investments in the equities and debt securities of MWBEs; or
 - 2. Indirectly through programs involving MWBE Asset Managers; and
- D. Awarding contracts for accounting, banking, financial advisory, insurance, legal, research, valuation and other financial and professional services to MWBE Financial Institutions and other MWBE Professional Service Firms.

II. DEFINITIONS. For the purposes of these guidelines, the following terms are defined as follows:

- A. The terms “Asset Manager” and “Asset Management” shall mean the person, or activity by such person, who provides a comprehensive and structured approach to short-term and long-term management of funds of NYSTRS.
- B. The term “Best Execution” shall refer to the obligation of Broker or Broker Dealer to ensure the optimal mix of price improvement (getting a better price than is currently quoted), speed and likelihood of execution.
- C. The terms “Broker” and “Broker Dealer” shall mean an individual or firm, registered in accord with state or federal law, who acts as an intermediary between a buyer and seller.
- D. The term “Business Enterprise” may include, without limitation:
 - 1. A sole proprietorship;
 - 2. A partnership;
 - 3. A limited partnership;
 - 4. A limited liability partnership;
 - 5. A limited liability company;
 - 6. A corporation; or
 - 7. Another similar entity whether domestic or foreign.
- E. The term "MWBE Asset Manager" may include, without limitation:
 - 1. An Asset Manager in any of the following asset classes:
 - a. Public Equity or Fixed Income Securities;
 - b. Hedge Funds;
 - c. Fund of Hedge Funds;
 - d. Private Equity (including Venture Capital);
 - e. Fund of Private Equity funds;
 - f. Real estate investment funds;
 - g. Fund of real estate funds; or

- h. Any other asset class for which NYSTRS might engage external asset managers; and
2. An Asset Manager that is:
 - a. An MWBE;
 - b. A registered Investment Advisor or an Investment Advisor exempt from such registration; and
 - c. Certified in a manner consistent with subdivision 3 of section 423-c of the Retirement and Social Security Law.
- F. The term "Minority Group Member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:
1. Black persons having origins in any of the Black African racial groups;
 2. Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
 3. Native American or Alaskan native persons having origins in any of the original peoples of North America; or
 4. Asian and Pacific Islander persons having origins in any of the Far East Countries, South East Asia, the Indian Subcontinent or the Pacific Islands.
- G. The term "MWBE" for the purpose of engaging in business with NYSTRS shall mean:
1. A Business Enterprise:
 - a. That is at least fifty-one percent owned by one or more minority group members, or at least fifty-one percent owned by one or more women, who, in each case, have significant experience in asset management, brokerage, other financial services or related professional services such as accounting, valuation or legal services; or
 - b. That is substantially owned and/or operated by women or minority group members who have significant experience in asset management, brokerage, other financial services or related professional services such as accounting, valuation or legal services; and
 2. A Business Enterprise:
 - a. In which such minority or women ownership or operation is real, substantial and continuing;

- b. In which such minority or women ownership or operation has and exercises the authority to control independently the day-to-day business decisions of the enterprise;
- c. Authorized to do business in this State; and
- d. Certified in a manner consistent with subdivision 3 of section 423-c of the Retirement and Social Security Law.

H. The term “Financial and Professional Services” shall include, but not be limited to:

1. Banking;
2. Financial Advisory;
3. Financial Research;
4. Insurance;
5. Law; and
6. Valuation.

I. The term "MWBE Financial Institution" shall mean:

1. As it relates to brokerage services, a Broker or Broker Dealer that is an MWBE certified in a manner consistent with subdivision 3 of section 423-c of the Retirement and Social Security Law; and
2. As it relates to any other financial services, a Business Enterprise that is an MWBE certified in a manner consistent with subdivision 3 of section 423-c of the Retirement and Social Security Law that provides banking, financial advisory, insurance, financial research, valuation or other financial services.

J. The term “Other Fiduciary-Controlled Entities” shall mean:

1. The New York State Common Retirement Fund;
2. The New York State Insurance Fund; and
3. The New York State Deferred Compensation Plan.

III. CERTIFICATION. The Retirement Board hereby establishes and adopts the following certification process for the purpose of identifying and reporting on MWBE firms providing asset management, brokerage or other financial or professional services with or for NYSTRS:

A. Business Enterprises providing asset management, brokerage or other financial or professional services with or for NYSTRS shall be invited to provide the following information:

1. A copy of financial form(s), if any, filed with the federal Securities and Exchange Commission, including, but not limited to, the uniform application for investment advisor registration (ADV) and the uniform application for broker-dealer registration (BD);
2. A copy of application forms and supporting documentation, if any, filed with the Division of Minority and Women-Owned Business Development (“DMWBD”) within the New York State Department of Economic Development and any subsequent certification issued by DMWBD of MWBE status;
3. A copy of any form(s) filed with any other state or federal entity for the purpose of seeking certification by such entity as an MWBE, along with any certification issued by such governmental entity of MWBE status, if any;
4. Any registration form as the Retirement Board or the Executive Director of NYSTRS, within his or her discretion, may require; and
5. Such other information as any such Business Enterprise may deem relevant to or of assistance in determining whether such Business Enterprise is an MWBE within the meaning of these guidelines.

B. Additionally, Business Enterprises providing asset management, brokerage or other financial or professional services with or for NYSTRS are invited to provide the Retirement Board, the following information relating to any position (held by an owner, officer, manager or employee of the Business Enterprise) that the Retirement Board or the Executive Director of NYSTRS, within his or her discretion, may determine necessary, including, but not limited to, with respect to any managing director, managing principal, principal, operating principal, chief financial officer, operating vice-president, vice-president, partner and owner, or equivalent positions, for the accurate identification of a Business Enterprise as an MWBE:

1. 51%-Owned by Minority Group Members or by Women:
 - a. Title;
 - b. Position;
 - c. Ownership percentage;
 - d. History of ownership;
 - e. History of ownership percentage;
 - f. Ethnicity;
 - g. Gender; and

h. Length of service.

2. MWBEs Substantially Owned or Operated by Minorities or Women:

- a. Title;
- b. Position;
- c. Ownership percentage;
- d. History of ownership;
- e. History of ownership percentage;
- f. Ethnicity;
- g. Gender;
- h. Length of service; and
- i. The role of individual employees and whether such individual will be performing services with or for NYSTRS and if so, to what extent such performance will occur.

C. Documentation. All information and documentation shall be provided on a form developed by NYSTRS and, pursuant to these guidelines, shall be certified as to accuracy by an Owner or Officer of the Business Enterprise, authorized by the business to make the representations contained thereon. If a Business Enterprise seeks confidential treatment of proprietary business information, such information must be clearly labeled as confidential, and denial of release thereof will occur in accordance with and to the extent permitted by applicable law. The Retirement Board or the Executive Director of NYSTRS, or their designees, may make such inquiries as he, she or they may deem appropriate to determine the accuracy of the information provided, including, but not limited to, in his, her or their discretion, field visits and/or other means of substantiation.

D. Certification of MWBE status. Separate determinations of MWBE status shall be made for Business Enterprises pursuant to subdivisions 1 and 2 of this Paragraph.

- 1. In determining that a Business Enterprise is at least fifty-one percent owned by one or more minority group members, or at least fifty-one percent owned by one or more women, NYSTRS may rely on bona-fide determinations of state or federal government entities or of the Other Fiduciary-Controlled Entities, or on certified filings with the Federal Securities and Exchange Commission, in addition to the responses submitted by the Business Enterprise.
- 2. In determining that a Business Enterprise is substantially owned and/or operated by women or minority group members, these guidelines interpret the term “substantially” as meaning at least thirty-three percent (ownership and/or operation). The thirty-three percent shall include at least twenty-five percent ownership by women or minority group members. Each individual counted in determining percentage of ownership or operation may only be counted once (e.g., an owner who is also a senior manager may not be counted as both).

- E. Decertification. Any Business Enterprise previously certified as an MWBE which no longer meets the applicable certification criteria shall be decertified. All Business Enterprises certified as MWBEs must promptly inform the Retirement Board or the Executive Director of NYSTRS, or his or her designee, of any changes in ownership, management and/or control that could impact the entity's MWBE certification.
- F. Documentation of determination. In all cases, NYSTRS shall maintain a written record of the reason(s) for its determination and subsequent certification or decertification of an entity's MWBE status.
- G. Finality of determination. All determinations relating to MWBE status made under these guidelines are made solely for the purposes of identification and reporting and for no other purpose. All determinations shall be final and not appealable. However, any Business Enterprise that believes it should be certified as an MWBE is welcome to submit information demonstrating that it is eligible for certification as an MWBE.
- H. Submission of false information. Any individual who submits false information on behalf of a Business Enterprise, and/or any Business Enterprise that submits false information, may be barred from doing business with NYSTRS for a period of time based on the nature and extent of the false information. False submissions shall also be reported to appropriate law enforcement entities.

IV. REPORTING. Within 60 days of the end of each fiscal year commencing with the July 1, 2010-June 30, 2011 fiscal year, NYSTRS shall report to the Governor, Legislature and the Chief Diversity Officer of the State of New York on the participation of MWBE firms providing asset management, brokerage or other financial or professional services for NYSTRS.

A. Such Report shall include:

1. A comparative analysis of such activity relative to such activity with all asset managers, financial institutions and professional service providers for the relevant period; and
2. The progress and success of the efforts undertaken during the plan fiscal year in pursuit of these guidelines.

B. Such Report shall be simultaneously published on the NYSTRS website for not less than 60 days following its release to the Governor, Legislature and the Chief Diversity Officer of the State of New York.

C. Such Report shall separately document the utilization of:

1. Entities that are at least fifty-one percent owned by one or more minority group members or at least fifty-one percent owned by one or more women; and

2. Entities that are substantially owned and/or operated by women or minority group members.

V. COOPERATION WITH OTHER FIDUCIARY-CONTROLLED ENTITIES.

In implementing these guidelines, NYSTRS may, in its discretion, utilize or participate in any MWBE certification process established by any Other Fiduciary-Controlled Entity for the purpose of identifying and reporting on MWBE firms providing Asset Management, Brokerage, or other Financial or Professional Services.

- A. NYSTRS shall work with the Other Fiduciary-Controlled Entities to create a Database of Business Enterprises certified as MWBEs pursuant to or in a manner consistent with subdivision 3 of section 423-c of the Retirement and Social Security Law.
- B. In addition to such advertising as NYSTRS shall implement so that MWBE Asset Managers, MWBE Financial Institutions and other MWBE Professional Service Firms are made aware of the opportunities with NYSTRS, NYSTRS shall periodically, but not less than annually, hold a conference to promote the utilization of MWBE Asset Managers, MWBE Financial Institutions and MWBE Financial and Professional Service Firms. Such conference shall be scheduled and coordinated to the extent reasonably practicable with Other Fiduciary-Controlled Entities.
- C. NYSTRS shall meet periodically with the Other Fiduciary-Controlled Entities to discuss best practices and to consider such changes to these guidelines as may be appropriate or advisable.