

To: NYC Department of Housing Preservation and Development

Subject: Comment on Draft Rules for Implementation of the Affordable Neighborhoods for New Yorkers Tax Incentive Benefits Program— Clarification on MWBE Hiring Requirements

Dear HPD Review Committee,

I am writing to respectfully submit feedback regarding the recently released draft rules for the implementation of the ANNY Tax Incentive Benefits Program, with particular emphasis on the requirements concerning reasonable efforts to hire Minority- and Women-Owned Business Enterprises (MWBEs).

While the guidelines are appreciated, they currently lack the specificity necessary for consistent application. As a point of comparison, the ICAP program provides clear standards, such as requiring evidence of three bids per trade, which facilitates a more straightforward compliance process. Implementing similarly detailed guidance within the 485x rules would greatly assist developers in understanding what constitutes adequate documentation of their hiring efforts.

Additionally, the draft rules do not address whether efforts to reach the 25% MWBE participation target, if unsuccessful, should then extend across the remaining 75% of the project. Further clarification would be valuable to determine if it is sufficient to document efforts solely within the 25% target or if obligations persist until this threshold is met.

Additional clarification is needed on a few points indicated in the current proposed rules,

1. Is it necessary to reach out to the Department of Small Business Services (DSBS) for each new project, or after an owner/developer gains clarity of SBS recommendations they could just comply based on the same recommendations on future projects? In other words, is there a requirement to register each project with DSBS?
2. If owner/developer has done their own outreach for MWBEs, do they still need to consult with DSBS?
3. The proposed rules state, "In addition, the Agency shall consider the following efforts to Minority and Women Owner Business Enterprises along with any other relevant factors." Is the

owner/developer required to implement all listed efforts, or is fulfilling just one effort sufficient? For example, would advertising in general circulation media or small business publications suffice, or is there a must to engage in all efforts mentioned?

Finally, I recommend the inclusion of an exemption for projects where all bids have been awarded prior to the enactment of these rules. For projects in this situation, adhering retroactively to new MWBE requirements could present logistical and contractual challenges.

Thank you for the opportunity to provide input on this matter. We trust that these considerations will help to enhance the clarity and feasibility of the MWBE requirements within the 485x program guidelines.

Sincerely,

Moshe Gutman

RE Tax Service, LLC