



**Office of  
General Services**

**ANDREW M. CUOMO**  
Governor

**ROANN M. DESTITO**  
Commissioner

October 9, 2015

Jo Ann Greenwood  
Director, Contracts Management  
Citrix Systems Inc.  
851 West Cypress Creek Road  
Ft. Lauderdale, Florida 33309

Dear Ms. Greenwood:

We are in receipt of Citrix Systems Inc.'s for Waiver of MWBE Participation Goal (BDC 333) in response to Solicitation 22802 for Information Technology Umbrella Contract – Manufacturer Based, Lot 2. Upon review of the provided documentation, your request to waive the MWBE goals on this contract has been granted.

Included with this letter is a signed copy of your waiver application. If you have any additional questions, I can be reached at (518) 486-6866.

Sincerely,

Anuola N. Surgick  
Minority Business Specialist 2  
Office of MWBE & Community Relations

cc: Sharon Featherstone, OGS  
Sheila Long, OGS  
Ann Fisher, OGS

# APPLICATION FOR WAIVER OF MWBE PARTICIPATION GOAL

*(must be submitted before requesting final payment on the contract)*

<b>Section 1: Basic Information</b>				
Contractor's Name: <b>Citrix Systems Inc.</b>	Federal Identification Number: <b>75-2275152</b>			
Street Address: <b>851 West Cypress Creek Road</b>	E-Mail Address: <b>Joann.greenwood@citrix.com</b>			
City, State, Zip Code: <b>Ft. Lauderdale, Florida 33309</b>	Telephone: <b>(954) 267 - 3000</b>			
Contract Number: <b>Solicitation Number 22802</b>	<b>MWBE CONTRACT GOALS</b>			
	<table border="1" style="width: 100%;"> <tr> <td style="width: 50%; text-align: center;">MBE %</td> <td style="width: 50%; text-align: center;">WBE %</td> </tr> <tr> <td style="height: 20px;"></td> <td style="height: 20px;"></td> </tr> </table>	MBE %	WBE %	
MBE %	WBE %			

## Section 2: Type of MWBE Waiver Requested

MBE Waiver	<input checked="" type="checkbox"/> Total	<input type="checkbox"/> Partial	If partial waiver, please enter the revised MBE percentage:	
WBE Waiver	<input checked="" type="checkbox"/> Total	<input type="checkbox"/> Partial	If partial waiver, please enter the revised WBE percentage:	

Please explain the reason for the waiver request:

Citrix directly delivers all of its software and hardware to the State of New York. There is no reseller involvement in the delivery or assembling of our products. Software is delivered to the end user by Citrix via electronic delivery of a license string to a secure website. Hardware is delivered by Citrix via a common carrier as directed by the end user, i.e., US mail, Fed-X, UPS directly to the end user. In addition, all services that are ordered off of the referenced Subject contract, i.e., installation and maintenance services are performed and or delivered by Citrix personnel/employees. Our resellers do not deliver our products or services.

In addition, our legal review of Article 15-A is that Citrix is not required to hire NY subcontractors if we aren't planning to use subcontractors. Therefore, we are requesting a waiver.

Furthermore, our resellers/partners do not fall under the definition of a Subcontract 14, per Article 15-A below.

14. "Subcontract" shall mean an agreement providing for a total expenditure in excess of twenty-five thousand dollars for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon between a contractor and any individual or business enterprise, including a sole proprietorship, partnership, corporation, or not-for-profit corporation, in which a portion of a contractor's obligation under a state contract is undertaken or assumed, but shall not include any

construction, demolition, replacement, major repair, renovation, planning or design of real property or improvements thereon for the beneficial use of the contractor.

4. (a) Contracting agencies shall administer the rules and regulations promulgated by the director to ensure compliance with the provisions of this section. Such rules and regulations shall require a contractor to submit a utilization plan after bids are opened, when bids are required, but prior to the award of a state contract; shall require the contracting agency to review the utilization plan submitted by the contractor within a reasonable period of time as established by the director; shall require the contracting agency to notify the contractor in writing within a period of time specified by the director as to any deficiencies contained in the contractor's utilization plan; shall require remedy thereof within a period of time specified by the director; may require the contractor to submit periodic compliance reports relating to the operation and implementation of any utilization plan; shall allow a contractor to apply for a partial or total waiver of the minority and women-owned business enterprise participation requirements pursuant to subdivisions five and six of this section; shall allow a contractor to file a complaint with the director pursuant to subdivision seven of this section in the event a contracting agency has failed or refused to issue a waiver of the minority and women-owned business enterprise participation requirements or has denied such request for a waiver; and shall allow a contracting agency to file a complaint with the director pursuant to subdivision eight of this section in the event a contractor is failing or has failed to comply with the minority and women-owned business enterprise participation requirements set forth in the state contract where no waiver has been granted.

5. Where it appears that a contractor cannot, after a good faith effort, comply with the minority and women-owned business enterprise participation requirements set forth in a particular state contract, a contractor may file a written application with the contracting agency requesting a partial or total waiver of such requirements setting forth the reasons for such contractor's inability to meet any or all of the participation requirements together with an explanation of the efforts undertaken by the contractor to obtain the required minority and women-owned business enterprise participation. In implementing the provisions of this section, the contracting agency shall consider the number and types of minority and women-owned business enterprises located in the region in which the state contract is to be performed, the total dollar value of the state contract, the scope of work to be performed and the project size and term. If, based on such considerations, the contracting agency determines there is not a reasonable availability of contractors on the list of certified business to furnish services for the project, it shall issue a waiver of compliance to the contractor. In making such determination, the contracting agency shall first consider the availability of other business enterprises located in the region and shall thereafter consider the financial ability of minority and women-owned businesses located outside the region in which the contract is to be performed to perform the state contract.

### Section 3: Supporting Documentation

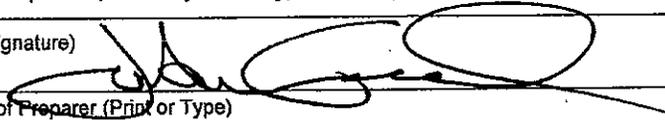
Provide the following documentation as evidence of your good faith efforts to meet the MWBE goals set forth in the contract and in support of your waiver application:

- Attachment A.** List of the general circulation, trade and MWBE-oriented publications and dates of publications soliciting for certified MWBE participation as a subcontractor/supplier and copies of such solicitation.
  - Attachment B.** List of the certified MWBEs appearing in the Empire State Development MWBE directory that were solicited for this contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.
  - Attachment C.** Descriptions of the contract documents/plans/specifications made available to certified MWBEs by the contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified MWBEs.
  - Attachment D.** Description of the negotiations between the contractor and certified MWBEs for the purposes of complying with the MWBE goals of this contract.
  - Attachment E.** Identify dates of any pre-bid, pre-award or other meetings attended by contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the contract.
  - Attachment F.** Other information deemed relevant to the request.
- See the explanation for the waiver request above.**

**Section 4: Signature and Contact Information**

By signing and submitting this form, the contractor certifies that a good faith effort has been made to promote MWBE participation pursuant to the MWBE requirements set forth under the contract. Failure to submit complete and accurate information may result in a finding of noncompliance, non-responsibility, and a suspension or termination of the contract.

Prepared By: (Signature)



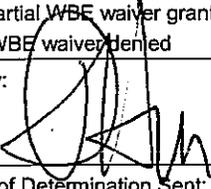
Date:

June 24, 2015

Name and Title of Preparer (Print or Type)

Jo Ann Greenwood      Director, Contracts Management

**For OGS Use Only**

Reviewed By: <b>Anuola Surgick</b>	Date: <b>10/7/2015</b>
Decision:  <input checked="" type="checkbox"/> Full MBE waiver granted <input type="checkbox"/> Partial MBE waiver granted; revised MBE goal: _____ % <input type="checkbox"/> MBE waiver denied  <input checked="" type="checkbox"/> Full WBE waiver granted <input type="checkbox"/> Partial WBE waiver granted; revised WBE goal: _____ % <input type="checkbox"/> WBE waiver denied	
Approved By: 	Date: <b>10/9/15</b>
Date Notice of Determination Sent: <b>10/9/15</b>	
Comments:	