

The Cost of Non-Compliance: How MWBE Infractions Are Earning Companies Criminal Sanctions

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When New York first introduced its Minority and Women-owned Business Enterprise (MWBE) program, it was intended to address disparities in the way contracts were awarded, giving marginalized businesses more opportunities to participate.

Not all entities have lived up to the spirit of the legislation however, with numerous incidents of MWBE-related fraud hitting the headlines. In response, [the state is strengthening the regulation](#) to crack down on non-compliance and enforce harsher penalties, making it even more important for public and private contractors to closely monitor their MWBE activity and thereby reducing their risk of falling victim to bad actors trying to game the system.

“The climate has changed,” says Brian Sanvidge, Principal & Leader, Anchin Regulatory Compliance & Investigations Group. “There’s now a lot more political pressure – stakeholders and elected officials are looking for more opportunities for MWBEs and asking if they are really legitimate. That has led to total transparency and more oversight to ensure compliance.”

MWBE Fraud & Abuse

While most MWBE contracts are legitimate, organizations need to be aware of the potential for fraud. Some of the most common scams include misrepresenting ownership of a business to falsely pose as a MWBE and contracting with a MWBE purely because they are MWBE-certified rather than needing their particular expertise or services.

In January, two steel firms working on highway and bridge projects in the midwest [paid out \\$440,000 in a civil suit](#) after they were accused of conspiring to defraud the Disadvantaged Business Enterprise (DBE) program. One of the companies was women-owned and therefore a legitimate DBE, but the other used their documentation to falsely claim DBE certification.

Hefty payouts are a compelling deterrent but It's not just civil actions that contractors need to be aware of, as these kinds of cases are also appearing in the criminal courts where they are subject to tougher penalties. Earlier this month, [a Missouri contractor was sentenced to eight years in prison](#) for securing over \$300 million worth of government contracts by masquerading as a minority-owned business, enlisting a black disabled veteran to pose as the head of the company.

Both public and private entities are at risk from this kind of illegal activity, which is particularly prevalent in the construction industry where large-scale infrastructure projects often provide the ideal environment for fraud and criminal activity to go undetected.

When it does inevitably come to light, the reputational damage for those involved is huge. Fines, criminal prosecutions, negative media attention – these are things no organization wants on its record.

Sanvidge, a former Inspector General in the New York State Department of Labor for more than a decade, warns that contractors cannot afford to be complacent and should take a proactive approach to minimize their risk.

“Organizations in breach of the legislation may find themselves facing liquidated damages, civil and criminal penalties,” he says. “There’s also the reputational

damage, you can't quantify that but it's significant. Some contractors have the attitude that it's not my problem, I don't have to think about it. At the end of the day, it is your problem and you *should* be thinking about it."

How Anchin Can Help Reduce Risk & Protect Your Reputation

The foundation of any business relationship is trust. If you're doing business with a MWBE contractor, you need to ensure they are a legitimate enterprise, operating within the terms of the legislation.

Specializing in MWBE compliance, Anchin's [Regulatory Compliance & Investigations \(RCI\) team](#) has worked with Fortune 1000 corporations, public sector bodies, and public-private partnerships. Anchin's Regulatory Compliance and Investigations (RCI) group helps give clients peace of mind around their MWBE obligations, minimizing their exposure to risk and strengthening their compliance frameworks.

The RCI team works across a range of industries, including construction, transportation and infrastructure. Current landmark projects the Anchin team is involved in include a large-scale residential development in Manhattan and North America's first wind turbine manufacturing facility, located in Albany.

Anchin's approach leverages the latest digital technologies, analytical tools, and business processes to ensure in-depth oversight of all contractor and subcontractor activity, from the initial bidding phase through to engagement and fulfillment.

"Our clients come to us because of the quality of our work, our attention to detail, and our professional analysis," says Sanvidge. "We're your partner throughout the whole project, from pre-construction and procurement to construction and close-out."

With over 30 years' experience, a portfolio of high-profile clients, and established expertise, Anchin is a trusted and reliable partner for any entity looking to protect its reputation and deliver on its MWBE goals.

To discuss your organization's MWBE compliance needs or learn about the work of the RCI team, contact [**Brian Sanvidge, Principal & Leader, Regulatory Compliance & Investigations Group**](#) or your Anchin Relationship Partner.