

ADDENDUM NO. 1
To
SPECIFICATIONS AND CONTRACT DOCUMENTS
For
ERIE COUNTY SEWER DISTRICT NO. 3
CONTRACT 40
June 14, 2012

All Bidders must incorporate Addendum No. 1 including all attachments when submitting bids for this contract. Bidders are also advised to acknowledge Addendum No. 1 in the Addendum Acknowledgement Section of the Proposal, Page P-5.

The attention of all bidders is directed to the following changes in the Contract Documents.

ADD: Guidance 2, Construction Contracts: Requirements of the Davis Bacon Related Acts (6 pages) to the Instruction to Bidders section, before Page IB-20, of the contract specifications.

DELETE/ADD: Delete Pages IB-30 to end of section (44 pages) in its entirety from the Instructions to Bidders section of the contract specifications and insert NYS Revolving Fund (SRF) Bid Packet (29 pages) in its place in the Instructions to Bidders section of the contract specifications.

DELETE/ADD: Delete Pages P-19 to P-26 (8 pages) in its entirety from the Proposal section of the contract specifications and from the separately bound Proposal booklet, and insert Pages P-19 to P-25 in its place in the Proposal section of the contract specifications and from the separately bound Proposal booklet.

Bidders are required to include, complete, and submit new Pages P-19 to P-25 with their bid.

Dated: June 14, 2012

ADD: Guidance 2, Construction Contracts: Requirements of the Davis Bacon Related Acts (6 pages) to the Instruction to Bidders section, before Page IB-20, of the contract specifications.

GUIDANCE 2

CONSTRUCTION CONTRACTS:

Requirements of the Davis Bacon Related Acts

A description of the Davis Bacon Program as it relates to construction contracts

GUIDANCE 2: REQUIREMENTS OF THE DAVIS BACON RELATED ACTS

The Davis Bacon Related Acts (DBRA) apply to any federally funded construction contract in excess of \$2,000 that is under construction after October 30, 2009. When SRF funding is sought for contracts where the construction started prior to October 30, 2009 but construction is still ongoing, it may be necessary to execute a change order to incorporate the DBRA provisions. DBRA requirements do not apply to non-construction contracts or for construction work categorized by EPA as non-point source projects or estuary management program projects. (Please call EFC 800-882-9721 if you have questions)

I. Program

The following activities must be implemented by each contractor on an SRF funded project in order to maintain compliance with the DBRA. These contractual obligations are included in the contract language in Required Terms for Project Contracts and Subcontracts and expanded upon below.

Prior to bid and execution of any SRF eligible contracts, complete the following activities:

A. FEDERAL AND STATE WAGE RATES

When preparing the bid for SRF project, the contractor must use the higher of the prevailing federal, state, or applicable local wage rates paid to each trade. These rates apply to subcontractors working on the project as well. Federal wage rates can be found at www.wdol.gov.

B. DEBARRED OR SUSPENDED CONTRACTORS

The contractor should ensure that the subcontractors bidding on the work are not included on the debarred or suspended contractor's list, located within the state wage rate packet and available on the US Department of Labor website. <http://www.dol.gov/ofccp/regs/compliance/preaward/debarlist.htm>

C. CONTRACT LANGUAGE AND WAGE RATES

The contractor must ensure that the most recent DBRA contract language and federal wage rates are included in the contract before execution.

Davis Bacon regulations require that SRF recipients must amend the solicitation if the Department of Labor issues a modification to the wage rates more than 10 days prior to the closing date (i.e. bid opening) for the solicitation.

Also, if the contract has not been awarded within 90 days after bid opening, the SRF recipient must modify the solicitation or contract to include the most recent federal wage rates.

After execution of any contracts, complete the following activities:

A. WAGE RATE COMPLIANCE VERIFICATION

Contractor/Subcontractor Responsibilities:

1. Post Davis Bacon Wage Poster and federal, state, and applicable local wages in a visible area at the construction site. This poster may be found on the EFC website under the Resource Library.

2. Make your employees and subcontractors' employees available for wage interviews. Wage interviews must be conducted confidentially and using Labor Standard Interview Form (SF-1445) which can be found on the EFC website (www.efc.ny.gov)
3. Use federal payroll form WH-347 and complete the certifications on the back. If another form is being used, inform the SRF recipient and obtain a determination that the form is equivalent to the federal form.
4. Pay the higher of prevailing federal, state, or applicable local wages, including benefits, to each trade and overtime not less than one and one-half times the basic rate of pay for hours in excess of forty hours on contracts in excess of \$100,000. The wage rates apply to subcontractor trades as well.
5. Maintain proof of apprentice and trainee ratios for both contractor and subcontractor and certifications onsite.
6. Pay wages to your employees and your subcontractors on a weekly basis. Ensure that your subcontractors are paying their employees weekly.
7. Ensure that the subcontracts contain the Davis Bacon contract language, the federal, state, or applicable local wage determinations and equal employment opportunity language. This language is provided in the Required Terms for Project Contracts and Subcontracts. Federal wage determinations are available at www.wdol.gov.
8. Provide payroll forms and apprentice and trainee certifications to the community for their records.
9. Report potential waste, fraud and abuse violations to the EPA Davis Bacon Contact and DOL Wages and Hours District Office found on their website. <http://www.dol.gov/esa/contacts/whd/america2.htm>.
10. Any violations in payroll reporting or unpaid wages are subject to a daily monetary penalty.

Note that EFC expects to perform interim and final construction inspections. The EFC inspector can be expected to verify that the steps above are being followed and also check to ensure the proper signs and wage rates are posted in a visible area.

II. Suggestions/Tips

Below are suggested actions that can help with this Program:

1. Obtain this Bid Packet and review all requirements prior to hiring subcontractors or beginning construction. (Bid Packet is found at www.efc.ny.gov/mwbe)
2. Allow the payroll interviews to be conducted in a confidential manner.
3. Allow for interviews of each new subcontractor's employees when they first arrive on the site at the beginning of their work and again at the end of the work, prior to leaving the site.
4. Report any waste, fraud and abuse as soon as you become aware of it.
5. Check the EFC website to ensure you are utilizing the most recent forms available.

For additional information or assistance please contact EFC at (800) 882-9721 or (518) 402-7396. The Davis Bacon Program information is also available on the EFC website at www.efc.ny.gov under Resource Library within Clean Water and Drinking Water Eligibility Folders.

LABOR STANDARDS INTERVIEW

CONTRACT NUMBER		EMPLOYEE INFORMATION		
NAME OF PRIME CONTRACTOR		LAST NAME	FIRST NAME	MI
NAME OF EMPLOYER		STREET ADDRESS		
SUPERVISOR'S NAME		CITY	STATE	ZIP CODE
LAST NAME	FIRST NAME	MI	WORK CLASSIFICATION	WAGE RATE

ACTION	CHECK BELOW	
	YES	NO
Do you work over 8 hours per day?		
Do you work over 40 hours per week?		
Are you paid at least time and a half for overtime hours?		
Are you receiving any cash payments for fringe benefits required by the posted wage determination decision?		
WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?		

HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?	TOOLS YOU USE
DATE OF LAST WORK DAY BEFORE INTERVIEW (YYMMDD)	
DATE YOU BEGAN WORK ON THIS PROJECT (YYMMDD)	

THE ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE

EMPLOYEE'S SIGNATURE		DATE (YYMMDD)	
INTERVIEWER	SIGNATURE	TYPED OR PRINTED NAME	DATE (YYMMDD)

INTERVIEWER'S COMMENTS			
WORK EMPLOYEE WAS DOING WHEN INTERVIEWED	ACTION <i>(If explanation is needed, use comments section)</i>	YES	NO
	IS EMPLOYEE PROPERLY CLASSIFIED AND PAID?		
	ARE WAGE RATES AND POSTERS DISPLAYED?		

FOR USE BY PAYROLL CHECKER

IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?
 YES NO

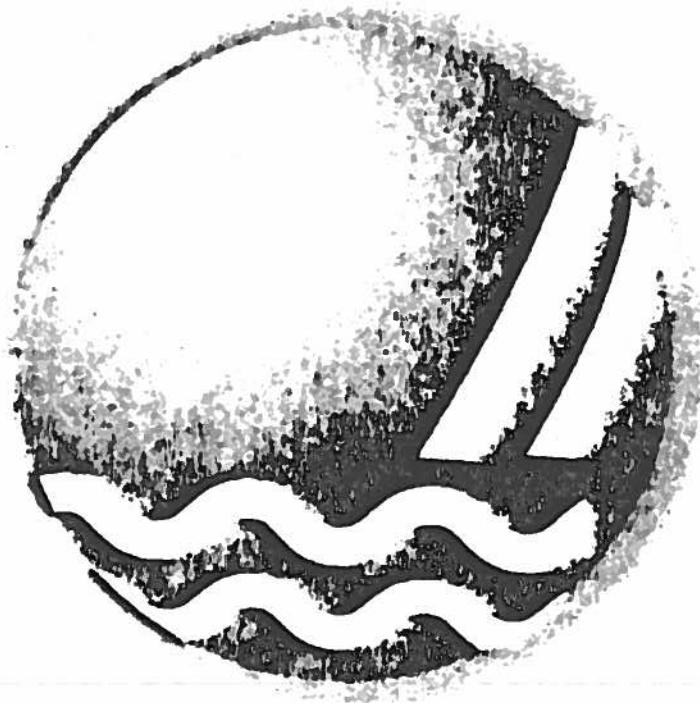
COMMENTS

CHECKER			
LAST NAME	FIRST NAME	MI	JOB TITLE
SIGNATURE			DATE (YYMMDD)

DELETE/ADD: Delete Pages IB-30 to end of section (44 pages) in its entirety from the Instructions to Bidders section of the contract specifications and insert NYS Revolving Fund (SRF) Bid Packet (29 pages) in its place in the Instructions to Bidders section of the contract specifications.

NYS Revolving Fund (SRF) Bid Packet

For Construction Contracts



Effective April 1, 2012

**New York State Environmental Facilities Corporation
625 Broadway, Albany, NY 12207-2997
(800) 882 9721
P: (518) 402-7398 F: (518) 402-7456
www.efc.ny.gov**

GUIDANCE FOR CONSTRUCTION CONTRACTS

NEW YORK CLEAN WATER and DRINKING WATER STATE REVOLVING FUNDS
Administered by the New York State Environmental Facilities Corporation (EFC)

Contents of Packet

- **Guidance 1: Equal Employment Opportunity (EEO) and Minority & Women Business Enterprise (MWBE) Programs**
A description of the EEO & MWBE Program as it relates to all contracts
- **Guidance 2: Construction Contracts: Requirements of the Davis Bacon Related Acts (DBRA)** *Description of the Davis Bacon Program as it relates to construction contracts*
- **Contract Language: Required Terms for Project Contracts and Subcontracts**
The required contract language to be inserted into all construction contracts to satisfy Davis Bacon, DBE & MWBE and other SRF Program requirements
- **Required Forms**
A list and summary description of forms required for the MWBE, EEO and DBRA programs.

Applicability:

Construction contracts are written agreements where the SRF recipient commits to expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereof in support of the SRF financed project.

Purpose of Documents:

Successful bidders of construction contracts (Contractors) are required to engage in specific practices for projects with Clean/Drinking Water State Revolving Fund (SRF) funding. This document is meant for construction contracts to comply with SRF program requirements by including the bid packet in bid documents and executed contracts. These requirements include compliance with, but not limited to the following:

- New York State Executive Law, Article 15-A and New York Code of Rules and Regulations, Title 5 (5 NYCRR) Parts 140-145 (Regulations of the Commissioner of Economic Development)
- 40 Code of Federal Regulations (CFR) Part 33 – "Participation by Disadvantaged Business Enterprises in US EPA Programs"
- Davis Bacon Related Acts consisting of the following:
The Davis Bacon Act; Copeland Act 40 U.S.C. 3145; Reorganization Plan No. 14; Department of Labor 29 CFR Parts 1, 3, and 5; Contract Work Hours and Safety Standards Act

Contractors are required to engage in oversight practices that ensure that the wages paid to employees and subcontractors are consistent with DBRA requirements including payment of the higher of the state or federal wages.

Additionally, Contractors are required to engage in procurement practices that will provide opportunities for meaningful participation of minority and women-owned business enterprises (MWBE) in providing construction, labor, travel, equipment, materials, supplies, services (including legal, financial, engineering or other professional services), or any combination of the above, and practices to encourage the employment of minorities and women in the workforce.

Failure to report on EEO participation or to meet all the requirements of MWBE, DBE and DBRA regulations in a timely manner may result in withholding of disbursements of SRF funds. This may affect the Contractor's payments.

Check the EFC website to ensure usage of the most recent forms and language. (www.efc.ny.gov/mwbe)

The SRF Bid Packet
Guidance for SRF Construction Contracts

Revision Date: 4/1/2012

GUIDANCE 1

Construction Contracts:

Equal Employment Opportunity (EEO) and Minority & Women-Owned Business Enterprise (MWBE) Programs

**A description of the EEO & MWBE Programs as it relates to construction contracts
funded by the New York State Revolving Funds**

Guidance 1: EEO & MWBE Programs

The New York State Environmental Facilities Corporation (EFC) implements the New York State Revolving Fund (SRF) for both Clean Water and Drinking Water projects. This guidance outlines the activities that must be performed by each Contractor on an SRF funded project in order to comply with federal and New York State laws and regulations tied to SRF monies. Contractors on SRF funded projects, are required to comply with federal and state MWBE & EEO laws and regulations including NYS Executive Law, Article 15A as well as the federal requirements of Title 40, Code of Federal Regulations, Part 33 "Participation by Disadvantaged Business Enterprises (DBE) in United States Environmental Protection Agency (EPA) Programs". Contractors must provide opportunities for MWBE participation on the project and must document their efforts to do so, including providing reports to the SRF Recipient's Minority Business Officer (MBO). In addition, records related to EEO participation on the project must be maintained and submitted to the MBO, such as the EEO Policy Statement and EEO Workforce Utilization Reports.

I. EQUAL EMPLOYMENT OPPORTUNITY

A. WORKFORCE DIVERSITY

Contractors, as well as subcontractors, are required to document their efforts to meet EEO goals for the employment of minorities and women on ALL SRF funded projects. These goals have been established by the United States Department of Labor (DOL) and are listed by county. EFC has adopted DOL's EEO goals and posted the goals on EFC's website. (www.efc.ny.gov/mwbe)

B. EEO POLICY STATEMENT

The EEO Policy Statement documents the Contractors non-discriminatory policy in accordance with federal and state laws. This form must be signed by each potential bidder and submitted to the MBO as part of any bid proposal. Blank forms are found in the required forms section of this document and on EFC's website at www.efc.ny.gov/mwbe.

C. EEO WORKFORCE UTILIZATION REPORTS

Upon the execution of the contract and monthly thereafter, the Contractor shall submit to the MBO an *EEO Workforce Utilization Report* of the actual labor hours the Contractor's and ALL subcontractors' employees worked during the prior month period, on activities related to this contract broken down by specific ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the Recipient.

The *EEO Workforce Utilization Report* is part of the MWBE Monthly Payment Reports. Both the EEO Workforce Report and MWBE Monthly Report are found on the EFC website. (www.efc.ny.gov/mwbe)

II. MINORITY & WOMEN-OWNED BUSINESS ENTERPRISE

It is the policy of the EPA that recipients of financial assistance offer fair share opportunities for contracts and subcontracts to Disadvantaged Business Enterprises (DBE) and small businesses as defined by the Small Business Administration (SBA). EFC endorses this policy. DBE and SBA requirements are encompassed in EFC's MWBE program.

A. APPLICABILITY OF THE EFC MWBE REQUIREMENTS

Construction contracts with a value greater than \$100,000 funded with SRF financial assistance are subject to the EFC MWBE Program. Construction contracts are written agreements where the SRF recipient commits to expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereof in support of the SRF financed project.

Amendments or change orders for such construction contracts with a value greater than \$25,000 will be subject to the EFC MWBE program as well and the SRF recipient must require the Contractor to seek additional MWBE participation for the additional value of the contract.

If contracts with a value less than \$100,000 have subsequent change orders or amendments that bring the total contract value to greater than \$100,000, the full value of the contract will then be subject to the requirements of the EFC MWBE program.

B. MWBE PARTICIPATION GOALS (FAIR SHARE OBJECTIVES)

EFC's MWBE Program is a goal oriented program, whereby goals are established as reasonable objectives for MWBE participation in projects that receive SRF financial assistance. The established goals are associated with the location of the construction project. The Contractor shall commit to MBE and WBE proposed goals for their contract that are equal to or greater than the goals presented below:

NYS-DEC Regions	Location of Work		MBE Goals	WBE Goals	
	Nassau	Suffolk			
1	Nassau	Suffolk	10%	6%	
2	New York City (Bronx, Brooklyn, Manhattan, Queens, Staten Island)		17%	8%	
3	Dutchess Orange Putnam	Rockland Sullivan	Ulster Westchester	10%	6%
4 - 9	All counties not listed above		9%	5%	

C. RECEIVING CREDIT UNDER THE EFC MWBE PROGRAM

To receive credit under the EFC MWBE Program, contractors and subcontractors performing the work identified in an approved MWBE Utilization Plan (See Section F for more information) must be certified as an MBE or WBE by the Division of Minority and Women's Business Development, Empire State Development Corporation (ESDC). Conditional credit will be given for firms that have applications pending with ESDC.

MWBE Utilization Plans must be submitted to the MBO for approval. Payments may be held pending approval by the recipient and EFC.

Contractors certified as a Disadvantaged Business Enterprise (DBE) may also receive credit for participation through the EFC MWBE program, at EFC's discretion. Note that certified prime contractors, as well as subcontractors, may receive credit for MWBE participation.

A list of firms certified in New York State can be found on the ESD website at www.esd.ny.gov/MWBE by navigating to the "Minority & Women Owned Business" tab on the left side of the screen. Searches can be performed by product or vendor.

D. CONSTRUCTION CONTRACTOR'S MWBE RESPONSIBILITIES

Prior to Award of the Contract:

1. Send to MWBE Subcontractors the EPA Form 6100-2 "DBE Subcontractor Participation Form". Submit documented proof (e.g. email, letter, certified mail receipt) to the MBO that the 6100-2 form was sent to the MWBE Subcontractors. (See Required Forms)

At the Time of Bid:

The completed forms listed below shall be part of the bid submission for all Contractors:

2. EPA Form 6100-3 "DBE Subcontractor Performance Form" – Each potential bidder shall complete this form and submit it to the MBO for each MWBE firm contacted during the bid or proposal preparation process, and make reasonable efforts to obtain signatures from the MBEs and WBEs contacted.
3. EPA Form 6100-4 "DBE Subcontractor Utilization Form" – This form shall be completed by each potential bidder and submitted to the MBO as part of the bid submission. On this form, each bidder offers their estimated plan for MBE and WBE utilization for their contract.

NOTE: The MBO should provide a list of any MWBE subcontractors that have indicated an interest in performing the work associated with the contract to the potential bidder, who may choose to reach out to these firms as potential MWBE participants.

After Award of the Contract:

1. Contractors must document their good faith efforts to provide opportunities for MBE and WBE participation in their contracted work through such means as:
 - i. Dividing project requirements into smaller tasks or quantities to increase opportunities for subcontracting;
 - ii. Searching ESD's website and soliciting MWBE firms;
 - iii. Establishing delivery schedules to create opportunities for subcontracting;
 - iv. Seeking MWBE participation through teaming arrangements or joint ventures. See Section H for more information on Good Faith Efforts.
2. The Contractor must submit the MWBE Utilization Plan with the documentation of good faith efforts to the MBO no later than the date of the execution of the contract. Additional guidance on preparing and submitting MWBE Utilization Plans can be found in Section F below.

NOTE: Failure by the Contractor to receive acceptance of the MWBE Utilization Plan may result in the withholding of progress payments to the Contractor. Such withholding of progress payments shall not relieve the Contractor of any contract requirements including the completion of the project within the specified contract time and any construction sequence requirements of the contracts.

3. The Contractor shall submit copies of all legally signed subcontracts, agreements, and purchase orders referred to in the MWBE Utilization Plan within 30 days of

execution to the MBO. These subcontracts and/or purchase orders must include the following information:

- i. Actual dollar amount of the subcontract;
- ii. A job description of the work to be performed by the subcontractor;
- iii. Signatures of both parties;
- iv. Date of execution;
- v. MWBE language (included in this bid packet); and
- vi. A signed EEO Policy Statement Agreement (See Required Forms).

NOTE: Purchase orders must be accompanied by copies of both sides of cancelled checks.

4. The Contractor must submit Monthly Reports of MBE and WBE participation supplemented with proof of payment made to such MWBE subcontractors to the MBO. Blank monthly report forms are available at www.efc.ny.gov/mwbe or from the MBO.

As part of the Monthly Report, the contractor must provide documentation to the MBO that subcontractors are paid within 30 days of receipt of payment from the recipient.

Other Construction Contractor Responsibilities:

1. The Contractor must continue good faith efforts to seek opportunities for MBE and WBE participation even if proposed goals have been achieved. In addition, any revisions to the approved MWBE Utilization Plan must be documented in the next monthly report to the MBO and a revised MWBE Utilization Plan should be submitted for approval.
2. The Contractor must provide written notification to the MBO and EFC of any termination of an MBE or WBE subcontractor. This should be reported as part of the monthly report.
3. The Contractor is responsible for posting all required posters & notices at the project site in a visible location. EEO poster can be found at <http://www.dol.gov/oasam/programs/osdbu/sbrefa/poster/matrix.htm>
4. Provide timely and complete responses to inquiries from either the MBO or EFC staff as requested.
5. Make all MWBE & EEO documents and records available upon request to EFC staff, the MBO, or their authorized representatives.
6. Manage the project in a manner that creates meaningful opportunities for participation by MBEs and WBEs.
7. Provide programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of age, race, color, creed, religion, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status or domestic violence victim status.

E. SUBCONTRACTOR'S MWBE RESPONSIBILITIES

Subcontractors are those firms that contract directly with Contractors. Subcontractors shall:

1. Maintain their MWBE certifications, and notify the Contractor and MBO of any change in their certification status.
2. Respond promptly to solicitation requests by completing and submitting bid information in a timely manner.
3. Maintain business records that should include, but not be limited to, contracts/agreements, records of receipts, correspondence, purchase orders, and canceled checks.
4. Complete and submit the EPA Form 6100-3 "DBE Subcontractor Performance Form" to the Contractor. Indicate the receipt of the EPA Form 6100-2 "DBE Subcontractor Participation Form" from the Contractor.
5. Ensure that a required EEO Policy Statement is included in each subcontract. Additionally, signed versions of each subcontract should be sent to the MBO.
6. Provide programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of age, race, color, creed, religion, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status or domestic violence victim status.
7. Notify the MBO and EFC when contract problems arise, such as non-payment for services or when the subcontractor is not employed as described in the MWBE Utilization Plan.
8. Perform the subcontracted scope of work in a professional and timely manner.

F. MWBE UTILIZATION PLANS

1. MWBE Utilization Plans are required to be submitted to the MBO no later than the date of execution of the contract.
2. Each Contractor shall prepare an MWBE Utilization Plan that provides information describing MBEs and WBEs to be utilized during the term of the contract. The MWBE Utilization Plan will indicate what the EFC MWBE goals are and the Contractor's proposed goals will be for the contract. The Contractor will transmit the completed MWBE Utilization Plan form, with all pages filled out, to the MBO. Blank MWBE Utilization Plan forms are available on the EFC website.
3. The MBEs and WBEs identified in the MWBE Utilization Plan must be certified by, or have applied for certification from:

Empire State Development Corporation
Division of Minority and Women's Business Development
30 South Pearl Street
Albany, New York.
Phone: 1-800-782-8639
www.esd.ny.gov/MWBE.html
4. Each MWBE Utilization Plan includes a Waiver Request section. If the Contractor's application of good faith efforts does not result in the utilization of MBE and/or WBE firms to achieve the aforementioned goals, the Contractor shall complete the waiver request portion of the MWBE Utilization Plan, attach appropriate good faith effort documentation, and submit it to the MBO. See Section G for more information.

5. **Supplier Policy:** Credit for MBE/WBE participation shall be granted for MWBE firms performing a commercially useful business function according to custom and practice in the industry. "Commercially useful functions" normally include:
- i. Providing technical assistance to a purchaser prior to a purchase, during installation, and after the supplies or equipment are placed in service;
 - ii. Manufacturing or being the first tier below the manufacturer of supplies or equipment; or
 - iii. Providing functions other than just accepting and referring requests for supplies or equipment to another party for direct shipment to a contractor.

If MWBE suppliers are used for MBE/WBE goal crediting, EFC will give credit as follows:

- i. For MWBE suppliers who are manufacturers, fabricators, or official manufacturer's representatives who are warehousing such goods, up to 100% of the MBE/WBE objective may be credited.
 - ii. For non-manufacturer suppliers, up to 25% of the MBE/WBE objective may be credited.
 - iii. No credit will be granted for MBEs and/or WBEs acting merely as a passive conduit of funds from one firm to another.
6. **Broker Policy:** Firms that are identified on the ESD website as brokers may only be credited at 25% of their full contract value.
7. **Specialty Equipment/Service Waiver:** A specialty equipment/service waiver may be granted in cases where: equipment is made by only one manufacturer, the contract specifications call for equipment that is not available through an MWBE supplier; the equipment is constructed on site by specially trained non-MWBE labor, etc., at the discretion of the MBO and/or EFC. If the contract includes specialty equipment or services, and documentation is submitted demonstrating that there are no MBE/WBE firms capable of completing this portion of the contract, the specialty amount of the contract may be deducted from the total contract amount and the goals would be applied to the MWBE Eligible Amount.

Example: \$200,000 (Contract) - \$50,000 (specialty equipment/service) = \$150,000
(MWBE Eligible Amount) MWBE goal is applied to the remaining balance

A request for this specialty equipment/service deduction can be completed by filling out the applicable section of the MWBE Utilization Plan and submitting it to the MBO.

The request must include a copy of the page from the contract where the equipment/service is described and the cost of each item. For construction contracts, the schedule of values or bid tabulation sheet should also be submitted. Additional documentation may be requested by the MBO or EFC.

8. **Joint Ventures/Teaming/Protégé-Mentor Arrangements:** MWBE Utilization Plans that are claiming MWBE participation credit based on a joint venture, teaming arrangement, or a mentor/protégé arrangement are required to submit the following information as part of the MWBE Utilization Plan Form and Joint Venture/Teaming Arrangement Form:
- i. Names, addresses, and federal identification number for each party;
 - ii. The federal identification number of the joint venture, team, or mentor/protégé arrangement, if applicable; and
 - iii. A copy of the agreement between the parties which describes the interest owned by each party to the agreement and the value added by each party.

9. **MWBE Utilization Plan Acceptance vs. Notice of Deficiency:** The MBO will evaluate a completed MWBE Utilization Plan (and forward to EFC for review). A written notice of acceptance or denial will be issued within 20 days of receipt. Upon receipt of a notice of deficiency from MBO or EFC, Contractor shall respond to such notice within seven (7) days. In coordination with the MBO, EFC may accept a Utilization Plan upon consideration of the following factors:
- i. The Utilization Plan indicates that the MWBE proposed goals for the project will be achieved;
 - ii. A prime contractor, who is a certified MBE or WBE, may be credited for up to 100% of the category of their certification. However, good faith efforts to seek participation from firms certified in the other category are required.
 - iii. Credit for a dual certified MWBE will only be allowed for one category, not both;
 - iv. The value and scope of the subcontracted work has been verified;
 - v. A review of the compliance record for the Contractor indicates consistency with MWBE requirements;
 - vi. The MWBE Utilization Plan offers acceptable alternatives for utilizing MBEs and/or WBEs participation equal to the project goals;
 - vii. The MWBE Utilization Plan only partially achieves the project goals but is supported by submission of documentation of adequate good faith efforts by the Contractor to create opportunities for MWBE participation on the contract and the appropriate waiver request; or
 - viii. The Utilization Plan presents a joint venture, teaming arrangement, mentor/ protégé agreement or other such business arrangement with a MBE or WBE whose value added or participation can be credited towards achieving the project goals.
10. Within 10 days of the final acceptance of a MWBE Utilization Plan or Waiver Request, EFC will post the approved MWBE Utilization Plan or Waiver Request on the EFC website. www.efc.ny.gov/mwbe
11. In coordination with the MBO, EFC may issue conditional acceptance of Utilization Plans pending further MWBE participation or additional supporting documentation, such as submission of copies of executed subcontracts to the MBO.
12. **Revisions of the MWBE Utilization Plans:** If project conditions should change so that the information submitted in the MWBE Utilization Plan is no longer valid, the contractor shall submit a revised MWBE Utilization Plan to the MBO. Major changes in MWBE participation may require submission of a completely revised MWBE Utilization Plan form and good faith effort documentation.
13. **Projects co-Funded with the NYS Department of Environmental Conservation (DEC):** In the event EFC is providing financial assistance to a project that is also financially supported by DEC, EFC will defer to the MBE and WBE participation goals established for the project by DEC. Currently, DEC goals are the same as EFC's.

G. WAIVER REQUESTS

1. Each Contractor is required to create meaningful opportunities for certified MWBE participation and to offer the MWBE certified firms a fair share of their work. After making good faith efforts to create meaningful opportunities, a contractor may find that it is not possible to meet the MWBE goals. In that case, the Contractor shall fill out the waiver request portion of the MWBE Utilization Plan and submit it to the MBO with documentation of the good faith efforts made. EFC will review each waiver request based on the good faith effort criteria presented below and the documentation submitted with the waiver request. EFC will not issue any automatic waivers from MWBE responsibilities. The waiver request can be for either a full (for both MBE and WBE) or partial waiver (for either MBE or WBE) of the project MWBE goals.
2. EEO regulations do not contain any provision for waivers so, even if an MWBE waiver is granted, EEO information must still be submitted. The EEO information is submitted as part of the Monthly Report (See EFC website www.efc.ny.gov/mwbe)
3. Preparation: As each Contractor seeks MBEs and WBEs for participation in their work, they should record and maintain the documentation of these efforts. The waiver request section of the MWBE Utilization Plan should only be filled out when it is apparent that, after EFC review & determination of good faith efforts, the MWBE goals for the project cannot be met.
4. Submission: Submitting the completed MWBE Utilization Plan with supporting GFE documentation to the MBO to meet the aforementioned MWBE goals, and the indication of the need for a waiver, are factors in determining whether a submission constitutes a completed waiver request. Utilization Plan revisions must be submitted to the MBO as soon as possible, preferably with the next monthly report, but in no event later than the final request for disbursement of SRF funds.

H. GOOD FAITH EFFORT DOCUMENTATION

If the MWBE goals cannot be reached or a full or partial waiver is requested, the Contractor must submit sufficient documentation to demonstrate their good faith efforts to provide opportunities for MWBE participation in their work. The following are examples of demonstrations of good faith efforts:

1. Copies of timely solicitations for MBEs and WBEs to participate in the work, and their responses, if available. The EPA 6100-3 Forms that are required to be submitted as part of all bids or proposals, if properly completed, may be sufficient. If a solicited MBE or WBE was not selected, documentation of the reasons must be provided;
2. Copies of any advertisements seeking participation of MBEs and WBEs in appropriate general circulation, trade, and minority or women oriented publications, with the listings and dates of such publications. Generally, 10 - 30-days is sufficient for an ad, depending on the size of the contract;
3. Copies of any solicitations of MBEs and WBEs listed on the directory of certified businesses (www.esd.ny.gov), along with a copy of the ESD search;
4. Dates of attendance at any pre-bid, pre-award, or other meetings scheduled by the SRF recipient, if any, with MBEs and WBEs capable of performing work on the project;
5. Information on the specific steps taken to reasonably structure the scope of work for the purpose of subcontracting with or obtaining supplies from MBEs or WBEs;

6. A demonstration that there are insufficient MBEs or WBEs reasonably available to perform the work. It is noted that for professional services, such as engineering, legal or financial advisory services, EFC assumes that such services can be provided from MBEs and WBEs statewide, unless information is submitted to indicate otherwise;
7. Documentation that the Contractor offered relevant plans, specifications, or other related materials to MBEs and WBEs sufficiently in advance to enable them to prepare an informed response to solicitations for participation as a subcontractor or supplier;
8. A demonstration that the Contractor offered to make up any inability to meet the project MWBE participation goals in other contracts and/or agreements being performed by the Contractor;
9. Any other information or documentation that demonstrates the contractor conducted good faith efforts to provide opportunities for MWBE participation in their work.

I. REPORTING REQUIREMENTS

Monthly Reports: Contractors are required to submit reports of MWBE participation, and proof of payments to MBEs and WBEs, and updates of workforce information to the MBO on a monthly basis. The report should be submitted within 10 days after the end of the month being reported. Blank Monthly Report forms are available on the EFC website or from the MBO.

J. PROTESTS/COMPLAINTS

Subcontractors or contractors who have any concerns, issues, or complaints regarding the implementation of the MWBE & EEO Program, or wish to protest should do so in writing to the project MBO and EFC. The MBO, in consultation with EFC, will review the circumstances described in the submission, investigate to develop additional information, if warranted, and determine whether action is required. If the subcontractor feels the issue has not been resolved to their satisfaction, they may appeal in writing to the EFC Director of Engineering and Program Management for consideration.

K. WASTE, FRAUD AND ABUSE

Subcontractors, contractors, service providers, or recipients who know of or suspect any instances of waste, fraud, or abuse within the MWBE & EEO Program should notify the project MBO and EFC.

Suspected fraud activity should be reported to the USEPA – Office of Inspector General Hotline at (888) 546-8740 or the New York State Office of Inspector General at (800) 367-4448.

III. Suggestions/Tips

Below are suggested actions that can help you with this Program:

1. Obtain this Bid Packet and review all requirements prior to hiring subcontractors or beginning construction.
2. Complete EPA DBE 6100-3 and 6100-4 forms with the bid submittal
3. Submit your MWBE Utilization Plan and any supporting documentation no later than the date of execution of the contract.
4. Complete and submit Monthly Reports to the community MBO.
5. Submit EEO statements from all subcontractors to the community MBO.
6. Continue efforts to locate MWBE and/or DBE firms throughout the duration of your contract.
7. Report any waste, fraud and abuse as soon as you become aware of it.
8. Check the EFC website to ensure you are utilizing the most recent forms available.

For additional information or assistance please contact EFC at (800) 882-9721 or (518) 402-7396. The MWBE & EEO information is also available on the EFC website at www.efc.ny.gov/mwbe.

CONTRACT LANGUAGE

Required Terms for Project Contracts and Subcontracts

This Bid Packet is to be inserted into all construction contracts and subcontracts to satisfy Davis Bacon & MWBE requirements.
Check EFC's website (www.efc.ny.gov/mwbe) for updates.

1. EEO & MWBE Language & Goals
2. Davis Bacon Related Acts (DBRA) Language and Prevailing Wage Requirements for SRF Recipients

Note: All construction contracts must also contain the latest federal wage rates.

REQUIRED TERMS FOR PROJECT CONTRACTS AND SUBCONTRACTS

Recipient agrees that the following language will be included in all contracts and subcontracts regarding the Project including but not limited to those relating to construction, engineering, architectural, legal and fiscal services:

DEFINED TERMS:

The term "Bid Packets" means the New York State Revolving Fund (SRF) Bid Packet for Construction Contracts and Bid Packet for Non-Construction Contracts and Service Providers, available at www.efc.ny.gov/mwbe.

The term "contractor", as used in this contract or subcontract, means, and applies to, all prime contractors, subcontractors, consultants and service providers, unless specifically referred to otherwise.

The term "EEO policy statement" means a statement of the contractor setting forth at least the following:

- (i) A statement that the contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of contractor's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be afforded equal employment opportunities without discrimination on the basis of race, creed, color, national origin, sex, age, disability or marital status.
- (iii) An agreement to request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

The term "EFC" means the New York State Environmental Facilities Corporation.

The term "ESD" means the Empire State Development Corporation - Division of Minority and Women's Business Development.

The term "Recipient" means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due hereunder are being paid in whole or in part.

INTERPRETATION:

This contract is subject to Article 15-A of the Executive Law (Article 15-A) and 5 NYCRR 140-145 (the Regulations) and shall be considered a State Contract as defined therein. If any of the terms herein conflict with Article 15-A or the Regulations, such law and regulations shall supersede these requirements.

REPRESENTATIONS AND ACKNOWLEDGMENTS OF CONTRACTOR:

The contractor acknowledges that funds for the payment of amounts due under this contract are being provided in whole or in part subject to the terms and conditions of a grant agreement or a project finance agreement with EFC.

The contractor represents that it has submitted an EEO policy statement, MWBE Utilization Plan, and if applicable, an EEO Staffing Plan for Service Provider (Non-construction) Contracts, prior the execution of this contract.

Suspension/Debarment - The contractor is not a debarred or suspended party under 2 CFR Part 180, 2 CFR Part 1532 and 40 CFR Part 32. Further, neither the contractor nor any of its subcontractors have contracted with, or will contract with, any debarred or suspended party under the foregoing regulations or with any party that has been determined to be ineligible to bid under Section 316 of the Executive Law.

EQUAL EMPLOYMENT OPPORTUNITY (EEO), AFFIRMATIVE ACTION, MWBE AND OTHER COVENANTS:

Contractor shall comply with all federal and State laws, regulations, and executive orders applicable to this Project, and shall provide such documentation, including periodic reports, as may be requested from time to time and as set forth in guidance documentation available at www.efc.ny.gov/mwbe, including but not limited to the Bid Packets.

With respect to this contract, the contractor shall undertake or continue existing programs of affirmative action and equal employment opportunity to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of age, race, color, creed, religion, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status or domestic violence victim status. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

MWBE Goals - The contractor agrees to pursue the following MWBE goals for this contract:

- **Construction Contracts**

NYS-DEC Regions	Location of Work		MBE Goals	WBE Goals	
1	Nassau	Suffolk	10%	6%	
2	New York City (Bronx, Brooklyn, Manhattan, Queens, Staten Island)		17%	8%	
3	Dutchess Orange Putnam	Rockland Sullivan	Ulster Westchester	10%	6%
4-9	All locations not listed above		9%	5%	

- **Service Provider (Non-construction) Contracts/Agreements**

10% total combined for MWBE participation (all counties)

(Includes professional services, such as legal, engineering, financial advisory or other professional services; supplies; commodities; equipment; materials; travel)

Contractor agrees that for purposes of providing meaningful participation by MWBEs on the contract and achieving the goals, contractor will reference the directory of New York State Certified MWBEs found at the following internet address: <http://www.esd.ny.gov/mwbe.html>.

Pursuant to 5 NYCRR §142.8, contractor shall document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of this contract.

The SRF Bid Packet
Guidance for SRF Construction Contracts

Revision Date: 4/1/2012

Contractors shall comply with the requirements set forth in the Bid Packets regarding documentation of good faith efforts.

MWBE Utilization Plan – Each contractor shall prepare and submit to the Recipient for approval an MWBE Utilization Plan that provides information describing MBEs and WBEs to be utilized at various times during the performance of this contract, as well as information regarding the composition of the workforce for EEO purposes. The MWBE Utilization Plan shall identify the contractor's proposed MBE and WBE utilization for this contract and the MWBE participation goals for this contract as established by EFC. The MBEs and WBEs identified in the MWBE Utilization Plan must be certified by, or have applied for certification from ESD.

In the event that contractor's approved MWBE Utilization Plan does not propose achievement of the MWBE participation goals for this contract, contractor shall contact ESD ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the contract.

Submission – Within 30 days of execution of this contract, contractor shall submit to the Recipient copies of all signed subcontracts, agreements, and/or purchase orders referred to in the MWBE Utilization Plan.

Compliance – Contractor agrees to adhere to its approved MWBE Utilization Plan for the participation of MWBEs on this contract pursuant to the prescribed MWBE goals set forth herein.

Waivers – If contractor's application of good faith efforts does not result in the utilization of MBE and/or WBE firms to achieve the aforementioned goals, the contractor shall complete the waiver request portion of the MWBE Utilization Plan and submit it to the Recipient. Contractor is entitled to receive a written notice of acceptance or denial within 20 days of receipt. Upon receipt of a notice of deficiency from Recipient, Contractor shall respond to such notice within 7 days. Such response may include a request for a total or partial waiver of the aforementioned goals.

Contractor shall comply with the requirements set forth in the Bid Packets regarding waivers.

Required Reports – Contractor agrees to submit a report to the Recipient by the 10th day following each end of month over the term of this contract documenting the progress made towards achievement of the MWBE goals of this contract.

EEO Staffing Plan – All Service Provider (non-construction) contractors, (includes labor, services, including legal, engineering, financial advisory, or other professional services; supplies; commodities; equipment; materials; and travel), shall submit an acceptable EEO Staffing Plan setting forth the anticipated work force to be utilized on such contract or, where required, information on the service provider's total work force, including apprentices, broken down by specific ethnic background, gender and Federal occupational categories or other appropriate categories specified by the Recipient.

Required Reports - EEO Workforce Utilization Reports – Service Provider (Non-construction) Contracts

During the term of this contract, the contractor shall update and provide notice to the Recipient of any changes to the previously submitted Staffing Plan in the form of an EEO Workforce Utilization Report. Contractor shall submit this information on a quarterly basis during the term of this contract to report the actual workforce utilized in the performance of the contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The EEO Workforce Utilization Report must be submitted to report this information.

Required Reports - EEO Workforce Utilization Reports – Construction Contracts

During the term of this contract, the contractor shall submit to the Recipient EEO Workforce Utilization Reports. Contractor shall submit this information on a monthly basis to report the actual labor hours utilized in the performance of this contract by the specified categories listed including ethnic background,

gender, and Federal occupational categories. The EEO Workforce Utilization Report must be submitted to report this information.

All EEO Workforce Utilization Reports submitted by contractor shall reflect a separation of the workforce utilized in the performance of this contract from contractor's total workforce. Contractor shall submit the EEO Workforce Utilization Report and indicate that the information provided relates to the actual workforce utilized on this contract. If contractor fails to separate the workforce to be utilized on this contract from contractor's total workforce as determined by Recipient contractor shall submit the EEO Workforce Utilization Report and indicate that the information provided is contractor's total workforce during the subject time frame, not limited to work specifically under this contract.

Disadvantaged Business Enterprises - The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies. Contractors shall comply with the requirements set forth in the Bid Packets regarding Disadvantaged Business Enterprises.

REMEDIES:

Upon a determination by the Recipient of contractor's non-responsiveness, non-responsibility or breach as a result of a failure to comply with the requirements of Article 15-A and the Regulations, Recipient may withhold funds under this contract or take such other actions, impose liquidated damages or commence enforcement proceedings as set forth herein or as otherwise allowed by law or in equity.

If contractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth in clauses (i), (ii), (iii) and (iv) of the definition thereof and within the timeframe required therefor, Recipient may declare this contract to be null and void.

Contractor agrees that a failure to submit and/or adhere to its EEO policy statement, MWBE Utilization Plan, EEO Staffing Plan for Service Provider (Non-construction) Contracts if applicable, and any other required periodic reports, shall constitute a material breach of the terms of this contract, entitling Recipient to any remedy provided herein, including but not limited to, a finding of contractor non-responsiveness.

Liquidated Damages - If it has been determined by the Recipient that the contractor is not in compliance with the requirements herein or refuses to comply with such requirements, or if contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, in accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13 contractor shall be obligated to pay to Recipient liquidated damages or other appropriate damages.

Such liquidated damages shall be calculated as an amount not to exceed the difference between:

1. All sums identified for payment to MWBEs had the contractor achieved the contractual MWBE goals; and
2. All sums actually paid to MWBEs for work performed or materials supplied under this contract.

In the event a determination has been made by the Recipient which requires the payment of liquidated damages and such identified sums have not been withheld, contractor shall pay such liquidated damages to Recipient within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day, contractor has filed a complaint with ESD pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director of ESD renders a decision in favor of Recipient.

No Text

REQUIRED FORMS

FOR CONSTRUCTION CONTRACTS

All MWBE & EEO required forms can be found on the EFC website (www.efc.ny.gov/mwbe)

The following attached MWBE & EEO forms are required for the bidding process:

1. **EPA Form 6100-2 "DBE Subcontractor Participation Form"**
This form is to be distributed to all MWBE subcontractors and proof of distribution should be submitted to the MBO.
2. **EPA Form 6100-3 "DBE Subcontractor Performance Form"**
This form should be completed by each MWBE subcontracted contacted during the bid preparation process for construction contracts, maintained in the contractor's files, and submitted to the MBO with the bid.
3. **EPA Form 6100-4 "DBE Subcontractor Utilization Form"**
This form should be completed by the construction contractor as an estimate of which MWBE subcontractors will be used on the project, maintained in the contractor's files, and submitted to the MBO with the bid.
4. **EEO Policy Statement**
To be completed by all contractors and submitted to the MBO with the bid. This form may be included in the contract.

The following MWBE & EEO forms are required subsequent to the bid award:

1. **MWBE Utilization Plan or Waiver Request**
These forms are completed by the contractor and submitted to the MBO *no later than date of execution of the contract.*
2. **EEO Workforce Utilization Report**
This form is completed by the contractor and submitted with the Monthly Reports to the MBO. It reports the actual labor hours utilized in performance of the contract, including subcontracted staff.
3. **Joint Venture/Teaming Arrangement Form**
To be completed by the contractor and submitted with the Utilization Plan to the MBO if there is a certified MWBE Joint Venture.
4. **MWBE Monthly Report Form**
To be completed by the contractor and submitted to the MBO.
5. **MWBE Quarterly Report Form**
To be completed by the MBO, from data provided on the monthly reports, and submitted to EFC.

Davis Bacon forms are used once the construction has started (www.efc.ny.gov):

1. (ATTACHED) Federal Payroll Form (WH-347) - weekly
2. (ATTACHED) Labor Standards Interview Form (SF 1445) - during the course of the contract
3. (EFC WEBSITE) Davis Bacon Poster (WH-1321) - posted conspicuously



Environmental
Protection Agency

EPA Form 6100-2

**Disadvantaged Business Enterprise Program
DBE Subcontractor Participation Form**

NAME OF SUBCONTRACTOR	PROJECT NAME
ADDRESS	CONTRACT NO.
TELEPHONE NO.	EMAIL ADDRESS
PRIME CONTRACTOR NAME	

Please use the space below to report any concerns regarding the above EPA-funded project (e.g., reason for termination by prime contractor, late payment, etc.).

CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR	AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR

_____	_____
Subcontractor Signature	Title/Date

Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

OMB Control No: 2090-0030
Approved: 05/01/2008



Environmental
Protection Agency

**Disadvantaged Business Enterprise Program
DBE Subcontractor Participation Form**

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Participation Form to this address.



Environmental
 Protection Agency

EPA Form 6100-3

**Disadvantaged Business Enterprise Program
 DBE Subcontractor Performance Form**

NAME OF SUBCONTRACTOR:		PROJECT NAME
ADDRESS		BID/PROPOSAL NO.
TELEPHONE NO.		E-MAIL ADDRESS
PRIME CONTRACTOR NAME		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
Currently certified as an MBE or WBE under EPA's DBE Program? <input type="checkbox"/> Yes <input type="checkbox"/> No Signature of Prime Contractor _____ Date _____ Signature of Subcontractor _____ Date _____ Name _____ Title _____ Print _____		

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Environmental
Protection Agency

**Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form**

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Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Performance Form to this address.



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008

EPA Form 6100-4
Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form

BID/PROPOSAL NO.	PROJECT NAME
NAME OF PRIME BIDDER/PROPOSER	E-MAIL ADDRESS
ADDRESS	
TELEPHONE NO.	FAX NO.

The following subcontractors will be used on this project:			
COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATE D DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?

I certify under penalty of perjury that the forgoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302(c).

_____	_____
Signature of Prime Contractor	Date
_____	_____
Print Name	Title

Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



**Environmental
Protection Agency**

**OMB Control No: 2090-0030
Approved: 05/01/2008**

**Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form**

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Utilization Form to this address.

**AGREEMENT TO ABIDE BY EQUAL EMPLOYMENT OPPORTUNITY
POLICY STATEMENT REQUIREMENTS
NEW YORK STATE REVOLVING FUND (SRF)**

I, _____, am the authorized representative of _____.
Name of Representative Name of Contractor/Service Provider
I hereby certify that _____ will abide by the equal employment
Name of Contractor/Service Provider
opportunity (EEO) policy statement provisions outlined below.

- (i) A statement that the contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of contractor's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be afforded equal employment opportunities without discrimination on the basis of race, creed, color, national origin, sex, age, disability or marital status.
- (iii) An agreement to request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

Blank EEO Policy Statements are available at www.efc.ny.gov/mwbe, if needed.

If contractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth above in clauses (i), (ii), (iii) and (iv) and within the timeframe required thereof, Recipient may declare this contract to be null and void.

X

Contractor/Service Provider Representative

Once completed, please provide to the Prime Contractor and/or the community MBO

DELETE/ADD: Delete Pages P-19 to P-26 (8 pages) in its entirety from the Proposal section of the contract specifications and from the separately bound Proposal booklet, and insert Pages P-19 to P-25 in its place in the Proposal section of the contract specifications and from the separately bound Proposal booklet.

Bidders are required to include, complete, and submit new Pages P-19 to P-25 with their bid.

**AGREEMENT TO ABIDE BY EQUAL EMPLOYMENT OPPORTUNITY
POLICY STATEMENT REQUIREMENTS
NEW YORK STATE REVOLVING FUND (SRF)**

I, _____, am the authorized representative of _____.
Name of Representative Name of Contractor/Service Provider
I hereby certify that _____ will abide by the equal employment
Name of Contractor/Service Provider
opportunity (EEO) policy statement provisions outlined below.

- (i) A statement that the contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of contractor's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be afforded equal employment opportunities without discrimination on the basis of race, creed, color, national origin, sex, age, disability or marital status.
- (iii) An agreement to request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

Blank EEO Policy Statements are available at www.efc.ny.gov/mwbe, if needed.

If contractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth above in clauses (i), (ii), (iii) and (iv) and within the timeframe required thereof, Recipient may declare this contract to be null and void.

X

Contractor/Service Provider Representative

Once completed, please provide to the Prime Contractor and/or the community MBO



Environmental
 Protection Agency

EPA Form 6100-2

**Disadvantaged Business Enterprise Program
 DBE Subcontractor Participation Form**

NAME OF SUBCONTRACTOR	PROJECT NAME
ADDRESS	CONTRACT NO.
TELEPHONE NO.	EMAIL ADDRESS
PRIME CONTRACTOR NAME	

Please use the space below to report any concerns regarding the above EPA-funded project (e.g., reason for termination by prime contractor, late payment, etc.).

CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR	AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR

 Subcontractor Signature

 Title/Date

Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



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Protection Agency

**Disadvantaged Business Enterprise Program
DBE Subcontractor Participation Form**

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Participation Form to this address.



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008

EPA Form 6100-3

**Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form**

NAME OF SUBCONTRACTOR:		PROJECT NAME
ADDRESS		BID/PROPOSAL NO.
TELEPHONE NO.		E-MAIL ADDRESS
PRIME CONTRACTOR NAME		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
<p>Currently certified as an MBE or WBE under EPA's DBE Program? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Signature of Prime Contractor _____ Date _____</p> <p>Signature of Subcontractor _____ Date _____</p> <p>Name _____ Title _____ Print _____</p>		

Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)



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DBE Subcontractor Performance Form**

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OMB Control No: 2090-0030
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EPA Form 6100-4
**Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form**

BID/PROPOSAL NO.	PROJECT NAME
NAME OF PRIME BIDDER/PROPOSER	E-MAIL ADDRESS
ADDRESS	
TELEPHONE NO.	FAX NO.

The following subcontractors will be used on this project:

COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATE D DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?

I certify under penalty of perjury that the forgoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302(c).

Signature of Prime Contractor

Date

Print Name

Title

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Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008

**Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form**

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