



**Environmental
Facilities Corporation**

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Program Requirements and Bid Packet for Construction Contracts

(For Treatment Works, Drinking Water and Water Grant projects funded with NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund)

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Table of Contents

PART 1: HOW TO USE THIS DOCUMENT	4
PART 2: REQUIRED CONTRACT LANGUAGE	6
SECTION 1 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR FEDERAL DISADVANTAGED BUSINESS ENTERPRISES AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN	6
I. General Provisions	6
II. Equal Employment Opportunities (EEO)	7
III. Business Participation Opportunities for MWBEs	8
A. Contract Goals	8
B. MWBE Utilization Plan	8
C. Requests for Waiver	9
D. Monthly MWBE Contractor Compliance Report ("Monthly MWBE Report")	9
E. Required Federal DBE Forms	9
F. Liquidated Damages - MWBE Participation	10
SECTION 2 AMERICAN IRON AND STEEL (AIS) REQUIREMENT	10
SECTION 3 DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS	11
SECTION 4 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT	16
SECTION 5 RESTRICTIONS ON LOBBYING	16
PART 3: GUIDANCE MATERIALS	17
APPLICABILITY OF PROGRAM REQUIREMENTS	17
SECTION 1 GUIDANCE FOR THE REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR FEDERAL DISADVANTAGED BUSINESS ENTERPRISES AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN	18
I. Summary of EEO, MWBE, and DBE Forms	18
A. Forms to be Submitted Prior to Contract Execution	18
B. Forms to be Submitted During the Term of the Contract	18
II. Equal Employment Opportunities (EEO)	19
III. Business Participation Opportunities for MWBEs	19
A. Contract Goals	19
B. Good Faith Efforts	19
C. MWBE Utilization Plan	20
D. Eligibility for MWBE Participation Credit	21
E. Requests for Waiver	22
IV. Subcontractor's Responsibilities	22
V. Protests/Complaints	23
VI. Waste, Fraud and Abuse	23
SECTION 2 GUIDANCE FOR AMERICAN IRON AND STEEL ("AIS") REQUIREMENT	23
SECTION 3 GUIDANCE FOR APPLICABLE LABOR STANDARDS	25
I. Davis-Bacon Act	25
A. Requirements for Recipients	25
B. Additional requirements for Recipients that are not governmental entities	26
C. Compliance Verification	26
II. Applicable State and Local Labor Standards	27
III. Responsibilities of Contractors and Subcontractors	27

SECTION 4	GUIDANCE FOR REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT.....	28
SECTION 5	GUIDANCE FOR RESTRICTIONS ON LOBBYING.....	28
SECTION 6	PROGRAM CONTRACT REQUIREMENT DECISION TREE	29
SECTION 7	SUMMARY OF CONTRACTOR REQUIREMENTS FOR SRF-FUNDED PROJECTS	30

ATTACHMENTS (REQUIRED FORMS)

- Attachment 1 - EEO Policy Statement
- Attachment 2 - EEO Workforce Employment Utilization Report
- Attachment 3 - Monthly MWBE Contractor Compliance Report
- Attachment 4 - MWBE Utilization Plan
- Attachment 5 - MWBE Waiver Request
- Attachment 6 - EPA Form 6100-2 - DBE Subcontractor Participation Form
- Attachment 7 - EPA Form 6100-3 - DBE Subcontractor Performance Form
- Attachment 8 - EPA Form 6100-4 - DBE Subcontractor Utilization Form
- Attachment 9 - Lobbying Certification
- Attachment 10 - AIS Contractor's Certification
- Attachment 11 - AIS Manufacturer's Certification
- Attachment 12 - Federal Payroll Form (WH-347)

PART 1:

HOW TO USE THIS DOCUMENT

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 Program Requirements and Bid Packet for Construction Contracts document contains (1) a brief description of New York State and federal program requirements for Contracts and Subcontracts funded in whole or part by the New York State Clean Water and Drinking Water SRFs, (2) required language for such Contracts and Subcontracts to satisfy the SRF program requirements, including required forms, and (3) guidance materials to assist entities in complying with these requirements.

PROGRAM REQUIREMENTS

The following requirements apply to Treatment Works, Drinking Water and Water Grant projects funded with the NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund:

- Participation of Minority- and Women-Owned Business Enterprises (“MWBE”) and Equal Employment Opportunities (“EEO”) pursuant to 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);
- Participation by Disadvantaged Business Enterprises (“DBE”) in United States Environmental Protection Agency (“EPA”) Programs pursuant to 40 Code of Federal Regulations (CFR) Part 33;
- Equal Employment Opportunities pursuant to Titles VI and VII of the Civil Rights Act of 1964, 40 CFR Part 7, and 41 CFR Part 60-1 Subpart A;
- Affirmative Action requirements pursuant to 41 CFR Part 60-4;
- American Iron and Steel (“AIS”) pursuant to P.L. 113-76, Consolidated Appropriates Act, 2014; WRRDA Section 608 of the Federal Water Pollution Control Act, as revised;
- Davis Bacon Related Acts (“DBRA”) 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;
- Requirements regarding suspension and debarment pursuant to 2 CFR Part 180, 2 CFR Part 1532, 29 CFR § 5.12, State Labor Law § 220-b, and State Executive Law § 316; and,
- Restrictions on Lobbying pursuant to 40 CFR Part 34.

EFC or its authorized representatives, and other governmental entities as applicable, reserve the right to conduct occasional site inspections to monitor compliance with SRF program requirements.

This document is not intended to be inclusive of all applicable legal requirements and there may be other legal requirements that need to be included in a particular Contract or Subcontract that are not set forth here. Accordingly, EFC recommends that Recipients, Contractors, Subcontractors, and any other involved entities consult their legal counsel for advice on compliance with all applicable laws, including but not limited to local laws. This document is not intended to be legal advice.

Refer to the EFC website at www.efc.ny.gov/MWBE for the latest version of the bid packet to ensure that the most recent forms and contract language are being used.

REQUIRED CONTRACT LANGUAGE

Part 2 of this document is the Required Contract Language. All of the language in Part 2 must be inserted in to all Contracts and Subcontracts funded in whole or in part with SRF funds, in order for SRF Recipients, Contractors, and Subcontractors to comply with the above-listed SRF program requirements.

GUIDANCE MATERIALS

Part 3 of this document sets forth Guidance Materials intended to assist SRF Recipients, Contractors, and Subcontractors in complying with the foregoing SRF program requirements, as applicable.

The Guidance Materials are for informational purposes only and are not intended to be used as contractual language. Please do not incorporate the Guidance Materials into any Contracts or Subcontracts.

COMMONLY USED TERMS

The following commonly used terms are defined herein as follows:

“Contract” means an agreement between a Recipient and a Contractor.

“Contractor” means all bidders, prime contractors, Service Providers, and consultants as hereinafter defined, unless specifically referred to otherwise.

“Service Provider” means any individual or business enterprise that provides one or more of the following: legal, engineering, financial advisory, technical, or other professional services, supplies, commodities, equipment, materials, or travel.

“Subcontract” means an agreement between a Contractor and a Subcontractor.

“Subcontractor” means any individual or business enterprise that has an agreement, purchase order, or any other contractual arrangement with a Contractor.

“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 thereunder are being paid in whole or in part.

“State” means the State of New York.

“Treatment Works” is defined in Clean Water Act (CWA) Section 212.

“Nonpoint Source Projects” and **“Green Infrastructure Projects”** are defined in CWA Section 319.

“Estuary Management Program Project” is defined in CWA Section 320.

PART 2:

REQUIRED CONTRACT LANGUAGE

SECTION 1 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR FEDERAL DISADVANTAGED BUSINESS ENTERPRISES AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN- OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

The Equal Employment Opportunities requirements of this section apply to Contracts and Subcontracts greater than \$10,000.

The Minority- and Women- Owned Business Enterprises ("MWBE") and Disadvantaged Business Enterprises ("DBE") requirements of this section apply to Contractors and Subcontractors working pursuant to: (1) construction Contracts greater than \$100,000; (2) Contracts that are initially under this threshold but subsequent change orders or contract amendments increase the Contract value to above \$100,000; and, (3) change orders greater than \$25,000.

Disregard this section if it does not apply to this Contract or Subcontract.

I. General Provisions

A. Contractors and Subcontractors are required to comply with the following provisions:

1. New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services (including, but not limited to, legal, legal, financial, and other professional services), supplies, equipment, materials, or any combination of the foregoing, or (2) in excess of \$100,000 for the acquisition, construction, demolition, replacement, major repair or renovation or real property and improvements thereon.
2. 40 CFR Part 33 ("Federal DBE Regulations") for contracts under EPA financial assistance agreements, as those terms are defined therein.
3. Title VI of the Civil Rights Act of 1964 and 40 CFR Part 7 ("Title VI") for any program or activity receiving federal financial assistance, as those terms are defined therein.
4. Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A ("Title VII") for construction contracts related to any government programs providing federal financial assistance, as those terms are defined therein.
5. 41 CFR Part 60-4 ("Federal Affirmative Action Regulations") for federal or federally assisted construction contracts in excess of \$10,000, as those terms are defined therein.

B. The Contractor and Subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor and Subcontractor 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 and Subcontractor 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.

C. Contractors and Subcontractors shall have instituted grievance procedures to assure the prompt and fair resolution of complaints when a violation of Title VI of the Civil Rights Act of 1964 or Title 40 CFR Part 7 is alleged.

- D. Failure to comply with all of the requirements herein may result in a finding by the Recipient that the Contractor is non-responsive, non-responsible, and/or has breached the Contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to subsection III(F) of this section, or enforcement proceedings as allowed by the Contract.
- E. If any terms or provisions herein conflict with Executive Law Article 15-A, the MWBE Regulations, Federal DBE Regulations, Title VI, Title VII, or Federal Affirmative Action Regulations, such law and regulations shall supersede these requirements.
- F. Upon request from the Recipient's Minority Business Officer ("MBO") and/or EFC, Contractor will provide complete responses to inquiries and all MWBE and EEO records available within a reasonable time. For purposes of this section, MBO means the duly authorized representative of the SRF Recipient for MWBE and EEO purposes.

II. Equal Employment Opportunities (EEO)

- A. Each Contractor and Subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO 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.
- B. Contractor represents that it has submitted an EEO policy statement to Recipient prior to the execution of this Contract.
- C. Contractor represents that it's EEO policy statement includes the following language:
 - 1. 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 SRF projects.
 - 2. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract relating to this SRF project, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - 3. The Contractor shall 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.
- D. The Contractor will include the provisions of Subdivisions II(A), II(C), and II(E) in every Subcontract in such a manner that the requirements of these subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.
- E. The Contractor shall comply with the provisions of the Human Rights Law (Executive Law Article 15), Title VI, Title VII, the Federal Affirmative Action Regulations, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

F. The Contractor shall display the EEO poster at the project site in a visible location. The EEO poster can be found at <https://www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf>.

G. Required EEO Form

1. EEO Workforce Employment Utilization Report (“Workforce Report”)

- a. The Contractor shall submit a Workforce Report, and shall require each of its Subcontractors to submit a Workforce Report to the Recipient, in such format as shall be required by EFC on a monthly basis during the term of the Contract.
- b. Separate forms shall be completed by Contractor and any Subcontractor.
- c. In limited instances, the Contractor may not be able to separate out the workforce utilized in the performance of the Contract from the Contractor's and/or Subcontractor's total workforce. When a separation can be made, the Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from the Contractor's and/or Subcontractor's total workforce, the Contractor shall submit the Workforce Report and indicate that the information provided is the Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

III. Business Participation Opportunities for MWBEs

A. Contract Goals

1. For purposes of this Contract, EFC establishes the following goals for New York State certified MWBE participation (“MWBE Combined Goals”) based on the current availability of qualified MBEs and WBEs.

Program	MWBE Combined Goal*
CWSRF, DWSRF, & Green Innovation Grant Program	20%
NYS Water Grants (also receiving EFC loan)	Clean Water project 23% Drinking Water project 26%
NYS Water Grants (grant only)	30%
Engineering Planning Grant	Consolidated Funding Application Round 2012-2014 20% Consolidated Funding Application Round 2015-2017 30%

*May be any combination of MBE and/or WBE participation

2. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section III-A hereof, the Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: <https://ny.newnycontracts.com>.
3. Where MWBE Contract Goals have been established herein, pursuant to 5 NYCRR § 142.8, the Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as Subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR § 142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of Contract and the Contractor shall be liable to the Recipient for liquidated or other appropriate damages, as set forth herein.

B. MWBE Utilization Plan

1. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan to the Recipient prior to the execution of this Contract.

2. The Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this section.
3. The Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Recipient shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is not responsive.
4. Contractor must report any changes to the Utilization Plan after Contract award and during the term of the Contract to the Recipient's MBO. Contractor shall indicate the changes to the MBO in the next Monthly MWBE Contractor Compliance Report after the changes occurred. At EFC's discretion, an updated MWBE Utilization Plan form and good faith effort documentation may be required to be submitted. When a Utilization Plan is revised due to execution of a change order, the change order should be submitted to the MBO with the revised Utilization Plan.
5. The Contractor shall submit copies of all fully executed subcontracts, agreements, and purchase orders that are referred to in the MWBE Utilization Plan to the MBO within 30 days of their execution.

C. Requests for Waiver

1. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver to the Recipient documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Recipient shall forward the request to EFC for evaluation, and EFC will issue a written notice of acceptance or denial within twenty (20) days of receipt.
2. If the Recipient, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals and no waiver has been issued in regards to such non-compliance, the Recipient may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

D. Monthly MWBE Contractor Compliance Report ("Monthly MWBE Report")

The Contractor agrees to submit a report to the Recipient by the third business day following the end of each month over the term of this Contract documenting the payments made and the progress towards achievement of the MWBE goals of the Contract. The Monthly MWBE Report must be supplemented with proof of payment by the Contractor to its Subcontractors (e.g., copies of both sides of a cancelled check) and proof that Subcontractors have been paid within 30 days of receipt of payment from the Recipient. The final Monthly MWBE Report must reflect all Utilization Plan revisions and change orders.

E. Required Federal DBE Forms

1. EPA Form 6100-3 - DBE Subcontractor Performance Form
Contractor represents that it has submitted the Form 6100-3 to all of its Subcontractors, all of its Subcontractors have completed the form, and that Contractor submitted such completed forms to Recipient with its bid submission.
2. EPA Form 6100-4 - DBE Subcontractor Utilization Form
Contractor represents that it has completed the Form 6100-4 and submitted such completed form to Recipient with its bid submission.
3. EPA Form 6100-2 - DBE Subcontractor Participation Form
Contractor represents that it has distributed a Form 6100-2 to its MWBE Subcontractors for completion prior to execution of this Contract.

F. Liquidated Damages - MWBE Participation

In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, if it has been determined by the Recipient or EFC that the Contractor has willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to Recipient liquidated damages or other appropriate damages, as specified herein and as determined by the Recipient or EFC.

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 approved MWBE participation goals; and,
2. All sums actually paid to MWBEs for work performed or materials supplied under this Contract.

The Recipient and EFC reserve the right to impose a lesser amount of liquidated damages than the amount calculated above based on the circumstances surrounding the Contractor's non-compliance.

In the event a determination has been made by the Recipient or EFC which requires the payment of damages identified herein and such identified sums have not been withheld, Contractor shall pay such damages to the Recipient within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Empire State Development Corporation – Division of Minority and Women's Business Development ("ESD") pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the damages shall be payable if the Director of ESD renders a decision in favor of the Recipient.

SECTION 2 AMERICAN IRON AND STEEL (AIS) REQUIREMENT

The requirements of this section apply to (1) all construction Contracts and Subcontracts for DWSRF projects and CWSRF treatment works projects and (2) all contracts for the purchase of iron and steel products for a DWSRF project or CWSRF treatment works project. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor acknowledges to and for the benefit of the Recipient of the Clean Water State Revolving Fund ("CWSRF") or the Drinking Water State Revolving Fund ("DWSRF") financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation ("EFC") through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron and steel products used in the project be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

- (a) the Contractor has reviewed and understands the American Iron and Steel Requirement,
- (b) all of the iron and steel products covered by the American Iron and Steel Requirement used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and
- (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Recipient.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Recipient to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Contractor has no direct contractual privity

shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (1) (ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program *provided* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. The Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any Subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Recipient may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR § 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost

incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Recipient if the Recipient is a party to the contract, but if the Recipient is not such a party, the Contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Recipient. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all Subcontractors. Contractors and Subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Recipient if the Recipient is a party to the contract, but if the Recipient is not such a party, the Contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the Recipient, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor to require a Subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the Recipient (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The Contractor or Subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Recipient or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or Subcontractor fails to submit the required records or to make them available, the Recipient may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR

4. Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5. Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

6. Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the clauses contained in 29 CFR § 5.5(a)(1) through (10) and such other clauses as the Recipient may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier subcontractor with all the Contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment. A breach of the contract clauses in 29 CFR § 5.5 may be grounds for termination of the Contract, and for debarment as a Contractor and a Subcontractor as provided in 29 CFR § 5.12.

8. Compliance with Davis–Bacon and Related Act requirements. All rulings and interpretations of the Davis–Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

9. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its Subcontractors) and the Recipient, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. § 1001.

For Contracts in Excess of \$100,000:

1. Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or Subcontractor under any such Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontracts. The Contractor or Subcontractor shall insert in any Subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this

PART 3:

GUIDANCE MATERIALS

APPLICABILITY OF PROGRAM REQUIREMENTS

This chart contains a listing of the SRF program requirements contained within this document, as well as the following details regarding each requirement: (1) its applicability, i.e., what types of contracts/subcontracts, particular monetary thresholds if applicable; (2) a section reference to the Required Contract Language that applies from Part 2; and (3) a section reference to the Guidance that applies from this Part.

Requirement	Applicability	Section of Required Contract Language from Part 2	Section of Appropriate Guidance from Part 3
Minority- and Women- Owned Business Enterprises (MWBE) and Disadvantaged Business Enterprises (DBE)	Contractors and Subcontractors working pursuant to: (1) Construction Contracts greater than \$100,000 (2) Contracts that are initially under this threshold but subsequent change orders or Contract amendments increase the Contract value above \$100,000 (3) Change orders greater than \$25,000	1	1
Equal Employment Opportunities (EEO)	Contracts and Subcontracts greater than \$10,000	1	1
American Iron and Steel (AIS)	All construction Contracts and Subcontracts for DWSRF projects and CWSRF treatment works projects	2	2
Davis-Bacon (DB) Prevailing Wages	All construction Contracts and Subcontracts greater than \$2000 for either DWSRF projects or CWSRF treatment works projects	3	3
Suspension and Debarment	All Contracts and Subcontracts	4	4
Restrictions on Lobbying	All Contracts and Subcontracts greater than \$100,000	5	5

SECTION 1 GUIDANCE FOR THE REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR FEDERAL DISADVANTAGED BUSINESS ENTERPRISES AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

I. Summary of EEO, MWBE, and DBE Forms

A. Forms to be Submitted Prior to Contract Execution

1. EEO Policy Statement

To be submitted by the Contractor to the Recipient's Minority Business Officer ("MBO") prior to Contract execution. The "MBO" refers to the duly authorized representative of the SRF Recipient for MWBE and EEO purposes. This form is attached hereto as Attachment 1. See Required Contract Language, Section 1(II).

2. EPA Form 6100-3 – DBE Subcontractor Performance Form

To be submitted by the Contractor to the MBO with its bid submission. This form is attached hereto as Attachment 7. See Required Contract Language, Section 1(III)(E).

3. EPA Form 6100-4 – DBE Subcontractor Utilization Form

To be submitted by the Contractor to the MBO with its bid submission. This form is attached hereto as Attachment 8. See Required Contract Language, Section 1(III)(E).

4. EPA Form 6100-2 – DBE Subcontractor Participation Form

To be submitted by the Subcontractors to the MBO prior to Contract execution. The Contractor must provide the form to the Subcontractors for completion. The Contractor should also submit documentation (e.g., email, letter, certified mail receipt) to the MBO that the 6100-2 form was made available to the MWBE Subcontractors. This form is attached hereto as Attachment 6. See Required Contract Language, Section 1(III)(E).

5. MWBE Utilization Plan

To be submitted by the Contractor to the MBO after the bid opening, but in no case more than ten (10) business days after the Contractor receives notice from the Recipient that the Contractor has submitted a low bid. This form is attached hereto as Attachment 4. See Required Contract Language, Section 1(III)(B).

B. Forms to be Submitted During the Term of the Contract

1. EEO Workforce Employment Utilization Report ("Workforce Report")

To be submitted by the Contractor to the MBO on a monthly basis during the term of the Contract. This form is attached hereto as Attachment 2. See Required Contract Language, Section 1(II)(G).

2. Request for Partial or Total Waiver

If applicable, to be submitted by the Contractor to the MBO at any time during the term of the Contract, but not later than prior to the submission of a request for final payment on the Contract. This form is attached hereto as Attachment 5. See Required Contract Language, Section 1(III)(C).

3. Monthly MWBE Contractor Compliance Report ("Monthly MWBE Report")

To be submitted by the Contractor to the MBO by the third business day following the end of each month over the term of the Contract. This form is attached hereto as Attachment 3. See Required Contract Language, Section 1(III)(D).

II. Equal Employment Opportunities (EEO)

Pursuant to 41 CFR Part 60-4, the United States Department of Labor has established EEO goals for the employment of minorities and women. For federal and federally assisted construction Contractors, goals for minorities and females are established as a percentage participation rate. These goals are applicable to all of a Contractor's construction work sites (whether or not these sites are also the result of a federal Contract or are federally assisted). The goals are applicable to each nonexempt Contractor's total onsite construction workforce, regardless of whether or not part of that workforce is performing work on a federal, federally assisted or non-federally related project Contract or Subcontract. Contractors should apply to each work site the goal for the geographical area that each particular work site is located in. These goals, and further information, are available at:

https://www.dol.gov/ofccp/TAguides/TAC_FedContractors_JRF_QA_508c.pdf.

III. Business Participation Opportunities for MWBEs

A. Contract Goals

The goals provided herein (Required Contract Language, Section 1(III)(A)) are effective as of October 1, 2016. MWBE participation goals for a contract will be based on the goals in place at the time of the execution date of each respective contract, unless otherwise specified. In certain instances, the goals may vary, such as with projects co-funded by EFC and other state/federal agencies. With some co-funded projects, EFC may defer to the MBE and WBE participation goals and program established by those agencies.

Please contact EFC if you have any questions about the applicable MWBE participation goals for your contract.

B. Good Faith Efforts

The Contractor must make good faith efforts to develop an adequate MWBE Utilization Plan and must continue such good faith efforts in order to meet applicable MWBE participation goals. The Contractor shall maintain documentation of good faith efforts to solicit participation of MWBE firms for SRF-funded projects. If a Contractor is unable to meet contract MWBE participation goals, and submits a Request for Waiver, documentation of such good faith efforts must accompany the request. See Required Contract Language, Section 1(III)(C).

Contractor should also continue good faith efforts to seek opportunities for MWBE participation during the life of the contract even if proposed goals have been achieved.

Examples of documentation of good faith efforts are set forth below:

- Information on the scope of work related to the contract, such as a copy of the schedule of values from the bid submission, and specific steps taken to reasonably structure the scope of work to break out tasks or equipment needs for the purpose of providing opportunities for subcontracting with, or obtaining supplies or services from, MBEs or WBEs.
- Printed screenshots of the directory of Certified Minority- and Women- Owned Business Enterprises ("MWBE directory") on ESD's website on a Statewide basis, if appropriate, for both MBEs and WBEs that provide the services or equipment necessary for the contract. Contact the MBO for assistance in performing a proper search including identifying a sufficient number of solicitations to show that good faith effort was made.
- Copies of timely solicitations and documentation (e.g., faxes and emails) that the Contractor offered relevant plans, specifications, or other related materials to MBE and WBE firms on ESD's MWBE directory to participate in the work, with the responses.

- A log prepared by the Contractor in a sortable spreadsheet documenting the Contractor's solicitation of MBEs and WBEs for participation as Subcontractors or suppliers pursuant to a contract. The log should consist of the list of MBE and WBE firms solicited, their contact information, the type of work they were solicited to perform (or equipment to provide), how the solicitation was made (fax, phone, email) and the contact information, the contacts name and the outcome. If a bid was received, the bid price should also be included in the log. See a sample log format below:

Date	M/WBE Type	Company	Scope of work	Contact Name	Phone/ Email	Solicitation Format	MWBE Response	Negotiation Required?	Selected? If not, Explain

If no response was received to an initial solicitation, at least one follow-up solicitation should be made in a different format than the first, e.g. fax followed by phone call. Any bids received from non-MWBE firms for the same areas MWBEs were solicited should also be tracked on the log.

- Copies of the EPA 6100-3 and 6100-4 forms that are required with the bid submission. A properly completed EPA 6100-3 form is good indication of a contact to an MWBE and their response to the contact. If solicitations do not result in obtaining sufficient participation of MWBE firms due to non-responsiveness, please contact the MBO or EFC MWBE representative for support.
- Copies of any advertisements of sufficient duration to effectively seek participation of certified MBE and WBEs timely published in appropriate general circulation, trade and MWBE oriented publications, together with listing and dates of publication of such advertisements. EFC recommends the use of the NYS Contract Reporter that is free to all Contractors - <https://www.nyscr.ny.gov/>. A log should be kept of the responses to the ads, similar to the log for MWBE firm solicitation and should include the non-MWBE firms that responded and the bid prices. Any negotiations should be documented in the log.
- Documents demonstrating that insufficient MBEs or WBEs are reasonably available to perform the work.
- A written demonstration that the Contractor offered to make up any inability to meet the project MWBE participation goals in other contracts and/or agreements performed by the Contractor on another SRF funded project.
- The date of pre-bid, pre-award, or other meetings scheduled by the Recipient, if any, and the contact information of any MBEs and WBEs who attended and are capable of performing work on the project.
- Any other information or documentation that demonstrates the Contractor conducted good faith efforts to provide opportunities for MWBE participation in their work. For instance, Prime Contractors and MBOs should develop a list of MWBE firms that have expressed interest in working on SRF-funded projects
- The use of certified DBE and small businesses certified through the US Small Business Administration (SBA) may be considered as a demonstration of Good Faith Efforts.

C. MWBE Utilization Plan

1. The MWBE Utilization Plan must be submitted to the Recipient's MBO after the bid opening, but in no case more than ten (10) business days after the Contractor receives notice from the Recipient that the Contractor has submitted a low bid.

2. The MBO will evaluate a completed MWBE Utilization Plan. If the MBO finds the Utilization Plan sufficient, it will be forwarded to EFC for review. If the MBO finds the Utilization Plan insufficient, the MBO will work with the Contractor to address deficiencies before submitting to EFC for review. A written notice of acceptance or deficiency will be issued by EFC within 20 business days of receipt of the Utilization Plan. Upon receipt of a notice of deficiency from either the MBO or EFC, the Contractor shall respond with a written remedy to such notice within seven (7) business days of receipt.
3. In coordination with the MBO, EFC will accept an MWBE Utilization Plan upon consideration of many factors, including the following:
 - a. The MWBE Utilization Plan indicates that the proposed goals for the project will be achieved;
 - b. A Contractor, who is a certified MBE or WBE, will be credited for up to 100% of the category of their certification. However, good faith efforts to seek participation in the other category are also required; and,
 - c. Adequate documentation to demonstrate good faith efforts and/or support a specialty equipment/services waiver as described below in Section III(E).
4. EFC reserves the right to request additional information and/or documentation to support the adequacy of the MWBE Utilization Plan.
5. Within 10 days of EFC's acceptance of a MWBE Utilization Plan, EFC will post the approved Utilization Plan on the EFC website.
6. In coordination with the MBO, EFC may issue conditional acceptance of Utilization Plans pending submission of additional documentation that demonstrates there will be an increase in MWBE participation.

D. Eligibility for MWBE Participation Credit

1. To receive MWBE participation credit, Contractors or Subcontractors performing work that have been identified in an approved MWBE Utilization Plan must be certified as an MBE or WBE by ESD.
2. Prime Contractors may also include second or lower tier Subcontractors (Subcontractors hired by Subcontractors) on their MWBE Utilization Plan.
3. Credit for MWBE participation shall be granted only for MWBE firms performing a commercially useful business function according to custom and practice in the industry.
 - a. Factors to be used in assessing whether an MWBE is performing a commercially useful function include:
 - i. The amount of work subcontracted;
 - ii. Industry practices;
 - iii. Whether the amount the MWBE is to be paid under the contract is commensurate with the work it is to perform;
 - iv. The credit claimed towards MWBE utilization goals for the performance of the work by the MWBE; and,
 - v. Any other relevant factors.
 - b. "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;
 - iii. Providing functions other than merely accepting and referring requests for supplies or equipment to another party for direct shipment to a Contractor; or,
 - iv. Being responsible for ordering, negotiating price, and determining quality and quantity of materials and supplies.
4. No credit will be granted for MWBEs that do not perform a commercially useful function. An MWBE does not perform a commercially useful function if its role adds no substantive

value and is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of participation.

E. Requests for Waiver

1. If the Contractor's application of good faith efforts does not result in the utilization of MWBE firms to achieve the aforementioned goals or a specialty equipment/service waiver is requested, the Contractor may request a full or partial waiver of MWBE participation goals by completing a Request for Waiver form, attaching appropriate documentation of good faith efforts, and submitting same to the MBO. See also Required Contract Language, Section 1(III)(C). Even if an MWBE waiver is granted, EEO information must still be submitted.
2. The MBO and EFC will review each waiver request based on the good faith effort criteria presented above and the documentation submitted with the waiver request. EFC will not issue any automatic waivers from MWBE responsibilities.
3. In cases where EFC accepts a full or partial waiver of MWBE participation goals, the waiver request will be posted to EFC's website.
4. Specialty Equipment/Service Waiver: A specialty equipment/service waiver may be granted in cases where:
 - a. equipment is made by only one non-MWBE manufacturer,
 - b. the technical specifications call for equipment that is not available through an MWBE supplier;
 - c. the equipment is constructed on site by specially trained non-MWBE labor;
 - d. the service is not available through an MWBE (such as work done by National Grid);
 - e. the service is proprietary in nature (such as use of certain computer software necessary for control systems); or,
 - f. the service cannot be subcontracted (such as litigation services).

If the contract includes specialty equipment or services, and documentation is submitted demonstrating that there are no MWBE firms capable of completing this portion of the contract, the specialty amount of the contract may be deducted from the total contract amount to determine the MWBE Eligible Amount and the goals will be applied to the MWBE Eligible Amount. This determination is made at the discretion of the MBO and EFC.

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

A request for this specialty equipment/service deduction can be completed by filling out a Request for Waiver form 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.

IV. Subcontractor's Responsibilities

Subcontractors should:

1. Maintain their MWBE certifications, and notify the Contractor and MBO of any change in their certification status.
2. Notify the Contractor of any MWBE Subcontractors they hire so they may be included on the Contractor's Utilization Plan.
3. Respond promptly to solicitation requests by completing and submitting bid information in a timely manner.

covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin.

The EPA may waive the AIS requirement for a treatment works project if:

1. applying the requirement would be inconsistent with the public interest;
2. iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
3. inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

A request for a waiver to use foreign iron or steel products must include adequate information for EPA's evaluation of the request, including:

1. A description of the foreign and domestic iron, steel, and/or manufactured goods;
2. Unit of measure;
3. Quantity;
4. Cost;
5. Time of delivery or availability;
6. Location of the project;
7. Name and address of the proposed supplier; and,
8. A detailed justification for use of foreign iron or steel products.

Requests for AIS waivers are to be submitted to EFC. Upon review, EFC will submit AIS waiver requests to EPA. When EPA receives a request for a waiver, EPA will publish the request and any accompanying material on EPA's official public Internet site, allowing informal public input on the request for at least 15 days before granting or denying the waiver request.

Additionally, EPA has the authority to issue waivers that are national in scope. National waivers may be for specific products or in the public's interest. These waivers can be found at EPA's website at: <https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-approved-national-waivers-0>

The "De Minimis Waiver" is noteworthy. The waiver permits the use of iron and steel products when they occur in de minimis incidental components of DWSRF or CWSRF projects, as long as:

1. the funds used for the de minimis incidental components cumulatively comprise no more than 5% of the total cost of the materials used in a project; and,
2. the cost of an individual item does not exceed 1% of the total cost of the materials used in the project.

Items covered by the de minimis waiver are:

1. essential, but incidental to the construction;
2. incorporated into the physical structure of the project; and,
3. often low-cost and bought in bulk.

Examples of "de minimis" items include: washers, screws, nuts, bolts, fasteners, miscellaneous wire, corner bead, ancillary tubing, etc.

Examples of items that are NOT incidental and therefore are not considered "de minimis" include: process fittings, tees, elbows, flanges, brackets, valves, sewer or water pipes for distribution, treatment or storage tanks, large structural support systems, etc.

To use the de minimis waiver, Contractors should prepare a record in spreadsheet form that tracks the cost of all materials incorporated into the project. This spreadsheet can be either project specific or contract specific. If it is contract specific, a material tracking record for each construction contract should be prepared and items that are subject to the AIS de minimis waiver should be highlighted. There should be a clear calculation available to indicate that the cost of the de minimis iron and steel items is 5% or less of the total cost of all materials.

Additional information, guidance and Questions and Answers about the State Revolving Fund American Iron and Steel (AIS) requirement can be found at EPA's website: <https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement>

SECTION 3 GUIDANCE FOR APPLICABLE LABOR STANDARDS

I. Davis-Bacon Act

The Davis-Bacon Act requires Contractors and Subcontractors performing construction, alteration and repair work under Contracts in excess of \$2,000 funded from SRF monies, to pay their laborers and mechanics not less than the prevailing wage and fringe benefits for the geographic location.

For purposes of this section, "State Recipient" means EFC.

A. Requirements for Recipients.

This guidance describes how Recipients assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the Water Resources Reform and Development Act of 2014 (WRRDA) with respect to State Recipients and Recipients. Recipients with questions about when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring should contact the State Recipient. Recipients can also obtain guidance from DOL's web site at <http://www.dol.gov/whd/>

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements. Under the Water Resources Reform and Development Act of 2014 (WRRDA), DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund. If a Recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the Recipient must discuss the situation with the State Recipient before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Recipients must obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations must be incorporated into solicitations and any subsequent Contracts. Prime Contracts must contain a provision requiring that Subcontractors follow the wage determination incorporated into the prime Contract.

(i) While the solicitation remains open, the Recipient must monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. Recipients must amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the Recipient may request a finding from the State Recipient that there is not a reasonable time to notify interested Contractors of the modification of the wage determination. The State Recipient will provide a report of its findings to the Recipient.

(ii) If the Recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State Recipient, at the request of the Recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The Recipient shall monitor www.wdol.gov on a weekly basis if it does not award the Contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the Recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing Contractor (ordering instrument) rather than by publishing a

solicitation, the Recipient must insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Recipients must review all Subcontracts subject to DB entered into by prime Contractors to verify that the prime Contractor has required its Subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a Recipient's Contract after the award of a Contract or the issuance of an ordering instrument if DOL determines that the Recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the Contract or ordering instrument. If this occurs, the Recipient must either terminate the Contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the Contract or ordering instrument by change order. The Recipient's Contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

B. Additional requirements for Recipients that are not governmental entities

Recipients that are not governmental entities must submit their proposed DB wage determinations to the State Recipient for approval prior to including the wage determinations in any solicitation, Contract or issuing task orders, work assignments, or similar instruments to existing Contractors, as well as ordering instruments unless subsequently directed otherwise by the State Recipient award official as identified below.

Recipients must obtain proposed wage determinations for specific localities at www.wdol.gov. After the Recipient obtains its proposed wage determination, it must submit the wage determination to the State Recipient award official at: Timothy Burns, P.E., Director, Engineering and Program Management, New York State Environmental Facilities Corporation, at 518-402-7396 or at the following email address: Timothy.Burns@efc.ny.gov.

C. Compliance Verification

(a) The Recipient must periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that Contractors or Subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The Recipient must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The Recipient must establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by Contractors or Subcontractors and the duration of the Contract or Subcontract. Recipients must increase the frequency of the interviews if the initial interviews or other information indicates that there is a risk that the Contractor or Subcontractor is not complying with DB. Recipients must immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews must be conducted in confidence.

(c) The Recipient must periodically conduct spot checks of a representative sample of weekly payroll data to verify that Contractors or Subcontractors are paying the appropriate wage rates. The Recipient must establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by Contractors or Subcontractors and the duration of the Contract or Subcontract. At a minimum, the Recipient must spot check payroll data within two weeks of each Contractor or Subcontractor's submission of its initial payroll data and two weeks prior to the completion date the Contract or Subcontract. Recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the Contractor or Subcontractor is not complying with DB. In addition, during the examinations the Recipient must verify evidence of fringe benefit plans and payments thereunder by Contractors and Subcontractors who claim credit for fringe benefit contributions.

(d) The Recipient must periodically review Contractors' and Subcontractors' use of apprentices

and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that Contractors and Subcontractors are not using disproportionate numbers of laborers, trainees and apprentices. These reviews must be conducted in accordance with the schedules for spot checks and interviews described in Item (b) and (c) immediately above.

(e) Recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at www.wdol.gov.

II. Applicable State and Local Labor Standards

Contractors and Subcontractors working under a public works contract subject to DBRA may also be subject to additional labor standards, including but not limited to prevailing wage requirements, under State and local laws. When preparing the bid for SRF project, the Contractor, and any Subcontractors, must use the higher of the prevailing federal, state, or applicable local wage rates paid to each trade.

III. Responsibilities of Contractors and Subcontractors

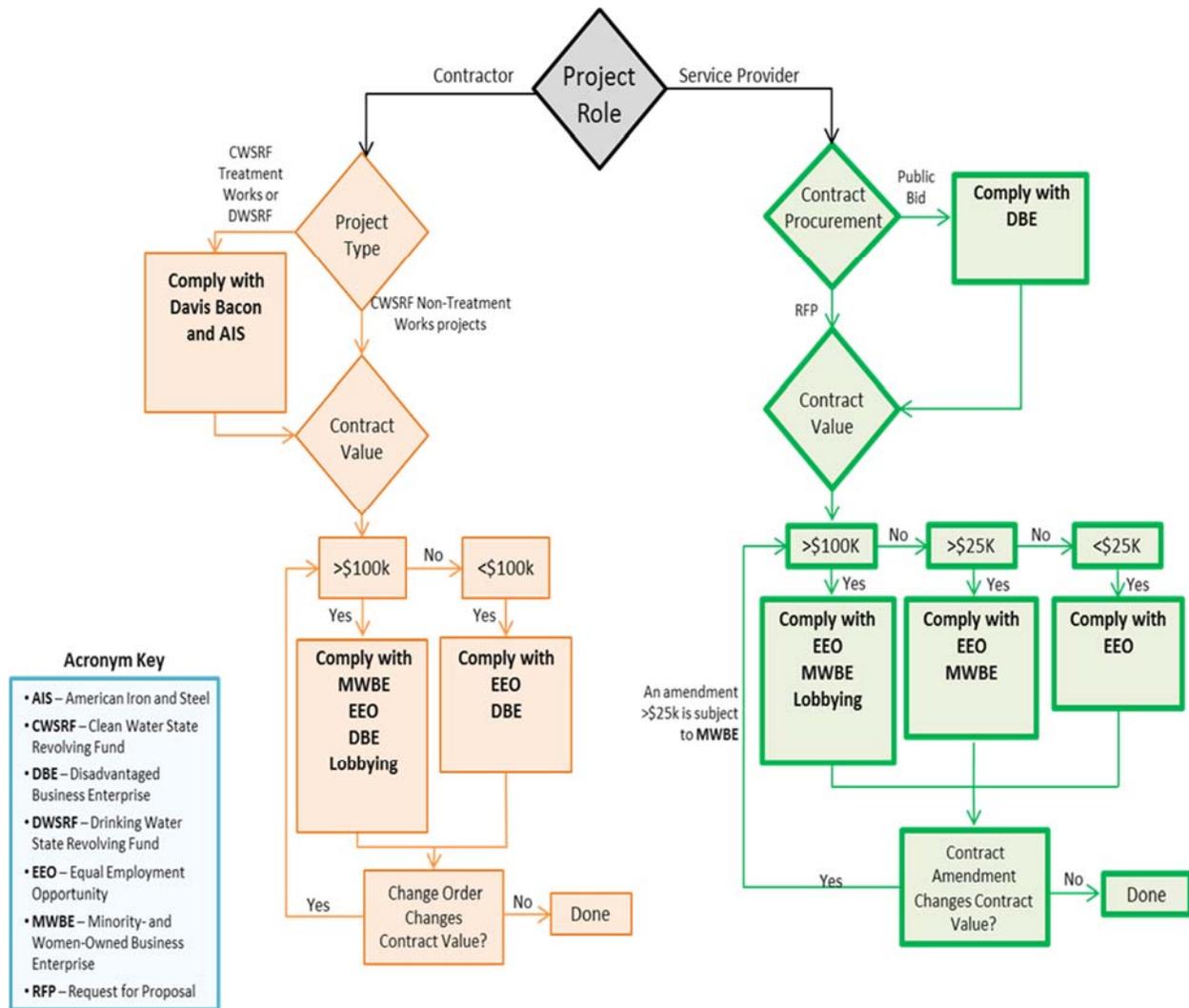
After execution of any SRF eligible Contracts, the Contractor and Subcontractor have the following responsibilities:

1. Post Davis Bacon Wage Poster and applicable federal, state, and local wages in a visible area at the construction site. This poster may be found on the EFC website under the Resource Library. (Refer to the attached required forms)
2. Make your employees available for wage interviews if necessary. Wage interviews must be conducted confidentially and using Labor Standard Interview Form (SF-1445). (Refer to the attached required forms)
3. Use federal payroll form WH-347 and complete the certifications on the back. If another form is being used, inform the Recipient and obtain a determination that the form is equivalent to the federal form. (Refer to the attached required forms)
4. Pay the higher of applicable prevailing federal, state, or local wages, including benefits (fringe & holidays), 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 applicable federal, state, or local wage determinations and equal employment opportunity language. This language is provided in the Part 2: Required Contract Language. Federal wage determinations are available at www.wdol.gov.
8. Provide payroll forms and apprentice and trainee certifications to the Recipient 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. www.wdol.gov/. 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.

SECTION 6

PROGRAM CONTRACT REQUIREMENT DECISION TREE



SECTION 7 SUMMARY OF CONTRACTOR REQUIREMENTS FOR SRF-FUNDED PROJECTS

Forms can be found as attachments to this document or online at www.efc.ny.gov/MWBE

Forms should be submitted electronically via email or through EFC's [dropbox](#)

To be submitted with this bid:

- | | Refer to Part 3
Guidance Section |
|--|-------------------------------------|
| <input type="checkbox"/> EEO Policy Statement | Section 1 |
| <input type="checkbox"/> Documented Proof that EPA Form 6100-2 - DBE Subcontractor Participation Form was given to MWBE Subcontractors | Section 1 |
| <input type="checkbox"/> EPA Form 6100-3 - DBE Subcontractor Performance Form | Section 1 |
| <input type="checkbox"/> EPA Form 6100-4 - DBE Subcontractor Utilization Form | Section 1 |
| <input type="checkbox"/> Lobbying Certification | Section 5 |
| <input type="checkbox"/> AIS Contractor's Certification | Section 2 |

To be submitted prior to or upon Contract award:

- | | |
|--|-----------|
| <input type="checkbox"/> Executed Contracts, Subcontracts, agreements, and purchase orders | |
| <input type="checkbox"/> MWBE Utilization Plan and/or Waiver Request | Section 1 |

Tasks for construction start:

- | | |
|---|-----------|
| <input type="checkbox"/> Ensure that all Subcontracts contain Part 2: Required Contract Language | |
| <input type="checkbox"/> Post EEO Poster | Section 1 |
| <input type="checkbox"/> Pay the higher of prevailing federal, state, or local wages including benefits | Section 3 |
| <input type="checkbox"/> Post Davis Bacon Wage Poster AND Wage Rates | Section 3 |
| <input type="checkbox"/> Use Federal Payroll Form (WH-347) | Section 3 |
| <input type="checkbox"/> Obtain apprentice and trainee certifications | Section 3 |
| <input type="checkbox"/> Obtain AIS Manufacturer's Certifications for all iron & steel products | Section 2 |

Ongoing documentation & tasks:

- | | |
|--|-----------|
| <input type="checkbox"/> EEO Workforce Utilization Report | Section 1 |
| <input type="checkbox"/> Submit Monthly MWBE Reports to MBO | Section 1 |
| <input type="checkbox"/> Maintain weekly certified payrolls for all Prime & Subcontractors | Section 3 |
| <input type="checkbox"/> Maintain proof of payments for MWBE Subcontractors | Section 1 |
| <input type="checkbox"/> Maintain AIS Manufacturer's Certifications | Section 2 |

Attachment 1
New York State Environmental Facilities Corporation
EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT
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) 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 SRF projects.
- (ii) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract relating to this SRF project, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- (iii) The Contractor shall 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) The Contractor shall 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 and constitutional non-discrimination provisions, including Titles VI and VII of the Civil Rights Act of 1964, 40 CFR Part 7, 41 CFR Part 60-1 Subpart A, and 41 CFR Part 60-4. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status.
- (v) The Contractor will include the provisions of subdivisions (i) through (iv) in every Subcontract in such a manner that the requirements of these subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

X

Contractor/Service Provider Representative

Attachment 2
NYS Environmental Facilities Corporation
Equal Employment Opportunity (EEO) Workforce Employment Utilization Report

Municipality:	County:	SRF Project No.:	Contract ID:
Contractor/Service Provider:		Date:	

Report Includes – Please select one from the options below:

- Construction Contracts - Report the hours of contractor's and ALL subcontractor's employees who worked on contract activities during the month
- Service Provider Contracts - Report the Actual Contractor/subcontractor's workforce (# of personnel) utilized on this contract.

Job Categories	Hispanic/ Latino		Non-Hispanic / Latino											
			Male						Female					
	Male	Female	White	Black/ African American	Native Hawaiian/ Other Pacific Islander	Asian	Native American/ Alaska Native	Two or More Races	White	Black/ African American	Native Hawaiian/ Other Pacific Islander	Asian	Native American/ Alaska Native	Two or More Races
Senior Level Officials/Managers														
Mid-Level Officials/Managers														
Professionals														
Technicians														
Sales Workers														
Administrative Support Workers														
Skilled Craftsmen														
Operatives Semi-Skilled														
Laborers & Helpers														
Service Workers														
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Journeypersons														
Apprentices														
Trainees														

Service Provider Contracts Only: <input type="checkbox"/> There are no changes to the workforce utilized on this contract since the last EEO Workforce Utilization Report	Date:
Electronic Signature of Contractor: <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge. Name (Please Type):	

Attachment 2
NYS Environmental Facilities Corporation
Equal Employment Opportunity (EEO) Workforce Employment Utilization Report

INSTRUCTIONS

All Contractors and each Subcontractor identified in the approved MWBE Utilization Plan must complete an EEO Workforce Utilization Report and submit it to the MBO on a monthly basis for construction contracts and on a quarterly basis for service provider contracts. Separate forms shall be completed by the Contractor and any Subcontractor. Where the work force to be utilized in the performance of the contract can be separated out from the contractor's or subcontractors' total workforce, the contractors shall *complete this form only for the actual work force utilized on the contract*. Where the workforce utilized in the performance of the contract cannot be separated out from the contractor's or subcontractors' total workforce, the contractors shall *complete this form for the contractor's or subcontractors' total workforce*.

Construction Contracts: Report the hours of contractor's and ALL subcontractors' employees who worked on contract activities for each month.

RACE/ETHNIC IDENTIFICATION: Definitions of race and ethnicity for purposes of completion of this form are as follows:

- **Hispanic or Latino** - A person having origins in Cuba, Mexico, Puerto Rico, South or Central America.
- **White** - A person having origins of Europe, the Middle East, or North Africa.
- **Black or African-American** - A person having origins in any of the black racial groups of Africa.
- **Native Hawaiian or Other Pacific Islander**- A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **Asian** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent
- **American Indian or Alaska Native** - Origins in any of the original peoples of North, Central, and South America and who maintain tribal affiliation or community attachment
- **Two or More Races** - All persons who identify with more than one of the above five races.

DESCRIPTION OF JOB CATEGORIES: The major job categories used in EEO Workforce Utilization Report are as follows:

- **Senior Level Officials and Managers** - Individuals residing in the highest levels of organizations who plan, direct and formulate policies, set strategy and provide the overall direction of enterprises/organizations for the development and delivery of products or services.
- **Mid-Level Officials and Managers** - Individuals who receive directions from the Senior Level management and serve as managers, other than those who serve as Senior Level Officials and Managers, including those who oversee and direct the delivery of products, services or functions at group, regional or divisional levels of organizations.
- **Professionals** - Most jobs in this category require bachelor and graduate degrees, and/or professional certification. In some instances, comparable experience may establish a person's qualifications.
- **Technicians** - Jobs in this category include activities that require applied scientific skills, usually obtained by post-secondary education of varying lengths, depending on the particular occupation, recognizing that in some instances additional training, certification, or comparable experience is required.
- **Sales Workers** - These jobs include non-managerial activities that wholly and primarily involve direct sales.
- **Administrative Support Workers** - These jobs involve non-managerial tasks providing administrative and support assistance, primarily in office settings.
- **Skilled Craftsmen** – Includes higher skilled occupations in construction (building trades craft workers and their formal apprentices) and natural resource extraction workers. Examples of these types of positions include: boilermakers; brick and stone masons; carpenters; electricians; painters.
- **Operatives Semi-Skilled** - Most jobs in this category include intermediate skilled occupations and include workers who operate machines or factory-related processing equipment. Most of these occupations do not usually require more than several months of training. Examples include: textile machine workers.
- **Laborers & Helpers** - Jobs in this category include workers with more limited skills who require only brief training to perform tasks that require little or no independent judgment.
- **Service Workers** - Jobs in this category include food service, cleaning service, personal service, and protective service activities.

Attachment 3
New York State Environmental Facilities Corporation
Monthly Minority- & Women- Owned Business Enterprise (MWBE) Contractor Compliance Report
(“Monthly MWBE Report”)

Instructions:

- Contractors are to complete the report in Word version and email to the SRF Recipient’s Minority Business Officer (“MBO”) on a monthly basis.
- If you require additional pages, you may find them on EFC’s MWBE web page at www.efc.ny.gov/mwbe.
- **All** MWBE Subcontractors for this contract **MUST** be listed on the form regardless of whether they were paid this month.
- Please save Report as “*MR*Report – (Project No). – (Municipality) – (Firm Name) – (Date)” and send the Word version of this document.
- Proofs of payment in the amounts shown below must be transmitted to the MBO with the report.

Municipality:		County:		Contract ID:		Month:	Year:	
SRF Project No.:		GIGP/EPG No:		Registration No. (NYC only):				
Prime Contractor/Service Provider:			Award Date:		Start Date:		Date all MWBE subs paid in full:	
Signature of Contractor: <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.							Date:	
Last Month's Contract Amt: \$	MWBE Eligible Amt: \$		EFC MWBE Goals			Total Paid to Prime		
Revised Contract Amt: \$	(Goals are applied to this amount and includes eligible change orders, amendments & waivers)		MBE: %	MBE Amt: \$	Total Paid this Month: \$			
			WBE: %	WBE Amt: \$	Total Paid to Date: \$			
			Total: %	Total Amt: \$				
NYS Certified M/WBE Contractor & Subcontractor		Please Specify Any Revisions this Month.		Subcontractor Total Amount		Payments this Month	Previous Payments	Total Payments Made to Date
				Original	Revised			
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:		<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED						
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE Supplier <input type="checkbox"/> Other:		<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED						
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:		<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED						
Name: Fed. Employer ID#: <u>Select Only One:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:		<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED						

Attachment 3
New York State Environmental Facilities Corporation
Monthly Minority- & Women- Owned Business Enterprise (MWBE) Contractor Compliance Report
("Monthly MWBE Report")

NYS Certified M/WBE Contractor & Subcontractor	Please Specify Any Revisions this Month.	Subcontractor Contract Amount		Payments this Month	Previous Payments	Total Payments Made to Date
		Original	Revised			
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					

Attachment 3
New York State Environmental Facilities Corporation
Monthly Minority- & Women- Owned Business Enterprise (MWBE) Contractor Compliance Report
("Monthly MWBE Report")

NYS Certified M/WBE Contractor & Subcontractor	Please Specify Any Revisions this Month.	Subcontractor Total Amount		Payments this Month	Previous Payments	Total Payments Made to Date
		Original	Revised			
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					
Additional Pages can be found at www.efc.ny.gov TOTAL						
PLEASE EXPLAIN ANY REVISIONS (Change orders over \$25K may require that good faith efforts be made to obtain additional MWBE participation) :						

Attachment 4
New York State Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

Instructions for Contractors & Service Providers:

Contractors and Service Providers must complete Sections 2 and 3. **Submit the completed, signed (electronic signature box checked and dated) form in Microsoft Word format to the SRF Recipient's designated Minority Business Officer (MBO) no later than the date of contract execution.** Incomplete forms will be found deficient. If more than 10 subcontractors are used, additional pages for Section 3 can be found in the form [Additional Utilization Plan Section 3.](#)

If the prime contract is being performed by the parties to a Joint Venture, Teaming Agreement, or Mentor-Protégé Agreement that includes a certified MWBE, please contact EFC for assistance.

MWBE firms must be certified by the NYS Empire State Development Corporation (ESD) in order to be counted towards satisfaction of MWBE participation goals. The utilization of certified MWBEs for non-commercially useful functions may not be counted towards utilization of certified MWBEs in the Utilization Plan.

See the Bid Packet at www.efc.ny.gov/mwbe or consult your designated MBO for further guidance.

Instructions for Minority Business Officers (MBO):

The MBO must complete Section 1. The MBO may designate an Authorized Representative to complete and submit quarterly payment reports on its behalf, and, if so designated, the MBO's Authorized Representative must also complete Section 1. The Authorized Representative may only submit quarterly payment reports on behalf of the MBO and may not submit any other required forms or reports for the MBO. The MBO must complete Section 1 even if designating an Authorized Representative. **Submit the completed, signed (electronic signature box checked and dated) form in Microsoft Word format via e-mail to your EFC MWBE Representative.**

The subject heading of the e-mail to the EFC MWBE Representative should follow the format "UP, SRF Number, Contractor." EFC will review the Utilization Plan and notify the MBO via e-mail of its acceptance or denial.

Within 10 days of EFC's acceptance of a Utilization Plan, EFC will post the approved Utilization Plan on the EFC website.

Attachment 4
New York State Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

SECTION 1: MUNICIPAL INFORMATION

SECTION 1: MUNICIPAL INFORMATION			
Recipient/Municipality:			County:
SRF Project No.:	GIGP/EPG No.:	Contract ID:	Registration No. (NYC only):
Minority Business Officer:		Email:	Phone #:
Address of MBO:			
Electronic Signature of MBO: <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.			Date:
<i>Complete if applicable:</i>			
Authorized Representative:		Title:	
Authorized Rep. Company:		Email:	Phone #:
Electronic Signature of Authorized Rep.: <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.			Date:

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION			
Firm Name:		Contract Type: <input type="checkbox"/> Construction <input type="checkbox"/> Other Services	
Prime Firm is Certified as: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> N/A <input type="checkbox"/> Other: Please repeat information in the Utilization Plan below (Section 3). If dual certified, you must select either MBE <u>or</u> WBE.			
Address:		Phone #:	Fed. Employer ID #:
Description of Work:			
Award Date:	Start Date:	Completion Date:	MWBE GOAL Total
Total Contract Amount: \$ MWBE Eligible Contract Amount: \$ (MWBE Goals are applied to this amount and includes all change orders, amendments, & waivers)			PROPOSED MWBE Participation
			MBE: % \$
			WBE: % \$
			Total: % \$
			Total: % \$

Attachment 4
New York State Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

SECTION 3: M/WBE SUBCONTRACTOR INFORMATION				
This Submittal is:	<input type="checkbox"/> The First/Original Utilization Plan <input type="checkbox"/> Revised Utilization Plan #:			
NYS Certified M/WBE Subcontractor Info			Contract Amount:	
			MBE (\$)	WBE (\$)
Name:				
Fed. Employer ID#:				
Address:				
Phone #:				
Email:				
Scope of Work:				
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:				
Start Date:				
Full Contract Amount: \$				
Completion Date:				
Name:				
Fed. Employer ID#:				
Address:				
Phone #:				
Email:				
Scope of Work:				
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:				
Start Date:				
Full Contract Amount: \$				
Completion Date:				
Name:				
Fed. Employer ID#:				
Address:				
Phone #:				
Email:				
Scope of Work:				
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:				
Start Date:				
Full Contract Amount: \$				
Completion Date:				
Name:				
Fed. Employer ID#:				
Address:				
Phone #:				
Email:				
Scope of Work:				
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:				
Start Date:				
Full Contract Amount: \$				
Completion Date:				

Attachment 4
New York State Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

SECTION 3: M/WBE SUBCONTRACTOR INFORMATION continued				
Name:	Fed. Employer ID#:			
Address:	Phone #:			
Scope of Work:	Email:			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	Start Date:			
Full Contract Amount: \$	Completion Date:			
Name:	Fed. Employer ID#:			
Address:	Phone #:			
Scope of Work:	Email:			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	Start Date:			
Full Contract Amount: \$	Completion Date:			
Name:	Fed. Employer ID#:			
Address:	Phone #:			
Scope of Work:	Email:			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	Start Date:			
Full Contract Amount: \$	Completion Date:			
Name:	Fed. Employer ID#:			
Address:	Phone #:			
Scope of Work:	Email:			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	Start Date:			
Full Contract Amount: \$	Completion Date:			

SIGNATURE	
Electronic Signature of Contractor: <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all MWBE subcontractors will perform a commercially useful function. Name (Please Type):	Date:

Attachment 5
New York State Environmental Facilities Corporation
Minority & Women Owned Business Enterprise (MWBE) Waiver Request Form

Instructions for Contractors & Service Providers:

Contractors and Service Providers must complete Sections 2, 3, and 4. **Submit the completed, signed (electronic signature box checked and dated) form in Microsoft Word format to the SRF Recipient's designated Minority Business Officer (MBO).** Incomplete forms will be found deficient.

See the Bid Packet at www.efc.ny.gov/mwbe or consult your designated MBO for further guidance.

Instructions for Minority Business Officers (MBO):

The MBO must complete Section 1. **Submit the completed, signed (electronic signature box checked and dated) form in Microsoft Word format via e-mail to your EFC MWBE Representative.** The subject heading of the e-mail to the EFC MWBE Representative should follow the format "Waiver Request, SRF Number, Contractor." EFC will review and notify the MBO via e-mail of its acceptance or denial.

If a partial MWBE waiver is requested, an MWBE Utilization Plan must also be submitted for the amount of proposed MWBE participation.

SECTION 1: MUNICIPAL INFORMATION			
Recipient/Municipality:		County:	
SRF Project No.:	GIGP/EPG No.:	Contract ID:	Registration No. (NYC only):
Minority Business Officer (MBO):		Email:	Phone #:
Address of MBO:			
Signature of MBO: <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.			Date:

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION			
Firm Name:		Contract Type: <input type="checkbox"/> Construction <input type="checkbox"/> Other Services	
Prime Firm is Certified as: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> N/A <input type="checkbox"/> Other:			
Address:		Phone #:	Fed. Employer ID #:
Contact Information of Firm Representative Authorized to Discuss Waiver Request:			
Name:		Title:	Phone #: E-mail:
Description of Work:		EFC MWBE GOAL Total	
Award Date:	Start Date:	Completion Date:	MBE: % \$
Total Contract Amount: \$		WBE: % \$	
MWBE Eligible Contract Amount: \$ (MWBE Goals are applied to this amount and includes all change orders, amendments, & waivers)		Total: % \$	

Attachment 5
New York State Environmental Facilities Corporation
Minority & Women Owned Business Enterprise (MWBE) Waiver Request Form

SECTION 3: TYPE OF MWBE WAIVER REQUESTED

1. **Full Waiver** (No MWBE participation)
2. **Partial Waiver** (Less than the MWBE goals; indicate below the proposed MWBE participation)

PROPOSED MWBE Participation

MBE: % \$

WBE: % \$

Total: % \$

3. **Specialty Equipment/Services Waiver** (Must be of SIGNIFICANT cost - list of equipment and cost must be attached in addition to the supporting documentation outlined below)

SECTION 4: SUPPORTING DOCUMENTATION

To be considered, the Request for Waiver Form must be accompanied by the documentation requested in items 1 – 9, as listed below. If a Specialty Equipment Waiver is requested, it must be accompanied by the documentation requested in items 1 - 13. If a Specialty Services Waiver is requested, it must be accompanied by the items requested in items 1 – 9 and item 14. Copies of the following information and all relevant supporting documentation must be submitted along with the request. Please contact EFC for assistance, including sample documentation.

1. A letter of explanation setting forth your basis for requesting a partial or total waiver and detailing the good faith efforts that were made.
2. Copies of advertisements in any general circulation, trade association, and minority- and women-oriented publications in which you solicited MWBEs for the purposes of complying with your participation goals, with the dates of publication.
3. Screenshots of search results (by business description or commodity code) from Empire State Development Corporation's (ESD) MWBE Directory of all certified MWBEs that were solicited for purposes of complying with your MWBE participation goals.
4. Copies of faxes, letters, or e-mails sent to MWBE firms to solicit participation and their responses.
5. A log of solicitation results, consisting of the list of MWBE firms solicited for the contract and the outcome of the solicitations. The log should be broken out into separate areas for each task that is solicited (e.g., trucking, materials, electricians) and clearly provide a rationale for firms included on the completed Utilization Plan as well as for those not chosen. The log should show: that each MWBE firm was contacted twice by two different methods (e.g., fax and phone); who was spoken to; what was said; and the final outcome of the solicitation.
6. A description of any contract documents, plans, or specifications made available to MWBEs for purposes of soliciting their bids and the date and manner in which these documents were made available. Specifically, include information on the scope of work in the contract and a breakout of tasks or equipment, such as

Attachment 5
New York State Environmental Facilities Corporation
Minority & Women Owned Business Enterprise (MWBE) Waiver Request Form

a schedule of values for a construction contract or a proposal or excerpt from a professional services agreement.

7. Documentation of any negotiations between you, the Contractor, and the MWBEs undertaken for purposes of complying with your MWBE participation goals.
8. Any other information you deem relevant which may help us in evaluating your request for a waiver. Examples may include sign-in sheets from any pre-bid meetings where MWBE firms were invited, attendance at MWBE forums, etc.
9. EFC and the MBO reserve the right to request additional information and/or documentation.

Additional Documentation for Requests for Specialty Equipment Waivers:

10. Copies of the appropriate pages of the technical specification related to the equipment showing the choices for manufacturers or other information that limits the choice of vendor.
11. Letter, e-mail or screenshot of website from the manufacturer listing their distributors in NYS and the locations.
12. Screenshots of ESD's MWBE Directory searches for the manufacturer and distributor showing that they are not found in the Directory.
13. An invoice or purchase order showing the value of the equipment.

Additional Documentation for Requests for Specialty Service Waivers:

14. A letter of explanation containing information about the scope of work and why no MWBE firms could be subcontracted to provide that service.

Note: Unless a Total Waiver has been granted, Firms will be required to submit all reports and documents pursuant to the provisions set forth in the procurement and/or contract, as deemed appropriate by EFC, to determine MWBE compliance. In cases where EFC accepts a full or partial waiver of MWBE participation goals, the waiver request will be posted to EFC's website.

SIGNATURE

Electronic Signature of Contractor:

I certify that the information submitted herein is true, accurate and complete to the best of my knowledge.

Name: (Please Type):

Date:

Attachment 6
United States Environmental Protection Agency
Form 6100-2
DBE Subcontractor Participation Form

Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Participation Form

An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE¹ subcontractor² the opportunity to describe work received and/or report any concerns regarding the EPA-funded project (e.g., in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the EPA DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services, Equipment or Supplies	Amount Received by Prime Contractor

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² 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.

Attachment 7
United States Environmental Protection Agency
Form 6100-3
DBE Subcontractor Performance Form

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

This form is intended to capture the DBE¹ subcontractor's² description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractor's bid or proposal package.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies	Price of Work Submitted to the Prime Contractor
DBE Certified By: ___ DOT ___ SBA ___ Other: _____		Meets/ exceeds EPA certification standards? ___ YES ___ NO ___ Unknown

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² 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.

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

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that 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).

Prime Contractor Signature	Print Name
Title	Date

Subcontractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. 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 through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

Attachment 8
United States Environmental Protection Agency
Form 6100-4
DBE Subcontractor Utilization Form

Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE¹ subcontractors² and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

Prime Contractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Issuing/Funding Entity:			

I have identified potential DBE certified subcontractors	__ YES	__ NO	
If yes, please complete the table below. If no, please explain:			
Subcontractor Name/ Company Name	Company Address/ Phone/ Email	Est. Dollar Amt	Currently DBE Certified?

Continue on back if needed

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² 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.

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

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that 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).

Prime Contractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. 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 through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

Attachment 9
New York State Environmental Facilities Corporation
CERTIFICATION REGARDING LOBBYING
FOR
CONTRACTS, GRANTS, LOANS, AND
COOPERATIVE AGREEMENTS
40 CFR Part 34

SRF Project No.: _____

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By: _____
Name: _____
Title: _____
Date: _____
Contract ID: _____

Attachment 10
New York State Environmental Facilities Corporation
Contractor's American Iron and Steel (AIS) Certifications

To be completed by prime contractors for all construction contracts

AIS CONTRACTOR CERTIFICATION
FOR CONSTRUCTION CONTRACTS PAID FOR WITH FUNDS FROM
THE NYS CLEAN WATER STATE REVOLVING FUND OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project #: _____

SRF Recipient Name: _____

I certify that the iron and steel products that will be permanently incorporated into the public water system or wastewater treatment works project under this construction contract will have been produced in the United States, in accordance with the requirements of the US Environmental Protection Agency. I will also develop and maintain at the project location the necessary documentation to demonstrate that the iron and steel products incorporated into the project were produced in the United States, and make such documentation available to The NYS Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 11
New York State Environmental Facilities Corporation
Manufacturer's American Iron and Steel (AIS) Certifications

1. The following information is provided as a manufacturer's sample letter of **step** certification for AIS compliance. Documentation must be provided on company letterhead.

Date

Company Name

Company Address

City, State Zip

Subject: American Iron and Steel Step Certification for Project (XXXXXXXXXX)

I, (company representative), certify that the (melting, bending, coating, galvanizing, cutting, etc.) process for (manufacturing or fabricating) the following products and/or materials shipped or provided for the subject project is in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. *Xxxx*

2. *Xxxx*

3. *Xxxx*

Such process took place at the following location: _____

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

[Signed by company representative]

Attachment 11
New York State Environmental Facilities Corporation
Manufacturer's American Iron and Steel (AIS) Certifications

2. The following information is provided as a manufacturer's sample letter of certification for AIS compliance. Documentation must be provided on company letterhead.

Date

Company Name

Company Address

City, State Zip

Subject: American Iron and Steel Certification for Project (XXXXXXXXXX)

I, (company representative), certify that the following products and/or materials shipped/provided to the subject project are in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. Xxx

2. Xxx

3. Xxx

Such process took place at the following location: _____

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

[Signed by company representative]

Attachment 12
United States Department of Labor
Wage and Hour Division
Form WH-347
Federal Payroll Form

