NEW YORK STATE OF OPPORTUNITY. Environmental Facilities Corporation

ANDREW M. CUOMO
Governor

SABRINA M. TY
President and CEO

Program Requirements and Bid Packet for Construction Contracts

(For Non-Treatment Works projects
funded with NYS Clean Water State Revolving Fund)

Effective October 1, 2016

New York State Environmental Facilities Corporation
625 Broadway, Albany, NY 12207-2997
P: (518) 402-6924 F: (518) 402-7456
www.efc.ny.gov

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 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT 10
- SECTION 3 RESTRICTIONS ON LOBBYING 10

PART 3: GUIDANCE MATERIALS 11
- APPLICABILITY OF PROGRAM REQUIREMENTS 11
- 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 12
- I. Summary of EEO, MWBE, and DBE Forms 12
  - A. Forms to be Submitted Prior to Contract Execution 12
  - B. Forms to be Submitted During the Term of the Contract 12
- II. Equal Employment Opportunities (EEO) 13
- III. Business Participation Opportunities for MWBEs 13
  - A. Contract Goals 13
  - B. Good Faith Efforts 13
  - C. MWBE Utilization Plan 15
  - D. Eligibility for MWBE Participation Credit 15
  - E. Requests for Waiver 16
- IV. Subcontractor's Responsibilities 16
- V. Protests/Complaints 17
- VI. Waste, Fraud and Abuse 17
- SECTION 2 GUIDANCE FOR APPLICABLE LABOR STANDARDS 17
- SECTION 3 GUIDANCE FOR REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT 17
- SECTION 4 GUIDANCE FOR RESTRICTIONS ON LOBBYING 18
- SECTION 5 PROGRAM CONTRACT REQUIREMENT DECISION TREE 19
- SECTION 6 SUMMARY OF CONTRACTOR REQUIREMENTS FOR SRF-FUNDED PROJECTS 20

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

PART 1:

HOW TO USE THIS DOCUMENT

The New York State Environmental Facilities Corporation ("EFC") implements the New York State Revolving Fund ("SRF") for Clean 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 for Non-Treatment Works projects funded in whole or part by the New York State Clean Water SRF, (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 Non-Treatment Works projects funded with the NYS Clean 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;

- Applicable State and/or local prevailing wage requirements;

- 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 will 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 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT

The requirements of this section apply to all Contracts and Subcontracts.

Contractor and any Subcontractors shall comply with, Subpart C of 2 CFR Part 180 as implemented and supplemented by 2 CFR Part 1532. The Contractor is not a debarred or suspended party under 2 CFR Part 180 or 2 CFR Part 1532, or 29 CFR § 5.12. Neither the Contractor nor any of its Subcontractors have contracted with, or will contract with, any debarred or suspended party under the foregoing regulations.

The Contractor and any Subcontractors have not been deemed ineligible to submit a bid on or be awarded a public contract or subcontract pursuant to Article 8 of the State Labor Law, specifically Labor Law § 220-b. In addition, neither the Contractor nor any Subcontractors have contracted with, or will contract with, any party that has been deemed ineligible to submit a bid on or be awarded a public contract or subcontract under Labor Law § 220-b.

In addition, the Contractor and any Subcontractors have not been deemed ineligible to submit a bid and have not contracted with and will not contract with any party that has been deemed ineligible to submit a bid under Executive Law § 316.

SECTION 3 RESTRICTIONS ON LOBBYING

The requirements of this section apply to all Contracts and Subcontracts greater than $100,000. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor and any Subcontractor executing a Contract or Subcontract in excess of $100,000 agree to provide to the Recipient an executed Certification Regarding Lobbying pursuant to 40 CFR Part 34 ("Lobbying Certification") in the form attached hereto as Attachment 9, consistent with the prescribed form provided in Appendix A to 40 CFR Part 34.

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
Applicable Labor Standards	All Contracts and Subcontracts for public works are subject to State Labor Law requirements. Review local labor requirements to determine applicability of any additional requirements to your Contract or Subcontract.	-	2
Suspension and Debarment	All Contracts and Subcontracts	2	3
Restrictions on Lobbying	All Contracts and Subcontracts greater than $100,000	3	4

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 <u>even if proposed goals have been achieved</u>.

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 - $50,000 = $150,000
    (Contract) (Specialty equipment/service) (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 <u>schedule of values</u> or <u>bid tabulation sheet</u> 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.
4. Maintain business records that should include, but not be limited to, contracts/agreements, records of receipts, correspondence, purchase orders, and canceled checks.
5. Complete and submit the EPA Form 6100-3 - DBE Subcontractor Performance Form to the Contractor prior to submission of the Contractor's bid to the Recipient.
6. Complete and return EPA Form 6100-2 - DBE Subcontractor Participation Form to the Recipient prior to Contractor's execution of the contract.
7. Ensure that a required EEO Policy Statement and applicable MWBE requirements are included in each subcontract.
8. Notify the MBO and EFC when contract problems arise, such as non-payment for services or when the Subcontractor is not employed as described in the MWBE Utilization Plan.

V. Protests/Complaints

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

VI. Waste, Fraud and Abuse

Subcontractors, Contractors, or Recipients who know of or suspect any instances of waste, fraud, or abuse within the MWBE & EEO Program should notify the project MBO and EFC immediately. Additionally, suspected fraud activity should be reported to the USEPA – Office of Inspector General Hotline at (888) 546-8740, the New York State Office of Inspector General at (800) 367-4448, or the ESD Compliance Office at (212) 803-3266.

SECTION 2 GUIDANCE FOR APPLICABLE LABOR STANDARDS

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

SECTION 3 GUIDANCE FOR REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT

A list of debarred and suspended contractors, pursuant to 2 CFR Parts 180 and 1532 and 29 CFR § 5.12, is available on the US Department of Labor's website at https://www.sam.gov/portal/public/SAM/.

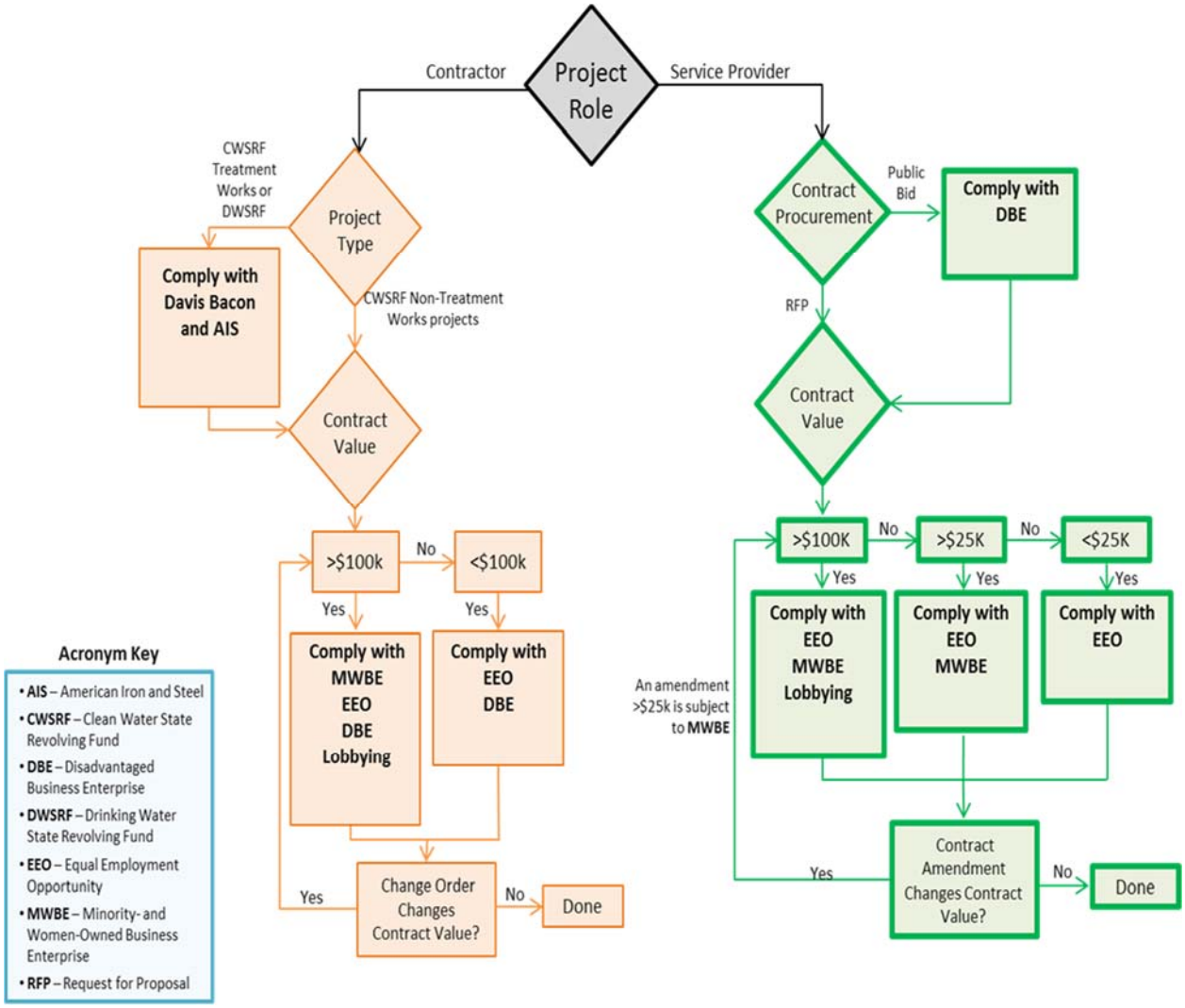
A list of contractors and subcontractors deemed ineligible to submit a bid on or be awarded a public contract or subcontract, pursuant to Article 8 of the State Labor Law, is available on the New York State Department of Labor's website at http://labor.ny.gov/workerprotection/publicwork/PDFs/debarred.pdf

A list of contractors deemed ineligible to submit a bid is maintained by Empire State Development's Division of Minority and Women's Business Development.

SECTION 4 GUIDANCE FOR RESTRICTIONS ON LOBBYING

Each Contractor and any Subcontractor that has a Contract or Subcontract exceeding $100,000 shall provide to the Recipient a completed Certification Regarding Lobbying pursuant to 40 CFR Part 34 ("Lobbying Certification") in the form attached hereto as Attachment 9 consistent with the prescribed form provided in Appendix A to 40 CFR Part 34. The form provides a certification that the Contractor or Subcontractor will not expend appropriated federal funds to pay any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, officer or employee of Congress or any employee of any Member of Congress in accordance with the provisions of 40 CFR Part 34, and to maintain such certification for their own records. It is noted that disbursement of funds may be withheld until the Lobbying Certification form has been received by the Recipient.

SECTION 5 PROGRAM CONTRACT REQUIREMENT DECISION TREE



SECTION 6 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

	Refer to Part 3 Guidance Section
To be submitted with this bid:	
☐ EEO Policy Statement	Section 1
☐ Documented Proof that EPA Form 6100-2 - DBE Subcontractor Participation Form was given to MWBE Subcontractors	Section 1
☐ EPA Form 6100-3 - DBE Subcontractor Performance Form	Section 1
☐ EPA Form 6100-4 - DBE Subcontractor Utilization Form	Section 1
☐ Lobbying Certification	Section 4
To be submitted prior to or upon Contract award:	
☐ Executed Contracts, Subcontracts, agreements, and purchase orders	
☐ MWBE Utilization Plan and/or Waiver Request	Section 1
Tasks for construction start:	
☐ Ensure that all Subcontracts contain Part 2: Required Contract Language	
☐ Post EEO Poster	Section 1
☐ Pay the higher of applicable prevailing state or local wages including benefits	Section 2
Ongoing documentation & tasks:	
☐ EEO Workforce Utilization Report	Section 1
☐ Submit Monthly MWBE Reports to MBO	Section 1
☐ Maintain proof of payments for MWBE Subcontractors	Section 1

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 Officals/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: ☐ There are no changes to the workforce utilized on this contract since the last EEO Workforce Utilization Report

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 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 "*MReport – (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: ☐ 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:** $ Revised Contract Amt: $	**MWBE Eligible Amt**: $ (Goals are applied to this amount and includes eligible change orders, amendments & waivers)	**EFC MWBE Goals**		**Total Paid to Prime**
		MBE: % WBE: % Total: %	MBE Amt: $ WBE Amt: $ Total Amt: $	Total Paid this Month: $ Total Paid to Date: $

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: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE Supplier ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ 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: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ 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: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: Select Only One: ☐ MBE ☐ WBE ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ 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			
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: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.			**Date:**
Complete if applicable:			
Authorized Representative:		**Title:**	
Authorized Rep. Company:		**Email:**	**Phone #:**
Electronic Signature of Authorized Rep.: ☐ 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:** ☐ Construction ☐ Other Services	
Prime Firm is Certified as: ☐ MBE ☐ WBE ☐ N/A ☐ Other: Please repeat information in the Utilization Plan below (Section 3). If dual certified, you must select either MBE or WBE.				
Address:		**Phone #:**	**Fed. Employer ID #:**	
Description of Work:				
Award Date:	**Start Date:**	**Completion Date:**	**MWBE GOAL Total**	**PROPOSED MWBE Participation**
Total Contract Amount: $ **MWBE Eligible Contract Amount:** $ (MWBE Goals are applied to this amount and includes all change orders, amendments, & waivers)			**MBE:** % $ **WBE:** % $ **Total:** % $	**MBE:** % $ **WBE:** % $ **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:	☐ The First/Original Utilization Plan ☐ Revised Utilization Plan #:			
NYS Certified M/WBE Subcontractor Info		**Contract Amount:**		**For EFC Use:**
		MBE ($)	**WBE ($)**	
Name:	**Fed. Employer ID#:**			
Address:	**Phone #:**			
Scope of Work:	**Email:**			
Select Only One: ☐ **MBE** ☐ **WBE** ☐ Other:	**Start Date:**			
Full Contract Amount: $	**Completion Date:**			
Name:	**Fed. Employer ID#:**			
Address:	**Phone #:**			
Scope of Work:	**Email:**			
Select Only One: ☐ **MBE** ☐ **WBE** ☐ Other:	**Start Date:**			
Full Contract Amount: $	**Completion Date:**			
Name:	**Fed. Employer ID#:**			
Address:	**Phone #:**			
Scope of Work:	**Email:**			
Select Only One: ☐ **MBE** ☐ **WBE** ☐ Other:	**Start Date:**			
Full Contract Amount: $	**Completion Date:**			
Name:	**Fed. Employer ID#:**			
Address:	**Phone #:**			
Scope of Work:	**Email:**			
Select Only One: ☐ **MBE** ☐ **WBE** ☐ 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: ☐ **MBE** ☐ **WBE** ☐ Other:	**Start Date:**			
Full Contract Amount: $	**Completion Date:**			
Name:	**Fed. Employer ID#:**			
Address:	**Phone #:**			
Scope of Work:	**Email:**			
Select Only One: ☐ **MBE** ☐ **WBE** ☐ Other:	**Start Date:**			
Full Contract Amount: $	**Completion Date:**			
Name:	**Fed. Employer ID#:**			
Address:	**Phone #:**			
Scope of Work:	**Email:**			
Select Only One: ☐ **MBE** ☐ **WBE** ☐ Other:	**Start Date:**			
Full Contract Amount: $	**Completion Date:**			
Name:	**Fed. Employer ID#:**			
Address:	**Phone #:**			
Scope of Work:	**Email:**			
Select Only One: ☐ **MBE** ☐ **WBE** ☐ Other:	**Start Date:**			
Full Contract Amount: $	**Completion Date:**			

SIGNATURE	
Electronic Signature of Contractor: ☐ 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: ☐ 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:** ☐ Construction ☐ Other Services
Prime Firm is Certified as: ☐ MBE ☐ WBE ☐ N/A ☐ 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: $ **MWBE Eligible Contract Amount:** $ (MWBE Goals are applied to this amount and includes all change orders, amendments, & waivers)			**WBE:** % $
			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

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

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

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 DBE[1] subcontractor[2] 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.

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Participation Form

Please use the space below to report any concerns regarding the above EPA-funded project:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

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

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Performance Form

This form is intended to capture the DBE[1] subcontractor's[2] 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 contractors 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.

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

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

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

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 DBE[1] subcontractors[2] 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.

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

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: _____