

**ROCKLAND COUNTY SEWER DISTRICT NO. 1**

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**George Hoehmann**  
*Chairman*

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*Executive Director*

**ADDENDUM NO. 6**

**CONTRACT RFB-RC-SWR-CIP 2020-02  
MAIN PUMP STATION UPGRADE PROJECT**

**ROCKLAND COUNTY SEWER DISTRICT NO. 1  
ROCKLAND COUNTY, NEW YORK**

**September 10, 2021**

The attention of all proposers is directed to the following changes, additions, and/or substitutions affecting the above-referenced project. This Addendum shall be included in and become part of the RFP for this project. Acknowledge receipt of this addendum in the space provided in this Addendum. This section must be signed and submitted with the bid proposal. Failure to do so, may subject the bidder to disqualification.

**Item No. 1 – Questions**

**Below are the questions that have been submitted with responses from the Owner:**

**Question 1:**

Proposal page P-20 indicates that "CWSRF AIS Contractor requirements do not apply for this project." We assume that there are no other "Buy American" requirements and that imported iron and steel is acceptable. Please confirm.

**Response:**

This project will not Require AIS or Federal Davis-Bacon. New York State Wage Rates will be effective the date of the bid opening. Delete Appendix F and Replace with Attachment 1.

**Question 2:**

Specification section 11306 part 2.03 C - for intermediate bearing supports, states the existing shaft bearing support beams shall be replaced in kind. Drawing M-008 includes beam details with assumed information on existing sizing and associated requirements, please verify the specification requirement for additional PE stamp for the design for replace in kind.

**Response:**

Intermediate bearing supports shall be designed by a structural Professional Engineer licensed in the State of New York and retained by the Contractor.

**Question 3:**

Specification Section 11306, part 2.03 C & D - indicates new bearing supports & mesh guards to enclose shafting. Part 3.02 E - states that the intent is to reused for the project - if in the opinion of the manufacture the existing cannot be reused, than contractor to furnish & install new at no additional cost to the owner. Please clarify the conflicting information provided in the specification and consider an allowance if the associated work scope cannot be determined pre-bid in order to establish and equal basis of bids.

**Response:**

Delete Specification 11306, Article 3.02E.

Delete Specification 11203, Article 2.03C and Replace with:

"C. Contractor shall furnish intermediate bearing supports where multiple shaft sections are required. Intermediate bearing supports shall be designed by a structural Professional Engineer licensed in the State of New York and retained by the Contractor. The structure shall be rigid in all planes. The natural frequency of the bearing support shall be a minimum of four times the running speed forcing frequency. The proposed support and design calculations shall be submitted for approval prior to construction. The existing shaft bearing support steel beams shall be replaced with equal or greater size. Manufacturer shall verify shaft and intermediate shaft bearing shall be adequately supported through use of the steel support beams."

**Question 4:**

The bid documents state that the contract is being partially funded by SRF. However, the M/WBE goals at 10% and 6% don't match the goals set out in the SRF Program Requirements Package. Please confirm that the 10% MBE goal and 6% WBE goal is what is required and not the information provided in the SRF package

**Response:**

Delete Appendix F and Replace with Attachment 1. Refer to Attachment 1 for MWBE and SDVOB goals. Note that percentages listed in the Instruction to Bidders is superseded by Appendix F.

**Question 5:**

The PLA references a Schedule A. Schedule A does not appear to be in the documents, please provide

**Response:**

The Schedule A that is referenced in the PLA refers back to each individual local Unions Collective Bargaining Agreements.

**Question 6:**

The holidays called out in the PLA and what is in the GCC don't match. Please confirm that contractor will be allowed to work on holidays that are called out in the GCC but not in the PLA

**Response:**

Holidays called out in the GCC are holidays observed by the Owner. If a Contractor selects to work on holidays listed in the GCC, approval from the Owner will be required.

**Question 7:**

Please provide Specification Section 01420 Special Inspections.

**Response:**

Special inspections are not required. All references to Specification 01420 shall be removed.

**Question 8:**

The 48" pump header piping shows 2 spool pieces which require a 10" flanged outlet be welded to the it. This type of connection is not recommended by US Pipe for DI. Would a fabricated coated steel or stainless steel alternate be actable in this situation? We could quote a 48x12 TEE but the lay lengths wouldn't fit.

**Response:**

The two referenced spool pieces with welded pipe boss will be replaced with a custom fabricated steel fitting tees 48x12. Steel fitting shall be:

- 250 psi rated
- Hydrostatically shop tested (250 psi) prior to shipment
- Flagged connections for attachment to DIP
- Insulating joints shall be provided when connecting to DIP; electrical resistance test shall be performed after insulation; resistance shall at least be 10,000 ohms.
- Design calculations and drawings shall be submitted for steel fitting

**Question 9:**

Please confirm that there are no coating/painting requirements for Floor, walls, and ceiling in the Odor Control Room above the Wet Well.

**Response:**

There are no coatings scheduled for this area.

**Question 10:**

Please confirm that there are no coating/painting requirements for Submerged concrete surfaces of the wet well, or the exposed concrete surfaces of the area immediately above the wet well where the gate operators are.

**Response:**

There are no coatings scheduled for this area.

**Question 11:**

Please confirm that there are no coating/painting requirements for Walkways at the Intermediate level of the Pump Room.

**Response:**

See Addendum No. 4, Question No. 11 for response.

**Question 12:**

The stairs on A-002; What material are they made of?, What dimensions are the serrated (assuming) grating tread?, What is the stairs width?, What are the railings to be made out of?, What kind of pipe are the railings to be made out of?, Do you want welded or mechanical construction of the railing?, Is the stair just design and build? Is engineering required to be provided by us?

**Response:**

Existing interior stairs and railings are steel.

All dimensions for the stairs shall be field verified and new stairs shall match existing dimensions. New grating shall match existing non-slip non-serrated grating.

Existing stairs are welded.

The new stairs are to be designed and built. A New York State Professional Engineer shall provide stamped design calculations and drawings.

**Question 13:**

Guardrail on roof show on A-004: Please clarify if this is to be new guardrail or if it is existing. If new, please use questions for railing above for this area too.

**Response:**

Material – Aluminum.

Mechanical connections.

The design parameters are stated in the Contract Documents.

**Question 14:**

In section 1540 – Temporary Bypass Pumping, the specified HDPE Pipe manufacturer is listed as PLEXCO (Chevron Chemical Company). PLEXCO and DRISCOPIPE merged and as of 2000, the products of the two became the products of Performance Pipe. Please confirm that Performance Pipe can be used in place of PLEXCO, which no longer independently exists.

**Response:**

Delete Specification 01540, Article 2.01C and Replace with:

“C. High Density Polyethylene (HDPE) Pipe - Pipe shall be HDPE PE 4710 and meet ASTM C3350, ASTM D1505, ASTM D 1238. Pipe shall be minimum DR-11, 200 psi working pressure. Pipe shall be manufactured by J-M Manufacturing Company, or equal .”

**Question 15:**

Can the sludge being removed from the wet wells be transported to the primary settling tanks, or must they be hauled off the property?

**Response:**

Sludge/grit shall be hauled off the property and properly disposed of.

**Question 16:**

During another walk through the Pump Station, we noticed that one of the pumps (labeled as Pump 5 on drawing D-001) was not turned on. Please verify whether this pump is working or not. If the pump is not functioning, please verify the cause of the issue whether it be a motor problem or unidentified.

**Response:**

Pump 5 is out of service with cracked valve. Other mechanical or electrical problems on Pump 5 are unknown.

**Question 17:**

Please clarify what overflow procedures are already set in place for the existing pumps.

**Response:**

No overflow procedures in place. Plant is operating with five functioning pumps operating.

**Question 18:**

Would you be able to provide clarification as to the drives acceptable by the County. We would like to provide the equipment expected.

**Response:**

Specification 16480 – Variable Frequency Drives, Article 2.01.A.1.

Clarification: The specified design basis ABB AF-600 HC 18-pulse drive is no longer available. The updated design basis shall be Allen-Bradley PowerFlex 755TL low-harmonic drive, or equal. An 18-pulse drive shall not be required when an equivalent performance low-harmonic type drive is provided.

**Question 19:**

Related to Q&A #15 included in Addendum No. 2 - please provide depths of existing utilities to be re-routed as no profiles of the lines appear to be included in the provided Addendum 2 "as-built" drawings attached.

**Response:**

Depths of existing utilities shall be field verified by the Contractor.

**Question 20:**

Is there anything inside the existing transforms that would require special disposal handling?

**Response:**

The isolation transformers that are to be demolished for the existing VFDs are standard dry-type that should not require special disposal.

**Question 21:**

Specification 09900, Part 1.01.A.3a states that "all existing interior piping to remain in buildings in which work is being performed shall be repainted and relabeled in accordance with the provisions listed herein.", however the drawings only show a small amount of piping in wet well 2 that is not being demoed. Please clarify if this is the only existing piping that needs to be repainted. If not, please provide drawings or size and qty of existing pipes that are to be repainted and labeled.

**Response:**

All existing pipe and existing general equipment shall be painted in accordance with Specification 09900. Existing pipe and equipment shall be field verified by the Contractor. Also please refer to responses to Question Nos. 25 and 26 in Addendum No. 2.

**Question 22:**

Due to the complexity of the temp power and all the coordination required between general contractor, electrical, and temp bypass we are requesting a 3 week extension on the bid date. Please move bid back to 10/7/21. Additionally we are finding vendors struggling to get things back together since Ida to meet the current bid date.

**Response:**

Bid is tied to funding deadline and cannot be extended.

**Question 23:**

In section M of the Bid Proposal package it says that SRF forms 6100-02, 6100-03, and 6100-04 are required to be submitted with the bid. Additionally it stats to refer to Appendix D of SRF Bid package. In reviewing the SRF bid package it does not appear that these forms are required or used anymore. Additionally it says that M/WBE utilization paperwork is not required at bid time but to be submitted before contract award. Please clarify if these forms are required with the bid and if so provide the forms that the contractor should be submitting with their bid

**Response:**

Refer to Addendum No. 4, Question No. 33.

**Question 24:**

Specs 11306 2.02. A.4: "...Each casing shall be hydrostatically tested to 1.5 times the pump shutoff head or 75 psi, whichever is greater. Hydrostatic test certification shall be provided prior to shipment.

HI standards calls for 1.5x shutoff head or 2x rated head (whichever is greater) for 5 minutes. Can you please consider changing hydro test language in the next addendum?

**Response:**

Delete Specification 11306, Article 2.02A.4 and Replace with:

"4. The casing shall be provided with tapped and plugged (removeable) vent, drain, and gauge connections. Suction and discharge connections shall be 125 lb. ANSI standard flat-face flanges positioned as indicated on the Contract Drawings. Each casing shall be hydrostatically tested in accordance with the latest Hydraulic Institute Standards. Hydrostatic test certification shall be provided prior to shipment."

**Item No. 2**

Delete Appendix F and Replace with Attachment 1.

**Item No. 3**

Delete Appendix F in Table of Contents and Replace with:

"Appendix F Program Requirements and Bid Packet for Contracts Funded with New York State Financial Assistance Only".

**Item No. 4**

Delete Proposal Section General Construction and Replace with Attachment 2 - Proposal Section General Construction.

**ACKNOWLEDGMENT**

Print Name: \_\_\_\_\_  
Name of person responsible for this solicitation

**I acknowledge the receipt of \_\_\_\_\_ addendums.**

Signature: \_\_\_\_\_

Email Address: \_\_\_\_\_

Direct Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Martin J. Dolphin, P.E.  
Assistance Director

Date: September 10, 2021



# **ATTACHMENT 1**



# **Program Requirements and Bid Packet for Contracts Funded with New York State Financial Assistance Only**

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**Recipient to Identify Contract Type:**

☐ **Construction**

☐ **Non-Construction**

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Effective October 1, 2020

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

## Table of Contents

<b>PART 1: HOW TO USE THIS DOCUMENT .....</b>	<b>4</b>
<b>PART 2: REQUIRED CONTRACT LANGUAGE .....</b>	<b>6</b>
SECTION 1    REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR 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 .....	9
C.    Requests for Waiver .....	9
D.    Monthly MWBE Contractor Compliance Report ("Monthly MWBE-SDVOB Report") .....	9
E.    Liquidated Damages - MWBE Participation.....	9
SECTION 2    PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES .....	10
I.    General Provisions .....	10
II.   Contract Goals .....	10
III.  SDVOB Utilization Plan.....	11
IV.   Request for Waiver .....	11
V.    Monthly SDVOB Contractor Compliance Report ("Monthly MWBE-SDVOB Report") .....	11
VI.   Breach of Contract and Damages.....	11
SECTION 3    REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT .....	12
<b>PART 3: GUIDANCE MATERIALS .....</b>	<b>13</b>
APPLICABILITY OF PROGRAM REQUIREMENTS .....	13
SECTION 1    GUIDANCE FOR THE REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN .....	14
I.    Summary of EEO and MWBE Forms.....	14
A.    Forms to be Submitted Prior to Contract Execution .....	14
B.    Forms to be Submitted During the Term of the Contract.....	14
II.   Business Participation Opportunities for MWBEs .....	14
A.    Contract Goals .....	14
B.    Good Faith Efforts .....	15
C.    Review of the MWBE Utilization Plan .....	16
D.    Eligibility for MWBE Participation Credit .....	16
E.    Requests for Waiver .....	17
III.  Subcontractor's Responsibilities .....	18
IV.   Protests/Complaints .....	18
V.    Waste, Fraud and Abuse .....	18
SECTION 2    GUIDANCE FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES ("SDVOB") PARTICIPATION OPPORTUNITIES.....	19
I.    Summary of SDVOB Forms.....	19
A.    Forms to be Submitted Prior to Contract Execution .....	19
B.    Forms to be Submitted During the Term of the Contract.....	19
II.   SDVOB Participation Opportunities .....	19
A.    Contract Goals .....	19
B.    Good Faith Efforts .....	19
C.    Review of the SDVOB Utilization Plan.....	21
D.    Eligibility for SDVOB Participation Credit.....	21

E.	Requests for Waiver .....	21
III.	Subcontractor's Responsibilities .....	22
IV.	Protests/Complaints .....	22
V.	Waste, Fraud and Abuse .....	23
SECTION 3	GUIDANCE FOR REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT.....	23
SECTION 4	GUIDANCE FOR APPLICABLE LABOR STANDARDS .....	23
SECTION 5	SUMMARY OF CONTRACTOR REQUIREMENTS FOR STATE FINANCIAL ASSISTANCE PROJECTS .....	24
<b>Attachments (Required Forms)</b>	.....	<b>25</b>
Attachment 1 – EEO Policy Statement .....		26
Attachment 2 – EEO Staffing Plan .....		27
Attachment 3 – EEO Workforce Utilization Report .....		28
Attachment 4 – MWBE Utilization Plan .....		29
Attachment 5 – MWBE Waiver Request Form .....		30
Attachment 6 – Monthly MWBE-SDVOB Contractor Compliance Report .....		31
Attachment 7 – SDVOB Utilization Plan .....		32
Attachment 8 – SDVOB Waiver Request Form .....		33

# PART 1: HOW TO USE THIS DOCUMENT

The New York State Environmental Facilities Corporation (“EFC”) implements various State financial assistance programs, including but not limited to the Engineering Planning Grant program, Water Infrastructure Improvement Act (“WIIA”) Grant program as well as the Intermunicipal Grant (“IMG”) program.

This document contains (1) a brief description of State program requirements for Contracts and Subcontracts funded by State financial assistance, (2) required language for such Contracts and Subcontracts to satisfy State financial assistance program requirements, including required forms, and (3) guidance materials to assist entities in complying with these requirements.

## PROGRAM REQUIREMENTS

The following requirements apply to projects funded with State financial assistance only:

- 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 of Service-Disabled Veteran-Owned Business Enterprises (“SDVOB”) pursuant to New York State Executive Law, Article 17-B and 9 NYCRR Part 252;
- Applicable State and/or local prevailing wage requirements; and,
- Requirements regarding suspension and debarment pursuant to State Labor Law § 220-b and State Executive Law § 316.

EFC or its authorized representatives, and other governmental entities as applicable, reserve the right to conduct occasional site inspections to monitor compliance with State financial assistance 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](http://www.efc.ny.gov) 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 State financial assistance, in order for State financial assistance Recipients, Contractors, and Subcontractors to comply with the above-listed State financial assistance program requirements.

## **GUIDANCE MATERIALS**

Part 3 of this document sets forth Guidance Materials intended to assist State financial assistance Recipients, Contractors, and Subcontractors in complying with the foregoing State financial assistance 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 financial assistance 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.

# PART 2: REQUIRED CONTRACT LANGUAGE

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## Recipient to Identify Contract Type:

☐ **Construction**

☐ **Non-Construction**

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

For purposes of this section:

**“Non-Construction”** shall mean Contracts for labor, services (including, but not limited to, legal, financial, and other professional services), supplies, equipment, materials, or any combination of the foregoing.

The Minority- and Women- Owned Business Enterprises (“MWBE”) and Equal Employment Opportunities requirements of this section apply to the Contracts or Subcontracts meeting the thresholds under New York State Executive Law Article 15-A as follows:

- (a) Non-Construction Contracts greater than \$25,000;
- (b) Non-Construction Contracts, that are initially under \$25,000 but subsequent change orders or contract amendments increase the Contract value to above \$25,000;
- (c) Construction Contracts greater than \$100,000; and,
- (d) Construction Contracts that are initially under \$100,000 but subsequent change orders or contract amendments increase the Contract value to above \$100,000.

#### I. General Provisions

- A. Contractors and Subcontractors are required to comply with 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, 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 of real property and improvements thereon.
- B. 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.
- C. If any terms or provisions herein conflict with Executive Law Article 15-A or the MWBE Regulations, such law and regulations shall supersede these requirements.

- D. 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 State financial assistance 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 State financial assistance projects.
  2. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract relating to this State financial assistance 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), 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. Required EEO Forms
1. EEO Staffing Plan  
*Non-Construction Contracts and Subcontracts only*  
To ensure compliance with this section, the Contractor represents that it has submitted prior to execution of this Contract an EEO Staffing Plan to the Recipient's MBO to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and federal occupational categories.



2. 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 during the term of the Contract. For construction Contracts, Workforce Reports must be submitted on a monthly basis; for non-construction Contracts, Workforce Reports must be submitted on a quarterly basis.
- 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*
NYS financial assistance only	30%
Engineering Planning Grant	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 MWBEs found at the following internet address: <https://ny.newnycontracts.com>.
3. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards achievement of applicable MWBE participation goals.
  - a. For construction and construction-related services Contracts or Subcontracts, the portion of the Contract or Subcontract with an MWBE serving as a supplier, and so designated in ESD's Directory, that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the Contract or Subcontract. The portion of a Contract or Subcontract with an MWBE serving as a broker, as denoted by NAICS code 425120, that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.
  - b. For non-construction Contracts or Subcontracts, the portion of a Contract or Subcontract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract
4. 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.
5. 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-SDVOB 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 Monthly MWBE-SDVOB Contractor Compliance Report or 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-SDVOB 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-SDVOB 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-SDVOB Report must reflect all Utilization Plan revisions and change orders.

**E. 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 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES**

For purposes of this section:

**"Non-Construction"** shall mean Contracts for labor, services (including, but not limited to, legal, financial, and other professional services), supplies, equipment, materials, or any combination of the foregoing.

The requirements of this section apply to Contracts or Subcontracts meeting the thresholds under New York State Executive Law, Article 17-B as follows:

- (a) Non-Construction Contracts greater than \$25,000;
- (b) Non-Construction Contracts, that are initially under \$25,000 but subsequent change orders or contract amendments increase the Contract value to above \$25,000;
- (c) Construction Contracts greater than \$100,000; and,
- (d) Construction Contracts that are initially under \$100,000 but subsequent change orders or contract amendments increase the Contract value to above \$100,000.

### **I. General Provisions**

Contractors and Subcontractors are required to comply with New York State Executive Law Article 17-B and 9 NYCRR Part 252 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.

### **II. Contract Goals**

- A. EFC hereby establishes an overall goal of 6% for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Contractor should reference the directory of New York State Certified SDVOBs found at: <https://online.ogs.ny.gov/SDVOB/search>.
- B. Pursuant to 9 NYCRR § 252.2(n), Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract.

### **III. SDVOB Utilization Plan**

- A. In accordance with 9 NYCRR § 252.2(i), Contractor represents and warrants that it has submitted a completed SDVOB Utilization Plan to Recipient prior to the execution of this Contract.
- B. Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goal set forth above.
- C. Contractor further agrees that a failure to use SDVOBs as agreed in the 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 of Contractor non-responsibility.
- D. 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-SDVOB Contractor Compliance Report after the changes occurred. At EFC's discretion, an updated SDVOB 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.
- E. The Contractor shall submit copies of all fully executed subcontracts, agreements, and purchase orders that are referred to in the SDVOB Utilization Plan to the MBO within 30 days of their execution.

### **IV. Request for Waiver**

- A. If Contractor, after making good faith efforts, is unable to comply with the SDVOB Contract goal, Contractor may submit a request for a partial or total waiver to the Recipient, documenting good faith efforts by Contractor to meet such goal. 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.
- B. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to the Recipient, but must be made no later than prior to the submission of a request for final payment on the Contract.  
If the Recipient, upon review of the SDVOB Utilization Plan and Monthly SDVOB Contractor Compliance Report determines that Contractor is failing or refusing to comply with the SDVOB Contract goal and no waiver has been issued in regards to such non-compliance, the Recipient may issue a notice of deficiency to Contractor. Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB Contract goals.

### **V. Monthly SDVOB Contractor Compliance Report ("Monthly MWBE-SDVOB Report")**

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report monthly SDVOB contractor compliance to the Recipient during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. The Contractor agrees to submit a report on to the Recipient by the third business day following the end of each month over the term of this Contract. The Monthly MWBE-SDVOB Report must be supplemented with proof of payment by the Contractor to its Subcontractors (e.g., copies of both sides of a cancelled check). The final Monthly MWBE-SDVOB Report must reflect all Utilization Plan revisions and change orders.

### **VI. Breach of Contract and Damages**

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

## **SECTION 3            REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT**

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

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.

# PART 3: GUIDANCE MATERIALS

## APPLICABILITY OF PROGRAM REQUIREMENTS

This table contains a breakdown of the applicable program requirements based on contract type and its value. For further details pertaining to each requirement, refer to the section identified in the heading. The relevant section number is the same in both Part 2 and Part 3 of this document.

Type of Contract	MWBE <a href="#">Section 1</a>	SDVOB <a href="#">Section 2</a>	EEO <a href="#">Section 1</a>	Suspension & Debarment <a href="#">Section 3</a>
<b>Construction</b>				
All				X
If greater than:				
\$100,000	X	X	X	X
<b>Non-Construction</b>				
All				X
If greater than:				
\$25,000	X	X	X	X

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

## **I.    Summary of EEO and MWBE 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 State financial assistance Recipient for MWBE and EEO purposes. This form is attached hereto as Attachment 1. See Required Contract Language, Section 1(II).

#### **2.   EEO Staffing Plan**

*Non-Construction Contracts and Subcontracts only*

To be submitted by the Contractor to the MBO prior to Contract execution. This form is attached hereto as Attachment 2. See required Contract Language, Section 1(II).

#### **3.   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. For Contracts that are not bid, it is to be submitted prior to the Contract execution date. This form is attached hereto as Attachment 3. 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 (construction Contracts) or quarterly (non-construction Contracts) basis during the term of the Contract. Instructions are attached hereto as Attachment 2. The actual Excel fillable form for Contractors and Subcontractors to complete will be e-mailed to MBOs by EFC at the start of the Contract term. See Required Contract Language, Section 1(II)(F).

#### **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 4. See Required Contract Language, Section 1(III)(C).

#### **3.   Monthly MWBE-SDVOB Contractor Compliance Report ("Monthly MWBE-SDVOB 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 5. See Required Contract Language, Section 1(III)(D).

## **II.   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, 2020. 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.

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 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.

When MWBE and SDVOB goals both apply to a contract, good faith efforts should be done simultaneously so that both types of certified firms have an equal opportunity to participate on the contract.

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 for certified MWBEs 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 winning bids received from non-MWBE firms for the same areas MWBEs were solicited should also be tracked on the log.

- 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> .

- 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.

EFC reserves the right to request additional information and/or documentation to support the adequacy of the MWBE Utilization Plan and/or waiver request.

#### C. Review of the MWBE Utilization Plan

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.

#### 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.
  - a. 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.
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. 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.
  - a. "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.

- b. For construction Contracts or Subcontracts, the following rules apply when calculating MWBE utilization:
  - i. The portion of a Contract or Subcontract with an MWBE serving as a manufacturer that shall be deemed to represent the commercially useful function performed by the MWBE shall be 100% of the total value of the Contract or Subcontract.
  - ii. the portion of a Contract or Subcontract with an MWBE serving as a supplier (as denoted by a NAICS code beginning with 423 or 424, or a NIGP code that does not begin with the number 9), and so designated in ESD's Directory, that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the Contract or Subcontract.
  - iii. the portion of a Contract or Subcontract with an MWBE serving as a broker (as denoted by NAICS code 425120) that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.
- c. For non-construction Contracts or Subcontracts, the following rules apply when calculating MWBE utilization:
  - i. the portion of a Contract or Subcontract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract. Any firms that are listed as brokers or manufacturers' representatives (NAICS code 425120) and not specifically as suppliers fall in this category.
- d. No credit will be granted for MWBEs that do not perform a commercially useful function.

#### 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. Specialty Equipment/Service Exclusion: A specialty equipment/service exclusion 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, an ESD search result for the manufacturer or manufacturer's representative, and documentation of 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.

### **III. 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. Ensure that a required EEO Policy Statement and applicable MWBE requirements are included in each subcontract.
6. 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.

### **IV. 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.

### **V. 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 NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES (“SDVOB”) PARTICIPATION OPPORTUNITIES**

### **I.      Summary of SDVOB Forms**

#### **A.    Forms to be Submitted Prior to Contract Execution**

##### **1.    SDVOB 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. For Contracts that are not bid, it is to be submitted prior to the Contract execution date. This form is attached hereto as Attachment 6. See Required Contract Language, Section 2(III).

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

##### **1.    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 prior to the submission of a request for final payment on the Contract. This form is attached hereto as Attachment 7. See Required Contract Language, Section 2(IV).

##### **2.    Monthly SDVOB Contractor Compliance Report (“Monthly MWBE-SDVOB 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 5. See Required Contract Language, Section 2(V).

### **II.    SDVOB Participation Opportunities**

#### **A.    Contract Goals**

The goals provided herein (Required Contract Language, Section 2(II)(A)) are effective as of October 1, 2020. The SDVOB participation goal for a contract will be based on the goal in place at the time of the execution date of each respective contract, unless otherwise specified. Following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or <https://online.ogs.ny.gov/SDVOB/search> to discuss additional methods of maximizing participation by SDVOBs on the Contract.

#### **B.    Good Faith Efforts**

The Contractor must make good faith efforts to develop an adequate SDVOB Utilization Plan and must continue such good faith efforts in order to meet applicable SDVOB participation goal. The Contractor shall maintain documentation of good faith efforts to solicit participation of SDVOB firms for State financial assistance projects. If a Contractor is unable to meet the contract SDVOB participation goal, and submits a Request for Waiver, documentation of such good faith efforts must accompany the request. See Required Contract Language, Section 2(II)(B).

When MWBE and SDVOB goals both apply to a contract, good faith efforts should be done simultaneously so that both types of certified firms have an equal opportunity to participate on the contract.

Contractor should also continue good faith efforts to seek opportunities for SDVOB 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 SDVOBs.
- A list of vendors from the directory of Certified SDVOBs on OGS's website 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 SDVOB firms in OGS's Certified SDVOB 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 SDVOBs for participation as Subcontractors or suppliers pursuant to a contract. The log should consist of the list of SDVOB 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	Company	Scope of work	Contact Name	Phone/ Email	Solicitation Format	SDVOB 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-SDVOB firms for the same areas SDVOBs were solicited should also be tracked on the log.

- Copies of any advertisements of sufficient duration to effectively seek participation of certified SDVOBs timely published in appropriate general circulation, trade 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 SDVOB firm solicitation and should include the non-SDVOB firms that responded and the bid prices. Any negotiations should be documented in the log.
- Documents demonstrating that insufficient SDVOBs are reasonably available to perform the work.
- A written demonstration that the Contractor offered to make up any inability to meet the project SDVOB participation goal in other contracts and/or agreements performed by the Contractor on another State financial assistance project.
- The date of pre-bid, pre-award, or other meetings scheduled by the Recipient, if any, and the contact information of any SDVOBs 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 SDVOB participation in their work. For instance, Prime Contractors and MBOs should develop a list of SDVOB firms that have expressed interest in working on State financial assistance projects.

- EFC reserves the right to request additional information and/or documentation to support the adequacy of the SDVOB Utilization Plan.

#### C. Review of the SDVOB Utilization Plan

1. The MBO will evaluate a completed SDVOB 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.

#### D. Eligibility for SDVOB Participation Credit

1. To receive SDVOB participation credit, Contractors or Subcontractors performing work that have been identified in an approved SDVOB Utilization Plan must be certified as an SDVOB by the Office of General Services' Division of Service-Disabled Veterans' Business Development.
2. Prime Contractors may also include second or lower tier Subcontractors (Subcontractors hired by Subcontractors) on their SDVOB Utilization Plan.
3. Credit for SDVOB participation shall be granted only for SDVOB firms performing a commercially useful business function according to custom and practice in the industry. An SDVOB 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.
  - a. "Commercially useful functions" normally include:
    - v. Providing technical assistance to a purchaser prior to a purchase, during installation, and after the supplies or equipment are placed in service;
    - vi. Manufacturing or being the first tier below the manufacturer of supplies or equipment;
    - vii. Providing functions other than merely accepting and referring requests for supplies or equipment to another party for direct shipment to a Contractor; or,
    - viii. Being responsible for ordering, negotiating price, and determining quality and quantity of materials and supplies.
4. A Contractor or subcontractor who is certified as both an SDVOB and MWBE may receive participation credit under both programs for its work on a contract or subcontract.

#### E. Requests for Waiver

1. If the Contractor's application of good faith efforts does not result in the utilization of SDVOB firms to achieve the aforementioned goals or a specialty equipment/service waiver is requested, the Contractor may request a full or partial waiver of SDVOB 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 2(IV).
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 SDVOB responsibilities.
3. In cases where EFC accepts a full or partial waiver of SDVOB participation goals, the waiver request will be posted to EFC's website.

4. Specialty Equipment/Service Exclusion: A specialty equipment/service exclusion may be granted in cases where:
  - a. equipment is made by only one non- SDVOB manufacturer,
  - b. the technical specifications call for equipment that is not available through an SDVOB supplier;
  - c. the equipment is constructed on site by specially trained non-SDVOB labor;
  - d. the service is not available through an SDVOB (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 SDVOB 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 SDVOB Eligible Amount and the goals will be applied to the SDVOB Eligible Amount. This determination is made at the discretion of the MBO and EFC.

Example:  
$$\begin{array}{rcl} \$200,000 & - & \$50,000 \\ \text{(Contract)} & \text{(Specialty equipment/service)} & \\ \hline & & = \$150,000 \\ & & \text{(SDVOB Eligible Amount)} \end{array}$$

The SDVOB goal is applied to the SDVOB 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.

### III. Subcontractor's Responsibilities

Subcontractors should:

1. Maintain their SDVOB certification and notify the Contractor and MBO of any change in their certification status.
2. Notify the Contractor of any SDVOB 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. 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 SDVOB Utilization Plan.

### IV. Protests/Complaints

Contractors or Subcontractors who have any concerns, issues, or complaints regarding the implementation of any EFC State financial assistance SDVOB 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.

## **V. Waste, Fraud and Abuse**

Subcontractors, Contractors, or Recipients who know of or suspect any instances of waste, fraud, or abuse within the SDVOB Program should notify the project MBO and EFC immediately. Additionally, suspected fraud activity should be reported to the New York State Office of Inspector General at (800) 367-4448.

## **SECTION 3 GUIDANCE FOR REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT**

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 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 5 SUMMARY OF CONTRACTOR REQUIREMENTS FOR STATE FINANCIAL ASSISTANCE PROJECTS

Forms can be found as attachments to this document or online at [www.efc.ny.gov](http://www.efc.ny.gov)

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

### To be submitted with the bid:

- ☐ EEO Policy Statement

**Refer to Part 3  
Guidance Section  
Section 1**

### To be submitted prior to or upon Contract award or execution:

- ☐ Executed Subcontracts, agreements, and purchase orders
- ☐ EEO Policy Statement (when the contract is not bid)
- ☐ MWBE Utilization Plan and/or Waiver Request
- ☐ SDVOB Utilization Plan and/or Waiver Request
- ☐ EEO Staffing Plan

Section 1  
Section 1  
Section 2  
Section 1

### Tasks for construction start:

- ☐ Ensure that all Subcontracts contain Part 2: Required Contract Language
- ☐ Pay the higher of applicable prevailing state or local wages including benefits

Section 3

### Ongoing documentation & tasks:

- ☐ EEO Workforce Utilization Report to EFC
- ☐ Submit Monthly MWBE-SDVOB Reports to MBO
- ☐ Maintain proof of payments for MWBE Subcontractors
- ☐ Maintain proof of payments for SDVOB Subcontractors

Section 1  
Section 1/2  
Section 1  
Section 2

## **Attachments (Required Forms)**

## Attachment 1 – EEO Policy Statement



## New York State Environmental Facilities Corporation EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT NEW YORK STATE FINANCIAL ASSISTANCE PROGRAMS

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 Water Grant projects.
- (ii) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract relating to this Water Grant 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. 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 – EEO Staffing Plan

**New York State Environmental Facilities Corporation  
Equal Employment Opportunity (EEO) Staffing Plan**

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

**Report Includes – Please select one from the options below:**

- ☐ Workforce utilized on this contract
- ☐ Contractor/subcontractor's total workforce

**Reporting Entity – Please select one from the options below:**

- ☐ Prime Service Provider
- ☐ Subcontractor

Job Categories	Hispanic/ Latino		Not Hispanic or 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														
<b>TOTAL</b>														
Journeypersons														
Apprentices														
Trainees														

**Electronic Signature of Service Provider:** ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge.  
Name (Please Type):

Date:

**New York State Environmental Facilities Corporation  
Equal Employment Opportunity (EEO) Staffing Plan  
INSTRUCTIONS**

All Service Providers (including legal, engineering, financial advisory or other professional services, and labor) and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan and submit it no later than the date of execution of the contract to the Recipient's Minority Business Officer (MBO). Where the work force to be utilized in the performance of the contract **can** be separated out from the contractor's or subcontractors' total work force, the contractor shall complete this form *only for the anticipated work force to be utilized on the contract*. Where the work force to be utilized in the performance of the contract **cannot** be separated out from the contractor's or subcontractors' total work force, the contractor shall complete this form for the contractor's or subcontractors' *total work force*.

**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** – A person having 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 (Non-Hispanic or Latino) five races.

**DESCRIPTION OF JOB CATEGORIES:** The major job categories used in EEO Staffing Plan 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.

See the bid packet at [www.efc.ny.gov/mwbe](http://www.efc.ny.gov/mwbe) or your designated MBO for further guidance.

## **Attachment 3 – EEO Workforce Utilization Report**



## **Instructions for Completing and Submitting the Equal Employment Opportunity Workforce Utilization Report State Financial Assistance Only**

The Equal Employment Opportunity (“EEO”) Workforce Utilization Report (“Report”) is used by contractors and subcontractors to report the actual workforce utilized in the performance of the contract broken down by job title for a particular reporting period. When the workforce utilized in the performance of the contract can be separated out from the contractor’s and/or subcontractor’s total workforce, the contractor and/or subcontractor shall submit a Report of the 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, information on the contractor’s and/or subcontractor’s total workforce shall be included in the Report.

### **Instructions for Completing the Report**

1. **Reporting Entity.** Check off the appropriate box to indicate if the entity completing the Report is the contractor or a subcontractor.
2. **Federal Employer Identification Number (“FEIN”).** Enter the FEIN assigned by the Internal Revenue Service (“IRS”) to the contractor or subcontractor for which the Report has been prepared. If the contractor or subcontractor uses a social security number instead of a FEIN, leave this field blank. The contractors and subcontractors for recipients of a grant only (such as an Engineering Planning Grant (EPG), a Water Infrastructure Improvement Act (WIIA) grant, or an Intermunicipal Grant Program (IMG) grant) do not need to fill out this section of the Report.
3. **Name.** Enter the name of the contractor or subcontractor for which the Report has been prepared.
4. **Address.** Enter the address of the contractor or subcontractor for which the Report has been prepared.
5. **Contract Number.** Enter the number of contract that the Report applies to, if applicable.
6. **Reporting Period / Month.** Check off the box that corresponds to the applicable quarterly or monthly (not both) reporting period for this Report. The Report is to be submitted on a monthly basis for construction contracts, and a quarterly basis based on the calendar quarter for all other contracts, during the life of the contract.
7. **Workforce Identified in Report.** Check off the appropriate box to indicate if the workforce being reported is just for the contract or the contractor’s or subcontractor’s total workforce.
8. **Preparer’s Name, Preparer’s Title, Date.** Enter the name and title for the person completing the Report, enter the date upon which the Report was completed, and check the box accepting the name entered into the Report as the digital signature of the preparer.
9. **Occupation Classifications (SOC Major Group) and SOC Job Title.** First, enter the applicable Occupation Classification (SOC Major Group) so a dropdown menu appears under SOC Job Title. Choose the SOC Job Title that best describes the worker.
10. **EEO Job Title and SOC Job Code.** The EEO Job Title and the SOC Job Code will automatically populate in the spreadsheet based upon the Occupation Classifications (SOC Major Group) and SOC Job Title selected. Please do not modify the information populated in these fields.

**11. Race/Ethnic Identification.** Race/ethnic designations do not denote scientific definitions of anthropological origins. For the purposes of this Report, an employee must be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this Report are:

- **WHITE** (not of Hispanic origin) all persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK/AFRICAN AMERICAN** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC/LATINO** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN, NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE AMERICAN/ALASKAN NATIVE** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

**12. Number of Employees and Number of Hours.** Enter the number of employees and the total number of hours worked by such employees for each SOC Job Title under the columns corresponding to the gender and racial/ethnic groups with which the employees most closely identify.

**13. Total Gross Wages.** Enter the total gross wages paid to all employees for each SOC Job Title, each gender, and each racial/ethnic group. Contractors and subcontractors should report only gross wages for work on the contract paid to employees during the period covered by the Report. Gross wages are those reported by employers to employees on their wage statements. Gross wages are defined more specifically by 20 NYCRR § 2380.4 and typically include every form of compensation for employment paid by an employer to his, her, or its employees, whether paid directly or indirectly by the employer, including salaries, commissions, bonuses, tips, and the reasonable value of board, rent, housing, lodging, or similar advantage received. The contractors and subcontractors for recipients of a grant only (such as an EPG, a WIIA, or an IMG grant) do not need to fill out this section of the Report.

**14. For EFC Use Only.** This section is for EFC use only and does not need to be filled out by the contractor/subcontractor.

### **Instructions for Submitting the Report**

The Report is to be submitted on a monthly basis for construction contracts, and a quarterly basis based on the calendar quarter for all other contracts, during the life of the contract.

EFC will provide a Report form in Excel format to the Recipient's Minority Business Officer ("MBO"). The Recipient's MBO is responsible for providing the Report form to all contractors. Each contractor is responsible for providing the Report form to all subcontractors.

Reports are to be submitted electronically in Excel format, using the Report form provided, within ten (10) days of the end of each month or quarter, whichever is applicable. For example, the January monthly Report for a construction contract is due by February 10<sup>th</sup> and the January – March quarterly Report for a non-construction contract is due by April 10<sup>th</sup>

Once the Report form has been completed, each contractor/subcontractor must submit the Report form to EFC and the Recipient's MBO. The Report form must be submitted to EFC according to the following instructions:

1. Go to [www.efc.ny.gov/mwbe-eeo](http://www.efc.ny.gov/mwbe-eeo) , click on EEO Forms and Guidance, Click on Report Submission.
2. Enter the requested information pursuant to the instructions on the page. Make sure to choose the correct applicable funding program (non-SRF Grant Only (e.g. EPG, WIIA, IMG)) and the correct reporting period (reporting quarter for non-construction OR reporting month for construction). Enter the reporting period of the data, not the date it's submitted.
3. Submit your Report(s) pursuant to the instructions on the page.
4. If you are a contractor, use the naming convention provided by EFC (in the "For EFC Use Only" section of the Report form) for naming the file for upload (i.e., Funding Program – Project Number– Contractor short name (up to fifteen characters) – MWBE ID). The funding program should be GO (non-SRF grant only). If you are a subcontractor, use the naming convention provided by EFC and replace the contractor's short name with the first fifteen characters of the subcontractor's name, omitting any spaces or special characters.

### **Questions**

If you have questions about or require assistance completing or submitting the Report, please contact EFC at [mwbe@efc.ny.gov](mailto:mwbe@efc.ny.gov) or 518-402-6924.

## **Attachment 4 – MWBE Utilization Plan**

**NYS 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 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 on EFC's website.

**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. Please note whether a firm is serving as a broker or supplier on the contract. A broker is denoted by NAICS code 425120 and is designated as a broker in ESD's MWBE Directory. A supplier is denoted by a NAICS code beginning with 423 or 424, or a NIGP code that does not begin with the number 9, and is designated as a supplier in ESD's MWBE Directory. If a firm is serving as a broker, please additionally provide the percentage of the broker's commission on the contract.

See the Bid Packet at [www.efc.ny.gov](http://www.efc.ny.gov) 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, Project Number, Contractor." EFC will review the Utilization Plan and notify the MBO via e-mail of its acceptance or denial.

**NYS Environmental Facilities Corporation  
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan**

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

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION				
<b>Firm Name:</b>			<b>Contract Type:</b> <input type="checkbox"/> Construction <input type="checkbox"/> Other Services	
<b>Prime Firm is Certified as:</b> <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 or WBE.				
<b>Address:</b>		<b>Phone #:</b>		<b>Fed. Employer ID #:</b>
<b>Description of Work:</b>				
<b>Award Date:</b>	<b>Start Date:</b>	<b>Completion Date:</b>	<b>MWBE GOAL Total</b>	<b>PROPOSED MWBE Participation</b>
<b>Total Contract Amount: \$</b> <b>MWBE Eligible Contract Amount: \$</b> (MWBE Goals are applied to this amount and includes all change orders, amendments, & waivers)			<b>MBE:</b> %    \$	<b>MBE:</b> %    \$
			<b>WBE:</b> %    \$	<b>WBE:</b> %    \$
			<b>Total:</b> %    \$	<b>Total:</b> %    \$

**NYS Environmental Facilities Corporation  
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan**

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

**NYS Environmental Facilities Corporation  
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan**

SECTION 3: M/WBE SUBCONTRACTOR INFORMATION continued				
<b>Name:</b>	<b>Fed. Employer ID#:</b>			
<b>Address:</b>	<b>Phone #:</b>			
<b>Scope of Work:</b>	<b>Email:</b>			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Select Only One:</b> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>			
<b>Full Contract Amount: \$</b>				
<b>Name:</b>	<b>Fed. Employer ID#:</b>			
<b>Address:</b>	<b>Phone #:</b>			
<b>Scope of Work:</b>	<b>Email:</b>			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Select Only One:</b> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>			
<b>Full Contract Amount: \$</b>				
<b>Name:</b>	<b>Fed. Employer ID#:</b>			
<b>Address:</b>	<b>Phone #:</b>			
<b>Scope of Work:</b>	<b>Email:</b>			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Select Only One:</b> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>			
<b>Full Contract Amount: \$</b>				
<b>Name:</b>	<b>Fed. Employer ID#:</b>			
<b>Address:</b>	<b>Phone #:</b>			
<b>Scope of Work:</b>	<b>Email:</b>			
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>			
<b>Select Only One:</b> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>			
<b>Full Contract Amount: \$</b>				
<b>SIGNATURE</b>				
<b>Electronic Signature of Contractor:</b> <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. <b>Name (Please Type):</b>				<b>Date:</b>



## **Attachment 5 – MWBE Waiver Request Form**

**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 Recipient's designated Minority Business Officer (MBO).** Incomplete forms will be found deficient.

See the Bid Packet at [www.efc.ny.gov](http://www.efc.ny.gov) 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, Project 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:	
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:			<b>EFC MWBE GOAL Total</b>	
Award Date:	Start Date:	Completion Date:	<b>MBE:</b>	% \$
Total Contract Amount: \$ MWBE Eligible Contract Amount: \$ (MWBE Goals are applied to this amount and includes all change orders, amendments, & waivers)			<b>WBE:</b>	% \$
			<b>Total:</b>	% \$

**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 Exclusion** (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 Exclusion is requested, it must be accompanied by the documentation requested in items 1 - 13. If a Specialty Services Exclusion 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

**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 Exclusions:**

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 executed purchase order showing the value of the equipment.

**Additional Documentation for Requests for Specialty Service Exclusions:**

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 – Monthly MWBE-SDVOB Contractor Compliance Report**

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

**Instructions:**

- Contractors are to complete the report in Word version and email to the Recipient's Minority Business Officer ("MBO") on a monthly basis.
- If you require additional pages, you may find them on EFC's website at [www.efc.ny.gov](http://www.efc.ny.gov).
- 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:	
Project No.:		GIGP/EPG No:		Registration No. (NYC only):				
Prime Contractor/Service Provider:				Award Date:		Start Date:		
<b>Date all MWBE / SDVOB subs paid in full:</b>								
<b>Signature of Contractor:</b> <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: \$ Revised Contract Amt: \$  Change Order Amt: \$	<b>MWBE Eligible Amt: \$</b> (Goals are applied to this amount and includes eligible change orders, amendments & waivers)		<b>EFC MWBE Goals</b>			<b>Total Paid to Prime</b>		
			MBE: % WBE: % Total: %	MBE Amt: \$ WBE Amt: \$ Total Amt: \$		Total Paid this Month: \$ Total Paid to Date: \$		
			<b>EFC SDVOB Goals</b>					
	<b>SDVOB Eligible Amount \$</b>		SDVOB 6 %	SDVOB Amt: \$				
<b>NYS Certified MWBE / SDVOB Contractor &amp; Subcontractor</b>		<b>Please Specify Any Revisions this Month.</b>		<b>Subcontractor Total Amount</b>		<b>Payments this Month</b>	<b>Previous Payments</b>	<b>Total Payments Made to Date</b>
				Original      Revised				
Name: Fed. Employer ID#: Choose all that apply: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: MWBE Only - Select Only One: <input type="checkbox"/> Broker ____% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A		<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#: Choose all that apply: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: MWBE Only - Select Only One: <input type="checkbox"/> Broker ____% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A		<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED						

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

NYS Certified M/WBE / SDVOB 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#: <u>Choose all that apply:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: <u>MWBE Only - Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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>Choose all that apply:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: <u>MWBE Only - Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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>Choose all that apply:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: <u>MWBE Only - Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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>Choose all that apply:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: <u>MWBE Only - Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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>Choose all that apply:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: <u>MWBE Only - Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					

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

NYS Certified M/WBE / SDVOB 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>Choose all that apply:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: <u>MWBE Only - Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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>Choose all that apply:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: <u>MWBE Only - Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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>Choose all that apply:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: <u>MWBE Only - Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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>Choose all that apply:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: <u>MWBE Only - Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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>Choose all that apply:</u> <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: <u>MWBE Only - Select Only One:</u> <input type="checkbox"/> Broker ___% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<input type="checkbox"/> Subcontractor is REMOVED <input type="checkbox"/> NEW Subcontractor <input type="checkbox"/> Subcontract Amt. INCREASED <input type="checkbox"/> Subcontract Amt. DECREASED					



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

NYS Certified M/WBE / SDVOB 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#: Choose all that apply: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: MWBE Only - Select Only One: <input type="checkbox"/> Broker __% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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#: Choose all that apply: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: MWBE Only - Select Only One: <input type="checkbox"/> Broker __% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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#: Choose all that apply: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: MWBE Only - Select Only One: <input type="checkbox"/> Broker __% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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#: Choose all that apply: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDVOB <input type="checkbox"/> DSDVBD Control #: MWBE Only - Select Only One: <input type="checkbox"/> Broker __% <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<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 <a href="http://www.efc.ny.gov">www.efc.ny.gov</a> TOTAL						
Please explain any revisions and note the scope of work that new subcontractors will be providing. Please note that change orders over \$25K may require that good faith efforts be made to obtain additional participation:						

## **Attachment 7 – SDVOB Utilization Plan**

**NYS Environmental Facilities Corporation  
Service Disabled Veteran-Owned Business (SDVOB) 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 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 on EFC's website.

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

The utilization of certified SDVOBs for non-commercially useful functions may not be counted towards utilization of certified SDVOBs in the Utilization Plan. SDVOB firms must be certified by NYS Office of General Services in order to be counted towards satisfaction of SDVOB participation goals.

See the Bid Packet at [www.efc.ny.gov](http://www.efc.ny.gov) 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-SDVOB Representative.**

The subject heading of the e-mail to the EFC MWBE-SDVOB Representative should follow the format "UP, Project 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.

**NYS Environmental Facilities Corporation  
Service Disabled Veteran-Owned Business (SDVOB) Utilization Plan**

**SECTION 1: MUNICIPAL INFORMATION**

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

**SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION**

<b>Firm Name:</b>			<b>Contract Type:</b> <input type="checkbox"/> Construction <input type="checkbox"/> Other Services		
<b>Prime Firm is Certified as:</b> <input type="checkbox"/> SDVOB Please repeat information in the Utilization Plan below (Section 3).					
<b>Address:</b>		<b>Phone #:</b>		<b>Fed. Employer ID #:</b>	
<b>Description of Work:</b>					
<b>Award Date:</b>	<b>Start Date:</b>	<b>Completion Date:</b>	<b>SDVOB GOAL Total</b>	<b>PROPOSED SDVOB Participation</b>	
<b>Total Contract Amount: \$</b> <b>SDVOB Eligible Contract Amount: \$</b> (Goals are applied to this amount and includes all change orders, amendments, & waivers)			<b>Total: 6% \$</b>		
				<b>Total:        % \$</b>	

**NYS Environmental Facilities Corporation  
Service Disabled Veteran-Owned Business (SDVOB) Utilization Plan**

**SECTION 3: SDVOB SUBCONTRACTOR INFORMATION**

<b>This Submittal is:</b>	<input type="checkbox"/> The First/Original Utilization Plan <input type="checkbox"/> Revised Utilization Plan #:		
NYS Certified SDVOB Subcontractor Info		Participation: SDVOB (\$)	For EFC Use:
Name:	Fed. Employer ID#:		
Address:	DSDVBD Control #:		
Scope of Work:	Phone #:		
Full Subcontract Amount: \$	Email:		
Start Date:	Completion Date:		
Name:	Fed. Employer ID#:		
Address:	DSDVBD Control #:		
Scope of Work:	Phone #:		
Full Subcontract Amount: \$	Email:		
Start Date:	Completion Date:		
Name:	Fed. Employer ID#:		
Address:	DSDVBD Control #:		
Scope of Work:	Phone #:		
Full Subcontract Amount: \$	Email:		
Start Date:	Completion Date:		
Name:	Fed. Employer ID#:		
Address:	DSDVBD Control #:		
Scope of Work:	Phone #:		
Full Subcontract Amount: \$	Email:		
Start Date:	Completion Date:		

**NYS Environmental Facilities Corporation  
Service Disabled Veteran-Owned Business (SDVOB) Utilization Plan**

SECTION 3: SDVOB SUBCONTRACTOR INFORMATION continued			
Name:	Fed. Employer ID#:		
Address:	DSDVBD Control #:		
Scope of Work:	Phone #:		
Full Subcontract Amount: \$	Email:		
Start Date:	Completion Date:		
Name:	Fed. Employer ID#:		
Address:	DSDVBD Control #:		
Scope of Work:	Phone #:		
Full Subcontract Amount: \$	Email:		
Start Date:	Completion Date:		
Name:	Fed. Employer ID#:		
Address:	DSDVBD Control #:		
Scope of Work:	Phone #:		
Full Subcontract Amount: \$	Email:		
Start Date:	Completion Date:		
Name:	Fed. Employer ID#:		
Address:	DSDVBD Control #:		
Scope of Work:	Phone #:		
Full Subcontract Amount: \$	Email:		
Start Date:	Completion Date:		

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

## **Attachment 8 – SDVOB Waiver Request Form**

**NYS Environmental Facilities Corporation  
Service Disabled Veteran Owned Business (SDVOB) 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 Recipient's designated Minority Business Officer (MBO).** Incomplete forms will be found deficient.

See the Bid Packet at [www.efc.ny.gov](http://www.efc.ny.gov) 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-SDVOB Representative.** The subject heading of the e-mail to the EFC MWBE-SDVOB Representative should follow the format "Waiver Request, Project Number, Contractor." EFC will review and notify the MBO via e-mail of its acceptance or denial.

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

**SECTION 1: MUNICIPAL INFORMATION**

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

**SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION**

<b>Firm Name:</b>			<b>Contract Type:</b> <input type="checkbox"/> Construction <input type="checkbox"/> Other Services		
<b>Address:</b>		<b>Phone #:</b>		<b>Fed. Employer ID #:</b>	
<b>Contact Information of Firm Representative Authorized to Discuss Waiver Request:</b>					
<b>Name:</b>		<b>Title:</b>		<b>Phone #:</b>	
				<b>E-mail:</b>	
<b>Description of Work:</b>			<b>EFC SDVOB GOAL Total</b>		
<b>Award Date:</b>	<b>Start Date:</b>	<b>Completion Date:</b>		<b>Total: 6 %    \$</b>	
<b>Total Contract Amount: \$</b>					
<b>SDVOB Eligible Contract Amount: \$</b> (SDVOB Goals are applied to this amount and includes all change orders, amendments, & waivers)					

**SECTION 3: TYPE OF SDVOB WAIVER REQUESTED**



**NYS Environmental Facilities Corporation  
Service Disabled Veteran Owned Business (SDVOB) Waiver Request Form**

1. ☐ **Full Waiver** (No SDVOB participation)
2. ☐ **Partial Waiver** (Less than the SDVOB goal; indicate below the proposed SDVOB participation)

**PROPOSED SDVOB Participation**

**Total:**        %    \$

3. ☐ **Specialty Equipment/Services Exclusion** (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 Exclusion is requested, it must be accompanied by the documentation requested in items 1 - 13. If a Specialty Services Exclusion 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, in which you solicited SDVOBs for the purposes of complying with your participation goal, with the dates of publication.
3. A list of firms found as a result of a search (by business description or commodity code) of OGS's SDVOB Directory and solicited for purposes of complying with your SDVOB participation goal.
4. Copies of faxes, letters, or e-mails sent to SDVOB firms to solicit participation and their responses.
5. A log of solicitation results, consisting of the list of SDVOB 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 SDVOB 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 SDVOBs 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 SDVOBs undertaken for purposes of complying with your SDVOB participation goal.

**NYS Environmental Facilities Corporation  
Service Disabled Veteran Owned Business (SDVOB) Waiver Request Form**

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 SDVOB firms were invited, attendance at SDVOB forums, etc.

9. EFC and the MBO reserve the right to request additional information and/or documentation.

**Additional Documentation for Requests for Specialty Equipment Exclusion:**

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. The name and federal employee identification number of the manufacturer and distributor for EFC to search the SDVOB Directory.

13. An invoice or purchase order showing the value of the equipment.

**Additional Documentation for Requests for Specialty Service Exclusion:**

14. A letter of explanation containing information about the scope of work and why no SDVOB 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 SDVOB compliance. In cases where EFC accepts a full or partial waiver of SDVOB 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 2**

## **PROPOSAL**

**CONTRACT NO. RFB-RC-SWR-CIP-2020-02  
MAIN PUMP STATION UPGRADE PROJECT  
ROCKLAND COUNTY SEWER DISTRICT NO. 1**

SUBMITTED BY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FEDERAL ID NO.: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE: \_\_\_\_\_

SIGNATORY FOR CONTRACT: \_\_\_\_\_

TITLE: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

Board of Commissioners  
Rockland County Sewer District No. 1  
Route 340  
Orangeburg, New York 10962

Gentlemen:

1. Having carefully examined the Contract Documents and having personally investigated the site and the conditions affecting the work, the undersigned Bidder hereby proposes to furnish all labor and material, and to perform all work in strict accordance with the Contract Documents (including addenda) for the bid prices hereinafter set forth in this Bid for:

CONTRACT NO. RFB-RC-SWR-CIP-2020-02  
MAIN PUMP STATION UPGRADE PROJECT  
ROCKLAND COUNTY SEWER DISTRICT NO. 1

2. The undersigned Bidder agrees that: a) if this bid is accepted, he will execute the Contract and furnish to the Owner the one hundred (100) percent Performance and Payment bonds and insurance certificates required, within twenty (20) calendar days of the date of the Notice of Award of the Contract; and b) he will begin work within ten (10) calendar days of the date of the Notice To Proceed and will prosecute the work in such manner as to complete all work within seven hundred fifty (750) calendar days of the date of Notice to Proceed.
3. The undersigned Bidder acknowledges that he has included with his bid the required Bid Security for not less than five (5) percent of the total amount of his Bid.
4. The Bidder understands and agrees that the Owner reserves the right to accept bids, or reject any or all bids submitted, within one hundred forty (140) calendar days from the date of bid opening. The Bidder agrees that it will not withdraw its Bid for said 140-day period.

5. The Bidder understands and agrees that if he is awarded the contract, he will not subcontract more than thirty-five (35) percent of the dollar value of the contract work without written authorization from the Owner.
6. The Bidder agrees to comply with Resolution 471 of 1975 and will submit with his Bid an Affirmative Action Plan if his business (1) employs a minimum of 15 employees and (2) does a minimum of \$50,000 per annum business with Rockland County. The Bidder further understands and agrees that if an affirmative action plan is required but not attached to the Bid, the contract will not be awarded.
7. The undersigned Bidder acknowledges receipt of all Addenda, complete as issued by the Owner and that related costs are included in his bid price. Receipt of the said addenda is acknowledged as follows:

Addendum # _____	Dated _____
Addendum # _____	Dated _____
Addendum # _____	Dated _____
Addendum # _____	Dated _____
Addendum # _____	Dated _____
Addendum # _____	Dated _____

8. The undersigned Bidder further agrees to comply with all of the requirements of the Contract Documents.
9. BID PRICES:

For furnishing all labor, materials, tools, equipment and performance of all services required to complete all work of **Contract No. RFB-RC-SWR-CIP-2020-02** in conformance with the Contract Documents.

**SCHEDULE OF BID ITEMS - CONTRACT NO. RFB-RC-SWR-CIP-2020-02**

Pay Item No.	Estimated Quantity	Bid Item Description Unit Price In Words	Unit Price In Figures Dollars Cents	Extended Total In Figures Dollars Cents
1	Lump Sum	Mobilization/Demobilization For  _____ Dollars _____ Cts./L.S.	\$ _____	\$ _____
2	Lump Sum	Construction For  _____ Dollars _____ No Cts./L.S.	\$ _____	\$ _____
3	Stipulated Lump Sum	Miscellaneous Additional Work For Two Hundred Fifty Thousand Dollars _____ No Cts./L.S.	\$250,000.00	\$250,000.00

4	150 Linear Feet	Concrete Crack Repair For			
			Dollars		
			Cts./L.F.	\$	\$
5	1000 Cubic Feet	Wet Well Residual Debris and Grit For			
			Dollars		
			Cts./C.F.	\$	\$
6	Stipulated Lump Sum	Record Documents For			
		Fifty Thousand Dollars			
		No	Cts./L.S.	\$50,000.00	\$50,000.00

**CONTRACT NO. RFB-RC-SWR-CIP-2020-02 - Total Price of Bid in Words:**

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**CONTRACT NO. RFB-RC-SWR-CIP-2020-02 - Total Price of Bid in Figures:**

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*To be verified by extension of above items.*

**NOTES:**

1. In case of a discrepancy between the unit prices written in words and in figures, the unit prices written in words shall govern. In case of a discrepancy between unit prices bid and extended totals, the unit prices shall govern.
2. Refer to Specification Section 01150 for Bid Item Descriptions.

## **ATTACHMENTS**

Attached to this Bid, duly executed by the undersigned are the following:

Section A - Statement of Participation in Contracts Subject to the Nondiscrimination Clause

Section B - Disclosure of Political Contributions Pursuant To Chapter 323 of the Rockland County Code

Section C - Disclosure of Supplier Responsibility Statement

Section D - Affirmative Action Plan Certification

Section E - Business Dealings in Northern Ireland – MacBride Principles

Section F - Certification of Compliance with the Iran Divestment Act.

Section G - Certification Regarding Boycott, Divest, and Sanctions (BDS) Activities

Section H - Certificate of Non-Collusion

Section I - Certification by Proposed Prime or Subcontractor.

Section J - References

Section K - Consent of Surety.

Section L - Certificate of Workers' Compensation Experience Modification.

Section M - Contract Forms Required for SRF Funded Projects

IN WITNESS WHEREOF the bidder has executed this bid or proposal \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

*Bidder Sign Here:*

Firm Name: \_\_\_\_\_

By: \_\_\_\_\_

Address: \_\_\_\_\_

ACKNOWLEDGEMENT OF INDIVIDUAL

STATE OF \_\_\_\_\_)

) ss:

COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ before me personally came  
\_\_\_\_\_ to me known and known to me  
to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he  
executed the same.

\_\_\_\_\_  
Notary Public



ACKNOWLEDGEMENT BY A PARTNER ON BEHALF OF A CO-PARTNERSHIP

STATE OF \_\_\_\_\_)

) ss:

COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally came \_\_\_\_\_ to me known and known to me to be a member of the co-partnership composed of \_\_\_\_\_ and carrying on business under the firm name and style of \_\_\_\_\_ and who executed the foregoing instrument, and the same \_\_\_\_\_ acknowledged to me that he executed the same on behalf of the said co-partnership.

\_\_\_\_\_  
Notary Public

ACKNOWLEDGEMENT BY CORPORATION

STATE OF \_\_\_\_\_)

) ss:

COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally came \_\_\_\_\_ to me known, who, being by me duly sworn, did depose and say that he resides in the County of \_\_\_\_\_ and that he is the \_\_\_\_\_ of \_\_\_\_\_ the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation, and that he signed his name thereto by like order.

\_\_\_\_\_  
Notary Public

**STATEMENT OF REQUIRED DISCLOSURES,  
REPRESENTATIONS AND CERTIFICATIONS**

All forms must be completed.  
A notary is only required for one page.

Name of the Reporting Entity:

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Address:

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Remit to Address (if different from above):

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Federal ID No.: \_\_\_\_\_

Name of Individual Completing this form: \_\_\_\_\_

Title/Position: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_

Telefax Number: (\_\_\_\_) \_\_\_\_\_

Email Address: \_\_\_\_\_

Signatory First and Last Name: \_\_\_\_\_

Signatory Title: \_\_\_\_\_

## **SECTION A**

### **STATEMENT OF PARTICIPATION IN CONTRACTS** **SUBJECT TO NON-DISCRIMINATION CLAUSE**

The Bidder shall complete the following statement by checking the appropriate boxes:

The Bidder has ( ) has not ( ) participated in a previous contract subject to the nondiscrimination clause prescribed by Executive Order 10925, or Executive Order 11114, or Executive Order 11246.

The Bidder has ( ) has not ( ) submitted all compliance reports in connection with any such contract, due under the applicable filing requirements; and that representations indicating submission of required compliance reports signed by proposed subcontractors will be obtained prior to award of subcontracts.

If the Bidder has participated previously in a contract subject to the nondiscrimination clause and has not submitted compliance reports due under applicable filing requirements, the Bidder shall submit a compliance report on Standard Form 100, "Employee Information Report, EEO-1" prior to the award of the Contract.

**SECTION B**

**DISCLOSURE OF POLITICAL CONTRIBUTIONS PURSUANT TO  
CHAPTER 323 OF THE ROCKLAND COUNTY CODE**

1. The reporting Entity is (*Check One*):

\_\_\_\_\_ An Individual      \_\_\_\_\_ A Partnership      \_\_\_\_\_ A Corporation

2. The reporting Entity (*Check One*):

\_\_\_\_\_ Will Enter into a contract with the County of Rockland, in excess of Ten Thousand Dollars (\$10,000.00), which did not result from Public Bidding.

\_\_\_\_\_ Is currently under a contract with the County of Rockland in excess of Ten Thousand Dollars (\$10,000.00)

3. The reporting entity, its members, directors, policymaking officers, or majority shareholders, have directly or indirectly made the following contributions to the persons or organizations listed below.

*(Please list all contributions having a value in excess of two hundred dollars (\$200.00) per year made to any political party or any individual or any committee for an individual running for public office in Rockland county or in a district in which Rockland County is located, for a period of three (3) years prior to the date of subscribed below.):*

Note: Please answer "none" or list each contribution separately (use additional sheets if necessary)

<b>Name of Contributor</b>	<b>Relationship to Reporting Entity</b>	<b>Contribution Made To</b>	<b>Date of Contribution</b>	<b>Value and Nature of Contribution</b>

## **SECTION C**

### **DISCLOSURE OF SUPPLIER RESPONSIBILITY STATEMENT**

1. List any convictions of any person, subsidiary, or affiliate of the company, arising out of obtaining, or attempting to obtain a public or private contract, or subcontract, or in the performance of such contract or subcontract.  

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2. List any convictions of any person, subsidiary, or affiliate of this company for offenses such as embezzlement, theft, fraudulent schemes, etc. or any other offense indicating a lack of business integrity or business honesty which affect the responsibility of the contractor.  

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3. List any convictions or civil judgments under state or federal antitrust statutes.  

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4. List any violations of contract provisions such as knowingly (without good cause) to perform, or unsatisfactory performance, in accordance with the specifications of a contract.  

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5. List any prior suspensions or debarments by any government agency.  

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6. List any contracts not completed on time.  

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7. List any documented violations of federal or state labor laws, regulations or standards, or occupational safety and health rules.  

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## **SECTION D**

### **AFFIRMATIVE ACTION PLAN CERTIFICATION**

1. The subscriber below, authorized on behalf of the Reporting Entity in the title/position indicated hereinabove, states the following: *(Please check one box in both a. and b.)*
  - a. The above-named Reporting Entity ☐ DOES or ☐ DOES NOT employ fifteen (15) or more employees;  
AND
  - b. The above-named Reporting Entity
    - ☐ DOES transact a minimum of \$50,000 per annum business with the County of Rockland.
      - IF SO, based on this above information, a copy of the Reporting Entity's Affirmative Action Plan OR EEO (Equal Employment Opportunity) Policy is attached to this Form.
    - ☐ DOES NOT transact a minimum of \$50,000 per annum business with the County of Rockland.

## **SECTION E**

### **BUSINESS DEALINGS IN NORTHERN IRELAND-MACBRIDE PRINCIPLES**

1. The subscriber below, authorized on behalf of the Reporting Entity in the title/position indicated hereinabove, certifies the following, in accordance with Article 5 of the County of Rockland Procurement Policy: (check one)
  - a. The above-named Reporting Entity and any individual or legal entity in which the Reporting Entity holds a 10% or greater ownership interest and any individual or legal entity that holds a 10% or greater ownership in the contract, either: *(check, as applicable)*

☐ Has NO business operations in Northern Ireland.

**OR**

☐ Shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to the nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their companies with such Principles.

## **SECTION F**

### **CERTIFICATION OF COMPLIANCE WITH THE IRAN DIVESTMENT ACT**

Pursuant to State Finance Law §165-a, on August 10, 2012 the Commissioner of the Office of General Services (OGS) posted a prohibited entities list of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law) on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

By submitting a bid in response to a County solicitation or by assuming the responsibility of a Contract awarded hereunder, each Bidder/Contractor, any person signing on behalf of any Bidder/Contractor and any assignee or subcontractor and, in the case of a joint bid, each party thereto, certifies, under penalty of perjury, that once the Prohibited Entities List is posted on the OGS website, that to the best of its knowledge and belief, that each Bidder/Contractor and any subcontractor or assignee is not identified on the Prohibited Entities List created pursuant to SFL § 165-a(3)(b).

Additionally, Bidder/Contractor is advised that once the Prohibited Entities List is posted on the OGS Website, any Bidder/Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation must certify at the time the Contract is renewed, extended or assigned that it is not included on the Prohibited Entities List.

During the term of the Contract, should the County receive information that a Bidder/Contractor is in violation of the above referenced certification, the County will offer the person or entity an opportunity to respond. If the person or entity fails to demonstrate that he/she/it has ceased engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the County shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages or declaring the Bidder/Contractor in default.

The County reserves the right to reject any bid or request for assignment for a Bidder/Contractor that appears on the Prohibited Entities List prior to the award of a contract and to pursue a responsibility review with respect to any Bidder/Contractor that is awarded a contract and subsequently appears on the Prohibited Entities List.

*(Please check box)*

1. ☐ The subscriber below, authorized on behalf of the Reporting Entity in the title/position indicated hereinabove, certifies that he/she is *neither the Bidder/Contractor nor any proposed subcontractor as identified on the Prohibited Entities List.*



## **SECTION G**

### **CERTIFICATION REGARDING BOYCOTT, DIVEST AND SANCTIONS (BDS) ACTIVITIES**

1. The subscriber below, authorized on behalf of the Reporting Entity in the title/position indicated hereinabove, certifies the following, in accordance with Article 5 of the County of Rockland Procurement Policy: *(check box)*

☐ The Reporting Entity/Contractor and any individual or legal entity in which the contractor/reporting entity holds a 10% (ten percent) or greater ownership interest and any individual or legal entity that holds a 10% (ten percent) or greater ownership in the contract does NOT engage in any Boycott, Divest and Sanctions (BDS) activities [which activities are defined as advocating for the boycott of Israel, divestment from Israel and International sanctions against Israel, and otherwise engaging in, promoting or supporting the global campaign to increase economic and political pressure in Israel to comply with the stated goals of the BDS movement.

## **SECTION H**

### **CERTIFICATE OF NON-COLLUSION**

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

## SECTION I

### CERTIFICATION BY PROPOSED PRIME OR SUBCONTRACTOR REGARDING EQUAL EMPLOYMENT OPPORTUNITY

\_\_\_\_\_  
Name of Prime Contractor

\_\_\_\_\_  
Project No.

#### INSTRUCTIONS:

This certification is required pursuant to Executive Order 11246, Part II, Section 203(b), (30 F.R. 12319-25). Any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to equal the opportunity clauses; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicated that the prime or subcontractor has not filed a compliance report due under applicable instructions, such contractor shall be required to submit a compliance report.

#### CONTRACTOR'S CERTIFICATION

Contractor's Name: \_\_\_\_\_

Address: \_\_\_\_\_

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.  
YES \_\_\_\_\_ NO \_\_\_\_\_
2. Compliance reports were required to be filed in connection with such contract or subcontract.  
YES \_\_\_\_\_ NO \_\_\_\_\_ If YES, state what reports were filed and with what agency.
3. Bidder has filed all compliance reports due under applicable instructions, including EEO-1.  
YES \_\_\_\_\_ NO \_\_\_\_\_
4. If answer to Item 3 is "NO", please explain in detail on reverse side of this certification. *(Please check box)*

☐ Certification – The information above is a true and complete to the best of my knowledge and belief.  
A willfully false statement is punishable by law. (U.S. CODE, Title 13, Section 1001).

**SECTION J**  
**REFERENCES**

The bidder is requested to state below what work similar to that proposed in the Contract he has done and give references that will enable the Owner and the Engineer to judge his experience, skill and business standing.

1. Description: \_\_\_\_\_  
Owner: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Contract Amount: \$ \_\_\_\_\_
  
2. Description: \_\_\_\_\_  
Owner: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Contract Amount: \$ \_\_\_\_\_
  
3. Description: \_\_\_\_\_  
Owner: \_\_\_\_\_  
Contact Name: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Contract Amount: \$ \_\_\_\_\_

## **SECTION K**

### **CONTRACT RFB-RC-SWR-CIP-2020-02 CONSENT OF SURETY**

(This Consent of Surety is Part of the Proposal)

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_  
a corporation of the State of \_\_\_\_\_ having its principal office  
at \_\_\_\_\_ being a surety company  
incorporated in or authorized to do business in the State of New York, in consideration of the premises and of One Dollar to it in hand paid by the Owner and of other good and valuable consideration, and the receipt whereof is hereby acknowledged, does consent and agree, that if the Contract for which the preceding Proposal is made be awarded to the Bidder making the same, it will, upon the award of such Contract, become surety, first for the full and faithful performance of said work, and secondly for the protection of all persons performing or furnishing labor or materials for the performance of said Contract in the forms required; the Performance Bond and the Labor and Materials Payment Bond, each to be in an amount equal to one hundred (100) percent of the Contract Price, and to be conditioned so as to indemnify the owner against loss due to the failure of said Bidder to meet the provisions of said bonds; and if the said Bidder shall omit or refuse to execute such Contract and give the proper security for the performance and payment of labor and material thereof as specified in the Information for Bidders within five (5) days after written notice that award of said Contract has been made to said bidder and if the sum which said Owner may be obliged to pay to the person or persons by whom the Contract shall be finally executed exceeds the sum to which said Bidder making this Proposal would have been entitled, then said Surety Company will pay, without proof of notice or demand, to said Owner the amount of any such excess, without credit for any proposal guaranty or deposit payment which said Bidder may have furnished, said excess to be calculated upon the estimated quantities of work, labor and materials by which the bids are tested. In addition, the said Surety Company will pay, without proof of notice or demand to the Owner the total cost to the Owner for any readvertising for construction of the work included in the Contract.

**SECTION L**

**CERTIFICATE OF WORKERS' COMPENSATION EXPERIENCE MODIFICATION**

COUNTY OF ROCKLAND  
CERTIFICATION OF WORKERS' COMPENSATION EXPERIENCE MODIFICATION

STATE OF \_\_\_\_\_)

) ss:

COUNTY OF \_\_\_\_\_)

Name of Reporting Entity: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ Ext: \_\_\_\_\_ Telefax No.: \_\_\_\_\_

THE REPORTING ENTITY IS: *(Check one of the following)*

\_\_\_\_\_ AN INDIVIDUAL

\_\_\_\_\_ A PARTNERSHIP

\_\_\_\_\_ A CORPORATION

THE REPORTING ENTITY:

Has a Workers' Compensation Experience Modification of 1.10 or less. *(Please check box)*

☐ Certification - The information above is true and I understand that this is a requirement for participation in the Project Insurance Coverage program.

## **SECTION M**

### **CONTRACT FORMS REQUIRED FOR SRF FUNDED PROJECTS**

**Contract No. RFB-RC-SWR-CIP-2020-02** will be made possible through financial assistance from the Clean Water State Revolving Fund (CWSRF) Program. Thus, any funding requirements for construction of treatment works will be deemed requirements for this project.

The following must be submitted with the Bid:

1. EEO Policy Statement

Refer to Appendix F, Program Requirements and Bid Packet for Contracts Funded with New York State Financial Assistance Only or online at [www.efc.ny.gov](http://www.efc.ny.gov) in regard to completing the required forms.

Please note that the CWSRF AIS Contractor requirements do not apply for this project.

**NOTARY PAGE**

STATE OF \_\_\_\_\_)

) ss:

COUNTY OF \_\_\_\_\_)

All statements, disclosures and representations stated hereinabove this **STATEMENT REQUIRED DISCLOSURES, REPRESENTATIONS AND CERTIFICATIONS**, comprised of the preceding 14 pages and this page, are based upon my personal review of the books and records of the reporting entity. I declare, under oath or affirmation that all of the foregoing information, as well as any supplemental responses and statements that may be attached hereto are true to the best of my knowledge. I make these statements under the penalty of perjury, in my position/title held at the above-named Reporting Entity.

BY: \_\_\_\_\_  
(Signature)

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public