CONSTRUCTION CONTRACT

INVITATION FOR BIDS

New York City
Department of
Environmental Protection
59-17 Junction Boulevard
Flushing, New York 11373

Lisa F. Garcia
Commissioner

Joseph Vaicels
Assistant Commissioner,
Agency Chief Contracting Officer

Bid Booklet
(with additional volumes of Contract Terms, Specifications and Drawings)

Contract: **KENS-EAST-3**

Description: **KEC BUILDINGS**

AUGUST 2026

Rev. 2026-07

All documents related to this solicitation are contained within PASSPort, unless otherwise specified. Except for any paper forms of bid security, you must submit all responses electronically via the PASSPort system. If you require assistance submitting your response through PASSPort, please contact the MOCS Service Desk.

1. **Contents.** This competitive sealed bid contract solicitation package is comprised of the following:

(1) **Bid Booklet** – this **Bid Booklet** containing the sections listed below:

Section A. Notices to Bidders
- Electronic Bidding Notice
- Certification of Compliance with Iran Divestment Act
- Bidder's Identification of Subcontractors Form
- Temporary Access Form and Security Release Form
- Whistleblower Notice
- Other applicable notices

Section B. Bid Forms
Bid Sheet/Item Grid
B1. Bidder's Affirmation
B2. Intentionally Omitted
B3. Financial Statement Requirement Information
B4. Bidder's Declaration, Bid and Acknowledgment
B5. Bidder's Minimum Qualifications

Section C. Information for Bidders

Section D. Form for List of Manufacturers of Materials and Equipment for Which Bidder Seeks Approval

Section E. Bid Bond Form

Section F. Equal Employment Opportunity – Executive Order No. 50 Employment Report

Section G. Subcontractor Approval Information and Forms
- Apprenticeship Program Questionnaire
- Pre-Approval Statement for Prevailing Wage Contracts

Section H. NY State Revolving Fund Program Requirements (including M/WBE and EEO Forms)

Section I. Notice and Pre-Award Statement Form for Prevailing Wage Contracts

Section J. Electronic Funds Transfer ("EFT") Information and Form

(2) **Volume 1 of 2** – **Contract Terms and Specifications** containing:

i. The New York City Standard Construction Contract
ii. Performance and Payment Bond forms
iii. Project Labor Agreement and Letter of Assent
iv. Prevailing Wage Schedule(s)
v. General Conditions and Schedule A (including Insurance Requirements)
vi. Specifications containing: Divisions 1 through 13

(3) **Volume 2 of 2** –**Specifications** containing: Divisions 14 through 46

Please read the entire solicitation package. By submitting this bid, you acknowledge that you understand the requirements and the terms and conditions of this bid.

2. **Submission**. You must submit your bid **ELECTRONICALLY IN PASSPORT.** Please refer to the **Electronic Bidding Notice** in this Bid Booklet for information and instructions regarding bid submission, pre-bid conference and bid opening.

SECTION A:

Notices To Bidders

ELECTRONIC BIDDING NOTICE

To: Plan holders for Contract: **KENS-EAST-3**

From: Joseph Vaicels, Assistant Commissioner and Agency Chief Contracting Officer

Subject: **Notice to Bidders: Pre-Bid Conference**
Bid Response Date/Bid Opening Information

A Pre-Bid Conference will take place on **TBD at 10:00AM**.

All Bidders are invited to attend the Pre-Bid Conference via Microsoft Teams.

Microsoft Teams meeting
Join on your computer, mobile app or room device
Click here to join the meeting
Meeting ID: 210 940 420 44
Passcode: gohcUV
Download Teams | Join on the web
Or call in (audio only)
+1 347-921-5612,,774908269#

ELECTRONIC BIDDING (E-BIDDING) :

PAPER BID SUBMISSIONS ARE NOT ACCEPTABLE AND WILL BE DEEMED NON-RESPONSIVE.

FOR THE BID TO BE CONSIDERED RESPONSIVE, BEFORE 10 AM ON RESPONSE DUE DATE, BIDDERS MUST SUBMIT THEIR BIDS ELECTRONICALLY AND PROVIDE BID SECURITY.

Bidders must complete the following steps in the Procurement and Sourcing Solutions Portal (PASSPort) to submit their bids:

1. Complete electronic bid submission in PASSPort by completing all required fields; and

2. Submit bid security (if required):
    a. If the bid security is in a form of a bid bond, bidders must include their bid bond with their electronic bid submission in PASSPort.
    b. If the bid security is in a form of a certified check, bidders must ensure submission of the certified check by either:

        In Person Delivery: Bidders must contact suwaechie@dep.nyc.gov and anng@dep.nyc.gov to arrange for in-person delivery to:

ELECTRONIC BIDDING NOTICE

NYC Dept. of Environmental Protection at:
59-17 Junction Blvd.
Flushing NY 11373

OR

Other Delivery Services: Bidders may use of any type of mail delivery service, including but not limited to, overnight delivery to the below address. Envelope must clearly state the following:

NYC Dept. of Environmental Protection
59-17 Junction Blvd., 3rd Floor Mail Room,
Flushing NY 11373.
Attention: ACCO Office
Contract# KENS-EAST-3
Bid Response Date:_____
Contact Person: Ping Zhi Chan

Bidders are responsible for ensuring that their certified check is received by Agency Chief Contracting Office ("ACCO") before 10:00AM on the Bid Date.

Bid Opening Information: Bidders are welcome to attend the bid opening by way of Microsoft Teams at **2:00PM EST** on **TBD**. To accommodate the entire bidding community, please limit to one Microsoft Teams entry per company. Should anyone require access to a computer terminal to view the bid opening, please contact XXXX@dep.nyc.gov at least 1 week prior to the bid opening.

Microsoft Teams meeting
Join on your computer, mobile app or room device
Click here to join the meeting
Meeting ID: 267 063 669 313
Passcode: EnZXTm
Download Teams | Join on the web
Or call in (audio only)
+1 347-921-5612,,81936356#

On the date of the bid opening, ACCO Personnel will open the Microsoft TEAMS portal at 1:45pm, to give bidders an opportunity to test their ability to log on. All bidders are strongly advised to log on to the Microsoft TEAMS portal before 2:00pm to avoid disrupting the bidding process (i.e.: the reading of the bids). The bid opening will be recorded. ACCO personnel will conduct the bid opening at 59-17 Junction Blvd, Flushing, NY 11373 and will announce each submitted bid. The apparent Low Bidder will be announced, and all bids will be posted online as soon as practicable at: https://www1.nyc.gov/site/dep/about/bid-results.page

All questions must be submitted in the "**Discussion with Buyer**" forum in **PASSPort**.



NOTICE TO BIDDERS

Please be advised that, The Iran Divestment Act of 2012 (effective April 12, 2012) is codified at State Finance Law("SFL") 165-a and General Municipal Law ("GML") $103-9. The Iran Divestment Act, with certain exceptions, prohibits the City from entering into contracts with persons engaged in investment activities in the energy sector of lran. To implement the law, each bidder or proposer is required to certify at the time it submits its bid or proposal that it is not on a list of entities engaged in investment activities in Iran created by the Commissioner of the NYS Office of General Services pursuant to the State Finance Law. If a bidder or proposer is on the list, an Agency will be able to award a contract to such a vendor only in situations where the vendor is taking steps to cease its investments in Iran or where the vendor is a necessary sole source.

Attached is a rider and a certification implementing the Iran Divestment Act. **ALL BIDDERS ARE REQUIRED TO SIGN THE BIDDER'S CERTIFICATION OF COMPLIANCE WITH IRAN DIVESTMENT ACT AND SUBMIT IT WITH THEIR BID IN PASSPORT.**

FAILURE TO SUBMIT THIS CERTIFICATION THE MAY RESULT IN A NON-RESPONSIVE DETERMINATION

IRAN DIVESTMENT ACT COMPLIANCE RIDER FOR
NEW YORK CITY CONTRACTORS

The Iran Divestment Act of 2012, effective as of April 12, 2012, is codified at State Finance Law ("SFL") §165-a and General Municipal Law ("GML") §103-g. The Iran Divestment Act, with certain exceptions, prohibits municipalities, including the City, from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Pursuant to the terms set forth in SFL §165-a and GML §103-g, a person engages in investment activities in the energy sector of Iran if:

(a) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

(b) The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to paragraph (b) of subdivision three of Section 165-a of the State Finance Law and maintained by the Commissioner of the Office of General Services.

A bid or proposal shall not be considered for award nor shall any award be made where the bidder or proposer fails to submit a signed and verified bidder's certification.

Each bidder or proposer must certify that it is not on the list of entities engaged in investment activities in Iran created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. In any case where the bidder or proposer cannot certify that they are not on such list, the bidder or proposer shall so state and shall furnish with the bid or proposal a signed statement which sets forth in detail the reasons why such statement cannot be made. The City of New York may award a bid to a bidder who cannot make the certification on a case by case basis if:

(1) The investment activities in Iran were made before the effective date of this section (i.e., April 12, 2012), the investment activities in Iran have not been expanded or renewed after the effective date of this section and the person has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran: or

(2) The City makes a determination that the goods or services are necessary for the City to perform its functions and that, absent such an exemption, the City would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

NOTICE TO BIDDERS

Please be advised that pursuant to GML § 101(5) you are required to submit with your bid the names of subcontractors you intend to use to perform the following work on this contract, as well as the agreed-upon amount to be paid to each:

- plumbing and gas fitting;
- steam heating, hot water heating, ventilating and air conditioning apparatus; and
- electric wiring and standard illuminating fixtures.

The list of subcontractors is to be submitted in a separate sealed envelope by completing the attached "Subcontractors Identification Form" for any subcontractors intended to be used in any of the three trades listed above. If bidder intends to use its own forces for any of the above listed work, bidder should submit a signed statement to that effect. PLEASE NOTE: for any contract that is subject to M/WBE participation goals under Local Law 129, if the bidder's intention to use its own forces to do any of the above-referenced work would result in Bidder's failure to attain the Target Subcontracting Percentage identified in Schedule B (Subcontractor Utilization Plan), the bid will be non-responsive unless the bidder requests and obtains a Waiver of Target Subcontracting Percentage (Schedule B, Part III) in advance of bid submission. Failure to submit the completed Subcontractor Approval Form that includes the names of subcontractors and the agreed upon amounts to be paid to such subcontractors will render your bid non-responsive.

After the low bid is announced, the sealed list submitted by the low bidder will be opened and the names of the subcontractors will be announced. The sealed lists of subcontractors submitted by all other bidders shall be maintained by the Agency unopened unless such bidder shall become the low bidder (e.g., the initial low bidder is found non-responsive). All unopened lists of subcontractors shall be returned to the bidders unopened after contract award.

After bid submission, any change of subcontractor or agreed-upon amount to be paid to each shall require approval of the Agency upon a showing of a legitimate construction need which shall include, but not be limited to, a change in project specifications, a change in project material costs, a change to subcontractor status as determined pursuant to §222 (2)(e) of the Labor Law, or if the subcontractor has become otherwise unwilling, unable or unavailable to perform the subcontract.

BIDDER'S IDENTIFICATION OF SUBCONTRACTORS

I hereby intend to use the following subcontractors (if any trade is not applicable, so note). If Bidder will be doing any of the below referenced work with its own forces, the Bidder should complete this form using its own name. If multiple subcontractors for any trade are proposed, bidder may submit multiple copies of this form.

Please Note: Bidder may satisfy any required M/WBE Subcontractor Participation Goals (stated in Schedule B) by proposing one or more subcontractors that are M/WBEs for any portion of the work to be performed by the below trades. **If any of the work in the trade categories below is split between two or more subcontractors, provide a description of the work to be performed by each subcontractor.**

1. PLUMBING AND GAS FITTING CONTRACTOR(S): **Description of plumbing work for each sub if split**

_____
(Print Name)
Agreed amt. to be paid to subcontractor: $_____

_____
(Print Name)
Agreed amt. to be paid to subcontractor: $_____

_____
(Print Name)
Agreed amt. to be paid to subcontractor: $_____

2. HVAC CONTRACTOR(S): **Description of HVAC work for each sub if split**

_____
(Print Name)
Agreed amt. to be paid to subcontractor: $_____

_____
(Print Name)
Agreed amt. to be paid to subcontractor: $_____

_____
(Print Name)
Agreed amt. to be paid to subcontractor: $_____

3. ELECTRICAL CONTRACTOR(S): **Description of electrical work for each sub if split**

_____
(Print Name)
Agreed amt. to be paid to subcontractor: $_____

_____
(Print Name)
Agreed amt. to be paid to subcontractor: $_____

_____
(Print Name)
Agreed amt. to be paid to subcontractor: $_____

_____
(Bidders Signature) (Print Name)

_____
(Address)

_____
(Title) (Phone #) (Fax #) (Date)

NOTICE TO BIDDERS

This is to inform you that due to heightened security, we require identification of all people attending the pre-bid site visit.

The pre-bid meeting will held on the date and at the location indicated on the *Electronic Bidding Notice*. After the meeting, there will be a site visit that requires clearance from the DEP Police. Each person interested in attending the site visit must mail or e-mail a completed *Temporary Access Form* to the Agency Contact person indicated on the *Electronic Bidding Notice* to be received by one week before the site visit. This form should be completed fully and have a copy of the persons identification scanned with the form. (Acceptable forms of identification are: Driver's license, or Passport. Include as the e-mail subject "DD/MM/YY, HH/MM AM, Site Visit for Contract XXXXX" and include a contact name and phone number. Be advised that only approved attendees will be admitted to the facility and attendance will be limited to a maximum of two (2) persons per company. Attendees must present government-issued photo identification to gain entry. Expired identification will not be accepted. Prospective bidders who have not been pre-screened before the visit must show up at the site 30 minutes prior to the scheduled meeting with the requested information. Bidders are encouraged to be prompt and are hereby notified that there will be no admittance any time after 30 minutes of the scheduled meeting has elapsed.

All attendees should have their own personnel safety equipment (hard hat, boots, etc.) to enter the site area. All attendees will remain with the group and in designated areas during the visit. Wandering round the site is not permitted. Cameras, videos and bags are not permitted on-site.

NYC Environmental Protection

Clear Form

DEP POLICE USE ONLY	
Access: ☐ **Approved** ☐ **Denied**	**Date/Time:**
Reviewing Officer: Initials:	**Badge #:**

TEMPORARY ACCESS FORM

Type of Access Requested. Select one:

☐ **DAY WORKER ACCESS -** For persons working on a day-to-day basis at a DEP facility and/or project site and who are not part of a contractor's regular staff. DEP Police will notify the employee, construction manager, and post officer if access is granted.

☐ **DAY TOUR ACCESS -** For persons attending tours of DEP critical infrastructure. DEP Police will notify the individual and sponsoring DEP entity if access is granted.

☐ **PRE-BID MEETING SITE ACCESS -** For prospective bidders attending pre-bid meetings at a DEP facility and/or project site. Any bidder who does not fax or e-mail this form to the appropriate DEP Project Manager at least one week prior to the scheduled visit will be required to bring the requested information to the site no less than 30 minutes prior to the scheduled meeting start time; there is no admittance of any bidder more than 30 minutes after the scheduled meeting start time.

☐ **DELIVERIES -** For persons delivering materials to a DEP site (other than UPS or FedEx).

SUBMIT FORM TO:	East of Hudson - Eastview Command Center T: (914) 593-7500 / F: (914) 345-1840 E: PoliceEastviewComm@dep.nyc.gov	West of Hudson - Ashokan Dispatch T: (845) 657-8433 / F: (845) 657-6145 E: Ashokancomm@dep.nyc.gov

This form expires fifteen (15) days from the date of submission. Access beyond that date requires official DEP-issued identification or submission of a new Temporary Access Form.

All fields are required. Please print clearly or type:	Today's Date:
Date(s) Access Requested: From:	To:
Site Location (name and/or address):	
Company or Group Affiliation Name:	
Security Point of Contact: Name:	
Security Point of Contact: Telephone #:	
Work to be Performed:	

Name: Last , First , M.I.	
Date of Birth (mm/dd/yyyy):	Social Security # (last 4 only):
Contact Telephone Number(s):	or
Driver License #:	, Issuing State
If no driver license, other form of government issued photo identification and number:	

I hereby affirm that the above information is true and that I agree to comply with all DEP policies and rules while I am on DEP property. I understand that 1) I must bring my identification to the site for physical inspection, 2) expired identification will not be accepted, and 3) providing false or misleading information or identification may result in criminal charges, denial of access to DEP sites and facilities, or rejection of any bid submitted by the applicant's company.

Signature

Place identification in this box if scanning or faxing this form.

NOTICE TO BIDDERS, PROPOSERS, CONTRACTORS, AND RENEWAL CONTRACTORS

This contract includes a provision concerning the protection of employees for whistleblowing activity, pursuant to New York City Local Law Nos. 30-2012 and 33-2012, effective October 18, 2012 and September 18, 2012, respectively. The provisions apply to contracts with a value in excess of $100,000.

Local Law No. 33-2012, the Whistleblower Protection Expansion Act ("WPEA"), prohibits a contractor or its subcontractor from taking an adverse personnel action against an employee or officer for whistleblower activity in connection with a City contract; requires that certain City contracts include a provision to that effect; and provides that a contractor or subcontractor may be subject to penalties and injunctive relief if a court finds that it retaliated in violation of the WPEA. The WPEA is codified at Section 12-113 of the New York City Administrative Code.

Local Law No. 30-2012 requires a contractor to prominently post information explaining how its employees can report allegations of fraud, false claims, criminality, or corruption in connection with a City contract to City officials and the rights and remedies afforded to employees for whistleblowing activity. Local Law No. 30-2012 is codified at Section 6-132 of the New York City Administrative Code.

REPORT

CORRUPTION, FRAUD, UNETHICAL CONDUCT

RELATING TO A NYC-FUNDED CONTRACT

OR PROJECT

CALL THE NYC DEPARTMENT OF INVESTIGATION

212-825-5959

DOI CAN ALSO BE REACHED BY MAIL OR IN PERSON AT:

New York City Department of Investigation (DOI)
80 Maiden Lane, 17th floor
New York, New York 10038
Attention: COMPLAINT BUREAU

OR FILE A COMPLAINT ON-LINE AT:
www.nyc.gov/doi

All communications are confidential

THE LAW PROTECTS EMPLOYEES OF
CITY CONTRACTORS WHO REPORT CORRUPTION

- Any employee of a City contractor, or subcontractor of the City, or a City contractor with a contract valued at more than $100,000 is protected under the law from retaliation by his or her employer if the employee reports wrongdoing related to the contract to the DOI.
- To be protected by this law, an employee must report to DOI – or to certain other specified government officials – information about fraud, false claims, corruption, criminality, conflict of interest, gross mismanagement, or abuse of authority relating to a City contract valued at more than $100,000.
- Any employee who makes such a report and who believes he or she has been dismissed, demoted, suspended, or otherwise subject to an adverse personnel action because of that report is entitled to bring a lawsuit against the contractor and recover damages

← Scan the QR Code at Left to File a Complaint

SECTION B

Bid Forms

SECTION B
BID SHEET/ITEM GRID

Code	Field type	Label	paymentmethod	paymentunits	quantity	note	bidvalue	total
1	Required Item	LS-1 Mobilization (not to exceed 8% of Total Bid, excluding the bid values of all Allowance Items)	Lump Sum	Lump Sum	1			
2	Required Item	LS-2 Work Result	Lump Sum	Lump Sum	1			
3	Required Item	LS-3 De-Mobilization (shall not exceed 1% of Total Bid, excluding the bid values of all Allowance Items)	Lump Sum	Lump Sum	1			
4	Required Item	UP-1 Receiving and Handling Water from KENS-EAST-1 in Shaft 1C (SH1C) at Kensico	Unit Price Item	Million Gallons of Construction Water Pumped	6,000			
5	Required Item	UP-2 Screen Chamber - Foundation Walls and Excavated Portion of Connection Tunnels (UECT & DGRT) by KENS-EAST-1 Cast-in-place concrete	Unit Price Item	Cubic Yard	25,800			
6	Required Item	UP-3 Screen Chamber - Rock Excavation and Lean Concrete fill under Screen Chamber and West Annex Foundation	Unit Price Item	Cubic Yard	1,110			
7	Required Item	UP-4 Screen Chamber - Reinforcement Steel Foundation Walls	Unit Price Item	Ton	1,920			
8	Required Item	UP-5 - Screen Chamber Rock Excavation for Holding Tank and Under Scrubber Pad	Unit Price Item	Cubic Yard	50			
9	Required Item	UP-6 - Screen Chamber - Steel Beam Penetrations	Unit Price Item	Each	16			
10	Required Item	UP-7 Dike Grade Return Tunnel (DGRT) Excavation and Initial Support between Station 0+72.84 and 2+00	Unit Price Item	Cubic Yard	1360			
11	Required Item	UP-8 UEC Connection Tunnel (UECT) Excavation and Initial Support between Station 0+46 and 7+62.41	Unit Price Item	Cubic Yard	15,450			
12	Required Item	UP-9 Connection Tunnels (UECT & DGRT), existing Dike Grade Tunnel (DGT), and UEC Shaft (SUEC) - Supplemental Rock Dowels	Unit Price Item	Each	400			
13	Required Item	UP-10 Backfill Dike Grade Tunnel (DGT) between DGRT and UECT Plugs	Unit Price Item	Cubic Yard	1,200			
14	Required Item	UP-11 Pumping Water from Screen Chamber & Connection Tunnels (UECT & DGRT)	Unit Price Item	Million Gallons of Construction Water Pumped	290			
15	Required Item	UP-12 UEC Shaft (SUEC) - Soil Excavation and Support of Excavation in Soil	Unit Price Item	Cubic Yard	250			
16	Required Item	UP-13 UEC Shaft (SUEC) - Rock Excavation and Initial Support from Top of Rock to Elevation +289.53 ft, including UECT connecting to SUEC	Unit Price Item	Cubic Yard	2,770			
17	Required Item	UP-14 Pumping Water from UEC Shaft (SUEC)	Unit Price Item	Million Gallons of Construction Water Pumped	300			
18	Required Item	UP-15 UEC Shaft (SUEC) - Drilling Holes for Pre-excavation Grouting and Cut-Off Grouting	Unit Price Item	Linear Foot	1,800			
19	Required Item	UP-16 UEC Shaft (SUEC), Connection Tunnels (UECT & DGRT), exisiting Dike Grade Tunnel (DGT), and Screen Chamber - Materials for Cement Grouting (94 Pound bags)	Unit Price Item	Each	410			
20	Required Item	UP-17 UEC Shaft (SUEC), Connection Tunnels (UECT & DGRT), exisiting Dike Grade Tunnel (DGT), and Screen Chamber - Admixtures for Cement Grouting (Gallons)	Unit Price Item	Gallon	90			
21	Required Item	UP-18 UEC Shaft (SUEC), Connection Tunnels (UECT & DGRT), exisiting Dike Grade Tunnel (DGT), and Screen Chamber - Materials for Chemical Grouting	Unit Price Item	Gallon	160			
22	Required Item	UP-19 Connection Tunnels (UECT & DGRT), existing Dike Grade Tunnel (DGT), and Screen Chamber - Drilling Holes for Pre-Excavation Grouting and Cut-off Grouting	Unit Price Item	Linear Foot	2,800			
23	Required Item	UP-20 Rock Excavation for the High Level Outlet Tunnel (HLOT)	Unit Price Item	Cubic Yard	1,050			
24	Required Item	UP-21 Interim KEC Tunnel, Shaft 1C and Shaft 2C Unwatering	Unit Price Item	Million Gallons of Construction Water Pumped	20,800			
25	Required Item	UP-22 Type I - Cementitious Crack Repair	Unit Price Item	Linear Foot	20			
26	Required Item	UP-23 Type II - Epoxy Crack Repair	Unit Price Item	Linear Foot	270			
27	Required Item	UP-24 Type II (U) - Underwater Epoxy Crack Repair	Unit Price Item	Linear Foot	1,100			
28	Required Item	UP-25 Type III - Waterproof Hydrophilic Crack Repair	Unit Price Item	Linear Foot	6,080			
29	Required Item	UP-26 Surface Spall Repair (≤4 in depth)	Unit Price Item	Square Foot	240			
30	Required Item	UP-27 Underwater Surface Spall Repair (≤4 in depth)	Unit Price Item	Square Foot	600			
31	Required Item	UP-28 Formed Spall Repair (≤4 in depth)	Unit Price Item	Square Foot	120			
32	Required Item	UP-29 Underwater Formed Spall Repair (>4 in depth)	Unit Price Item	Square Foot	60			
33	Required Item	UP-30 Chlorine Injection Nozzle Change-out	Unit Price Item	Each	48			
34	Required Item	UP-31 CL 25 Concrete Over Excavation Fill	Unit Price Item	Cubic Yard	50			
35	Required Item	UP-32 Patching Stop Shutter Grooves	Unit Price Item	Work Shift	20			
36	Required Item	UP-33 Patching Stop Shutter Grooves (Underwater)	Unit Price Item	Dive Shift	15			
37	Required Item	UP-34 Precast Architectural Concrete for Screen Chamber	Unit Price Item	Square Foot	29,523			
38	Required Item	UP-35 Façade Glazing for Screen Chamber	Unit Price Item	Square Foot	11,071			
39	Required Item	UP-36 Stainless Steel Rainscreen System for Screen Chamber	Unit Price Item	Square Foot	760			
40	Required Item	UP-37 Stainless Steel Cornice and Awning Rainscreen System for Screen Chamber	Unit Price Item	Linear Foot	12,900			
41	Required Item	UP-38 Standing Seam Roof for Screen Chamber	Unit Price Item	Square Foot	32,875			

SECTION B
BID SHEET/ITEM GRID

42	Required Item	A-1 Unforeseen Hazardous Material Remediation	Allowance	Allowance	1,000,000	Vendor must enter 1 for the Bid Value		
43	Required Item	A-2 Unforeseen Soil Sampling, Testing, and Disposal	Allowance	Allowance	250,000	Vendor must enter 1 for the Bid Value		
44	Required Item	A-3 Unforeseen Demolition and Removals	Allowance	Allowance	200,000	Vendor must enter 1 for the Bid Value		
45	Required Item	A-4 Unforeseen Repairs and Associated Work at Eastview and Kensico Engineer's Field Offices	Allowance	Allowance	100,000	Vendor must enter 1 for the Bid Value		
46	Required Item	A-5 Support, Repair, Relocation, or Revoal of Undetected and Unmapped Buried Utilities	Allowance	Allowance	500,000	Vendor must enter 1 for the Bid Value		
47	Required Item	A-6 Repair and Replacement of Temporary Work handed over from KENS-EAST-1 Contract	Allowance	Allowance	1,300,000	Vendor must enter 1 for the Bid Value		
48	Required Item	A-7 Repairs of Unforeseen Conditions for 144" Piping, Lining, and Bulkheads	Allowance	Allowance	1,000,000	Vendor must enter 1 for the Bid Value		
49	Required Item	A-8 Engineer Ordered Bailout	Allowance	Allowance	10,000,000	Vendor must enter 1 for the Bid Value		
50	Required Item	A-9 Remobilization after an Engineer Ordered Bailout	Allowance	Allowance	5,000,000	Vendor must enter 1 for the Bid Value		
51	Required Item	A-10 Consolidated Edison Related Charges	Allowance	Allowance	500,000	Vendor must enter 1 for the Bid Value		
52	Required Item	A-11 Traffic Control Agents	Allowance	Allowance	150,000	Vendor must enter 1 for the Bid Value		
53	Required Item	A-12 Maintenance and Protection of Electrical Building	Allowance	Allowance	300,000	Vendor must enter 1 for the Bid Value		
54	Required Item	A-13 Repairs to Dike Grade Tunnel (DGT) lining and the associated drain pipe downstream of STA 2+00 to DGT connection into Lower Effluent Chamber (LEC)	Allowance	Allowance	1,100,000	Vendor must enter 1 for the Bid Value		
55	Required Item	A-14 Unforeseen Equipment Replacement for the Fluoride Building	Allowance	Allowance	390,000	Vendor must enter 1 for the Bid Value		
56	Required Item	A-15 Town of Mount Pleasant Building Permit Fees	Allowance	Allowance	2,800,000	Vendor must enter 1 for the Bid Value		
57	Required Item	A-16 Access to and Inspection of KEC Tunnel, Shaft 1C and Shaft 2C	Allowance	Allowance		Vendor must enter 1 for the Bid Value		
58	Required Item	A-17 Town of Mount Pleasant Blasting Permit Fee	Allowance	Allowance	400,000	Vendor must enter 1 for the Bid Value		

SECTION B
BID FORM

Contract Name and Number:_____

(*DEP Bureau to insert above information*)

SECTION B1
BIDDER AFFIRMATION

The undersigned bidder affirms and declares that said bidder is not in arrears to the City of New York upon debt, contract or taxes and is not a defaulter, as surety or otherwise, upon any obligation to the City of New York, and has not been declared not responsible, or disqualified from receiving public contracts, by any agency of the City of New York, nor is there any proceeding pending relating to the responsibility or qualification of the proposer or bidder to receive public contracts except _____.

Full name of bidder: _____

_____

Address: _____

_____

City _____ State _____ Zip Code _____

CHECK ONE BOX AND INCLUDE THE APPROPRIATE NUMBER:

A - ☐ Individual or Sole Proprietorship [1]

SOCIAL SECURITY NUMBER _ _ _ -_ _ -_ _ _ _

B - ☐ Partnership

TAXPAYER IDENTIFICATION NUMBER _ _ _ _ _ _ _ _ _

---

1 Under the Federal Privacy Act, the furnishing of Social Security Numbers by bidders on City contracts is voluntary. Failure to provide a Social Security Number will not result in a bidder's disqualification. Social Security Numbers will be used to identify bidders, proposers or vendors to ensure their compliance with laws, to assist the City in enforcement of laws as well as to provide the City a means of identifying businesses which seek City contracts.

C - ☐ Corporation (if a corporation, place corporate seal below)

TAXPAYER IDENTIFICATION NUMBER _ _ _ _ _ _ _ _ _

D- ☐ Other (specify:_____)

TAXPAYER IDENTIFICATION NUMBER _ _ _ _ _ _ _ _ _

By: _____
Signature

_____
Title

Date: _____, 20 ___

Must be signed by an officer or duly authorized representative.

(If the bidder is a corporation, place the corporate seal here.)

NOTE ***If the bidder is a Joint Venture, each member of the Joint Venture must sign a separate Bidder Affirmation, Bid and Bid Acknowledgement.***

(No further text on this page)

SECTION B3
FINANCIAL STATEMENT REQUIREMENT

Contractors that do business with the City of New York Department of Environmental Protection ("DEP") are required to submit complete financial statements once a year. Preferably, DEP requests the corporation or firm's annual financial statement prepared by a certified public accountant; which should include, but not be limited to, a certified balance sheet, revenue and expense sheet, and fixed and capital assets. If DEP has no record of having received this bidder's current financial statement, a DEP representative will contact the bidder's representative who will be responsible for submitting this information within five days of being informed. Note that if your firm so requires, DEP will provide a financial form which can be used in lieu of a certified financial statement.

SECTION B4
BIDDER DECLARATION, BID AND ACKNOWLEDGMENT

The bidder named on the Cover Page and in SECTION B1, above, affirms and declares:

1. The person signing this bid (the "signatory") is of lawful age, and, if signing as an individual bidder, is the only one interested in this bid; if the signatory is signing as an officer, director, partner or member of a corporation, partnership, or other organization making this bid, no person, firm or corporation other than the bidder named above has any interest in this bid, or in the Contract proposed to be taken.

2. 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 knowledge and belief:

(a) 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 or potential competitor;

(b) 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 directly or indirectly to any other bidder or to any competitor or potential competitor prior to the bid opening; and

(c) No attempt has been made or will be made by the bidder to induce any other person, partnership, corporation or other entity to submit or not to submit a bid for the purpose of restricting competition.

3. That no councilmember or other officer or employee or person whose salary is payable in whole or in part from the City Treasury is directly or indirectly interested in this bid, or in the supplies, materials, equipment, work or labor to which it relates, or in any of the profits.

4. The bidder, as an individual, or as a member, partner, director, or officer of the bidder, if the same be a firm, partnership or corporation, executes this document expressly warranting and representing that, should this bid be accepted by the City, and the Contract awarded, the Contractor and its subcontractors engaged in the performance of the Contract:

(a) Will comply with the provisions of Section 6-108 of the Administrative Code of the City of New York (the "Administrative Code") and the non - discrimination provisions of Section 220a of the New York Labor Law as more expressly set forth in detail in the Contract form; and

(b) Will comply with the provisions of Section 6-109 of the Administrative Code in relation to minimum wages and other stipulations as more expressly set forth in detail in the Contract; and

(c) Have complied with the provisions of the aforesaid laws since their respective effective dates; and

(d) Will post notices to be furnished by the City, setting forth the requirements of the aforesaid laws in prominent and conspicuous places in each and every plant, factory, building, and structure where employees engaged in the performance of the Contract can readily view it, and will continue to keep such notices posted until the supplies, materials and equipment, or work, labor and services required to be furnished or rendered by the Contractor have been finally accepted by the City.

In the event of breach or violation of any of the foregoing, the bidder may be subject to damages, liquidated or otherwise, cancellation of the Contract and suspension as a bidder for a period of three years.

5. Employment Reports

(a) The bidder, as an individual, or as a member, partner, director, or officer of the bidder, if the same be a firm, partnership, corporation or other entity:

(i) represents that its attention has been specifically drawn to Executive Order No. 50 (1980) ("E.O.50"), on Equal Employment Compliance under the Contract, and subsequent amendments including Executive Order No. 108 (1986) ("E.O.108"); and

(ii) warrants that it will comply with such provisions and comparable provisions in the Contract (Article 36 of the Standard Construction Contract).

The apparent low bidder must submit the Employment Report (included in the Bid Booklet), if applicable, within five days after the bid opening.

(b) The bidder, as an individual, or as a member, partner, or officer of the bidder, if the same be a firm, partnership, corporation or other entity, executes this document expressly warranting that it will comply with any provision of this Invitation for Bids and of the Contract relating to employment practices and to the provision of records and access to the job site to the City as may be necessary to enable it to verify such compliance.

6. All materials, fixtures, supplies and equipment furnished under the Contract shall be new and unused, except as approved by the Agency or as specified, and of standard first-grade quality and of the best workmanship and design. The City of New York encourages use of recycled products where practicable.

7. The bidder has visited and examined the site of the work and has carefully examined the Contract in the form approved by the Corporation Counsel, and will execute the Contract and perform

all its items, covenants and conditions, and will provide, furnish and deliver all work, materials, supplies, tools and appliances for all labor and materials necessary or required for the work, all in strict conformity with the Contract, in accordance with the bid schedule of prices annexed hereto and the total bid price below.

☞ **The Bid Schedule of Prices follows this page (for LUMP SUM CONTRACTS there is no additional Bid Schedule of Prices.) The Bid Total and Signature Page follows.**

☞ **THE BID SHALL BE TYPEWRITTEN OR WRITTEN LEGIBLY IN INK. THE BID SHALL BE SIGNED IN INK. ERASURES OR ALTERATIONS SHALL BE INITIALED BY THE SIGNATORY IN INK.**

8. The Engineer's Estimate of Quantities on the Bid Schedule of Prices (if any) is approximate only and is not to be considered as a binding feature of the Contract. Bidders are required to submit their bids upon the following express conditions which apply to and become part of every bid received. Bidders must satisfy themselves as to the accuracy of any Engineer's Estimate and of their bid price by personal examination of the location of the proposed work and surroundings thereof, and by such other means as they may prefer, and shall not, at any time after submission of their bids, dispute or complain of such Engineer's Estimate of Quantities, nor assert that there was any misunderstanding in regard to quantity or kind of material to be furnished or work to be done. No error or misunderstanding of the bidder shall affect the validity of the bid made or the Contract entered into hereunder.

9. The bid prices given below are to be paid for the actual quantities of the several classes of work in the completed work or structure, and they cover the cost of all work, labor, material, tools, plant and appliances of every description necessary and required to complete the entire work, as specified, and the removal of debris, temporary work and appliances. Should the dimensions of any part of the work or the materials be less than those required by the plan, the actual quantities only will be allowed in measurement.

10. By signing this bid document, below, the bidder certifies the accuracy of the information provided on the Cover Page/Invitation for Bids Summary and in its bid, as well as the information to be provided in connection with the Financial Statement Requirement set forth in Section B3. In addition, by signing this bid below, the bidder acknowledges and agrees to the terms and conditions of the provisions enumerated below and that such provisions constitute material conditions of this Contract:

[IMPORTANT NOTE -- THESE ARE MANDATORY CHECK-OFF ITEMS – YOU MUST CHECK "YES" BELOW OR YOUR BID MAY BE REJECTED AS NON-RESPONSIVE]

(a) Article 69 of the Standard Construction Contract- MacBride Principles

☐ **YES** the bidder agrees to comply with the MacBride Principles

☐ **NO** the bidder does not agree to comply with the MacBride Principles

(b) Article 71 of the Standard Construction Contract - Tropical Hardwoods Law

☐ **YES** the bidder agrees to comply with the Tropical Hardwoods Law

☐ **NO** the bidder does not agree to comply with the Tropical Hardwoods Law

BID TOTAL AND SIGNATURE PAGE

THE TOTAL BID PRICE (total of all bid items) IS: $_____

Bid Total in Figures (dollars and cents)

Full Name of Bidder (Company): _____

Address: _____

By (Name of Duly Authorized Representative): _____

Title of Duly Authorized Representative: _____

_____

Signature of Duly Authorized Representative

[if bidder is a corporation,
place corporate seal here]

BIDDER'S ACKNOWLEDGMENT

State of _____ , County of _____ss:

On this ..... day of ....., ...,before me personally came ......, who, being by me duly sworn, did depose and say that she/he is the..... of.....; that she/he is duly authorized to execute the foregoing bid on behalf of said corporation, partnership, or firm; and that the several matters stated in the bid are in all respects true.

_____

Notary Public

***Note**: If the bidder is a Joint Venture, each member of the Joint Venture must sign a separate bid Total and Signature Page and Bidder Affirmation.*

SECTION B5
BIDDERS MINIMUM QUALIFICATIONS

Introduction:

Due to the special nature of the Work required for the Project, the Bidder shall be required to submit, with its Bid, sufficient evidence, including completion of the Bidder's Minimum Qualifications Requirements Statement Form (attached), that it satisfies all of the following minimum qualification criteria ("Minimum Qualifications").

Minimum Qualifications:

1. The Bidder must have prior experience on at least three (3) Projects, each substantially completed within the last ten (10) years, and with a minimum three (3) years of experience performing similar work (in scope and magnitude) as described in this Contract.

2. In the event that the Bidder is an entity which was formed within five (5) years prior to the Bid Opening, NYCDEP may, in determining compliance with the Minimum Qualifications, consider prior projects completed by principals(s) of the Bidder while such principal was affiliated with another entity, subject to the following conditions:

2.A If the Bidder is relying on the prior experience of only one (1) of its principals, such principal must hold an ownership interest of 51% or greater in the entity submitting the Bid.

2.B If the Bidder is relying on the prior experience of more than one of its principals, each such principal must hold an ownership interest of 20% or greater in the entity submitting the Bid, and all such principals must collectively hold an ownership interest of 51% or greater in the entity submitting the Bid.

2.C If the Bidder is relying on the prior experience of any of its principals, each such principal must:

i. Have held a significant management role in the prior entity which he/she was affiliated, and

ii. Have been a principal of the entity submitting the Bid for a period of at least six months prior to the submission of the Bid or from the inception of the entity submitting the Bid.

3. In the event that the Bidder is a joint venture, one of entities in the joint venture must meet the Minimum Qualifications and hold an ownership interest of 50% or greater in the entity submitting the Bid.

4. Additional Project-Specific Required Minimum Technical Qualifications (if needed):

NA

5. Failure of the Bidder to submit sufficient evidence that it satisfies the Minimum Qualifications may result in a determination that the Bidder is non-responsive pursuant to the PPB Rules.

6. NYCDEP may independently evaluate the Bidder's qualifications and experience and deem the Bidder qualified, even if the Bidder has technically failed (based on the aforementioned requirements) to submit sufficient evidence and/or complete the Minimum Qualifications Form(s), and as a result, is responsive to the Minimum Qualifications requirements of this Bid.

FORM TO FOLLOW

BIDDER'S MINIMUM QUALIFICATIONS STATEMENT FORM

KENS-EAST-3

The Bidder must complete this form for each contract or project for which it will rely on to provide sufficient evidence of its prior contracting history to meet the Bidder Minimum Qualifications requirements specified above. Additional forms may be required to be completed and attached as part of the Bid in order to provide such evidence. All applicable fields of this form should be completed by the Bidder.

Contract/Project Name:	
Contract/Project Description:	
Contract/Project Value (Total Dollar Value): $	
Start Date:	Owner/Agency:
Completion Date:	Contact Name:
	Contact Title:
	Contact Email Address:
	Contact Telephone #:
Bidder's Role in Contract/Project:	

☐ If Bidder was a prime: ▪ Business name: ▪ Description/Nature of Work: ▪ Total Dollar Amount of Work: $	☐ If Bidder was a subcontractor: ▪ Business name: ▪ Description/Nature of Work: ▪ Total Dollar Amount of Work: $

☐ If Bidder was a joint venture: ▪ Business name: ▪ Description/Nature of Work: Total Dollar Amount of Work: $	☐ If principal of Bidder that completed work was a prime/subcontractor: ▪ Principal name: ▪ Prime/Sub Name: ▪ Description/Nature of Work: Total Dollar Amount of Work: $ ▪ Was principal lead Project Manager and/or principal with at least 25% ownership in entity which completed work? Yes ☐ No ☐ ▪ Does principal hold and maintain at least 51% ownership in entity submitting bid under this solicitation? Yes ☐ No ☐

Name: _____

Signature: _____

Date: _____

SECTION C:

Information for Bidders



CONSTRUCTION CONTRACT

INFORMATION FOR BIDDERS

(Rev. 12/2025)

59-17 Junction Boulevard, Flushing, New York 11373

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1. GENERAL INFORMATION

(A) INVITATION FOR BIDS ("IFB") PACKAGE

Prospective bidders must examine the documents comprising this solicitation package carefully. Prospective bidders are directed to submit any questions or concerns through the "Discussion with Buyer" forum in the Procurement and Sourcing Solutions Portal ("PASSPort"). More information regarding PASSPort can be obtained on the Mayor's Office of Contract Services' website at:

https://www.nyc.gov/site/mocs/passport/about-passport.page

(B) DESCRIPTION AND LOCATION OF WORK

The description and location of the work for which bids are requested are specified in PASSPort.

(C) PROCUREMENT POLICY BOARD RULES

This IFB is subject to the Rules of the Procurement Policy Board of the City of New York ("PPB Rules"). In the event of a conflict between the PPB Rules and a provision of this IFB, the PPB Rules shall take precedence. A copy of the PPB Rules can be obtained on the City's website at: https://www.nyc.gov/assets/mocs/downloads/Regulations/PPB/PPBRules.pdf

(D) CONTRACTOR REGISTRATION REQUIREMENT

All bids and proposals for construction projects must include a copy of the bidder or proposer's certificate of registration with the New York State Department of Labor (DOL). This requirement stems from Section 220-i of the New York State Labor Law. Information on the DOL registration process and the portal to register can be found on the DOL's Contractor and Subcontractor website at: https://dol.ny.gov/contractor-and-subcontractor-landing.

(E) BID SUBMISSION REQUIREMENTS

Contents and Instructions herein indicates the documents and forms comprising this solicitation. Bidder is directed to the Contents and Instructions for submission requirements.

When requested to do so by DEP, the apparent low bidder must submit the Employment Report (described in Section 23, below).

Non - compliance with any of the above bid submission requirements may result in a rejection of the bid.

2. TIME AND PLACE FOR RECEIPT OF BIDS

Bids must be submitted electronically in PASSPort, on the date and time specified in PASSPort. Bids will be publicly opened and read aloud in the presence of the Commissioner, or his/her representatives. Bidder is directed to the *Electronic Bidding Notice* for further information.

3. DEFINITIONS

The definitions set forth in the PPB Rules shall apply to this IFB. Other capitalized terms used in this IFB

are used as defined in the New York City Standard Construction Contract, (the "Standard Construction Contract").

4. INVITATION FOR BID DOCUMENTS

(A) DOCUMENTS TO BE INCLUDED

Except for titles, subtitles, headings, running headlines, tables of contents and indices (all of which are printed herein merely for convenience), the contents of this IFB package, except for such portions thereof as may be specifically excluded, shall be deemed to be part of the Contract, including the bid documents as completed and submitted by the successful bidder. For further definition of the Contract Documents, see Article 1 of the Standard Construction Contract.

(B) GENERAL CONDITIONS AND SPECIFICATIONS.

For particulars as to this procurement, including quantity and quality of the purchase, extent of the work or labor to be performed, delivery and performance schedule, and any other special instructions, prospective bidders are referred to the General Conditions and Specification sections of the IFB, including Schedule A to the General Conditions, as well as the Contract Drawings. A copy of such documents can be obtained electronically through PASSPort.

5. PRE-BID CONFERENCES

A pre-bid conference may be held as set forth in PASSPort. Bidders are directed to the Contents and Instructions for further information. Nothing stated at the pre-bid conference shall change the terms and/or conditions of the IFB unless a change is made by written amendment as provided in Section 7, below, and in accordance with the PPB Rules. Such amendment would be contained in an Addendum to the IFB issued by DEP.

6. AGENCY CONTACT

The DEP Contact Person is specified in PASSPort. Bidders are directed to submit all questions to the "Discussion with Buyer" forum in PASSPort.

7. EXAMINATION OF PROPOSED CONTRACT

(A) REQUEST FOR INTERPRETATION OR CORRECTION BEFORE BIDDING

Prospective bidders must examine the IFB carefully and, before bidding, must request the ACCO in the "Discussion with Buyer" forum in PASSPort to issue an interpretation or correction of every ambiguity, inconsistency or error therein which should have been discovered by a reasonably prudent bidder. Such interpretation or correction as well as any additional Contract provisions the ACCO may decide to include will be issued in PASSPort by the ACCO as an addendum to the IFB. Upon such posting, such addendum shall become a part of the IFB and Contract Documents, and binding on all bidders.

(B) ONLY THE ACCO'S INTERPRETATION OR CORRECTION BINDING

Only the written interpretation or correction so given by the ACCO shall be binding, and prospective bidders are warned that no other officer, agent or employee of the City is authorized to give information concerning, or to explain or interpret, the IFB document.

(C) SUBCONTRACTOR SOLICITATION

Documents given to a prospective subcontractor for the purpose of soliciting the subcontractor's bid shall include the project name, the Contract number (if available), the contracting agency, and the project's location.

8. MODIFICATION OR WITHDRAWAL OF BIDS

The prices set forth in the bid cannot be revoked and shall be effective until the award of the Contract, except as follows:

(A) BEFORE BID OPENING

Bids may be modified or withdrawn in PASSPort before the time and date set for the bid opening. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

(B) AFTER BID OPENING

After bid opening, a bidder may not withdraw its bid within the first forty-five (45) days following the date on which bids were opened. Thereafter, a bidder may withdraw its bid only in writing received by DEP and in advance of award.

9. ACKNOWLEDGMENT OF ADDENDA

The receipt of any addenda to the Contract Documents shall be acknowledged by the bidder on or before the submission of the bid.

10. BID SAMPLES AND DESCRIPTIVE LITERATURE

Bid samples and descriptive literature shall not be submitted by the bidder, unless expressly requested elsewhere in the IFB or Contract Documents. Any unsolicited bid samples or descriptive literature that are submitted shall not be examined or tested and shall not be deemed to vary any of the provisions of this Contract. DEP may discard them, and they will not affect bid evaluation.

11. PROPRIETARY INFORMATION / TRADE SECRETS

The bidder shall clearly identify those portions of the bid which it deems to be confidential, proprietary information or trade secrets, and must provide justification as to why such materials should not be disclosed by the City. All materials the bidder desires to remain confidential shall be clearly indicated by stamping the pages on which such information appears, at the top and bottom thereof with the word

"Confidential." Such materials stamped "Confidential" must be easily separable from non-confidential sections of the bid.

All such materials stamped "Confidential" shall be reviewed by DEP and any decision not to honor a request for confidentiality shall be communicated in writing to the bidder. Prices, makes, and model or catalog numbers of the items offered, deliveries, and terms of payment shall be publicly available after bid opening regardless of any designation of confidentiality made by the bidder.

12. BID EVALUATION AND AWARD:

In accordance with the New York City Charter, the PPB Rules and the terms and conditions of this IFB, this Contract shall be awarded, if at all, to the lowest responsible bidder whose bid meets the requirements and evaluation criteria set forth in the IFB, and whose bid price is either the lowest responsive bid price, or if the IFB so states, the lowest evaluated responsive bid price. A bid may not be evaluated for any requirement or criterion that is not disclosed in the IFB.

(A) RESTRICTIONS

No negotiations with any bidder shall be allowed to take place except under circumstances and in the manner set forth in the PPB Rules and Section 12(B) of this Information For Bidders. Nothing in this Section shall be deemed to permit a Contract award to a bidder submitting a higher quality item than that designated in the IFB if that bid is not also the most favorable bid.

(B) NEGOTIATIONS WITH THE APPARENT LOWEST RESPONSIVE AND RESPONSIBLE BIDDER

Upon determination of the apparent lowest responsive and responsible bidder and prior to award, the ACCO may elect to open negotiations with such bidder in an effort to improve the bid to the City with respect to the price only. In the event the apparent lowest responsive and responsible bidder declines to negotiate, the ACCO may elect to either award the contract to the apparent lowest responsive and responsible bidder or may, upon written approval by the ACCO, reject all bids in accordance with the PPB Rules.

13. MISTAKES IN BIDS

(A) Mistakes Discovered **Before Bid Opening**:

A bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid as provided in Section 8(A), above.

(B) Mistakes Discovered **After Bid Opening:**

(i) Mistakes Where Intended Correct Bid is Evident

If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid

documents are typographical errors, errors in extending unit prices, transposition errors, and arithmetic errors.

(ii) Mistakes Where Intended Correct Bid is **Not Evident**

In accordance with General Municipal Law Section 103(11), mistakes may not be corrected after bid opening. Unless otherwise required by law, the sole remedy for a bid mistake discovered after bid opening shall be withdrawal of that bid, and return of the bid bond or other security, if any, to the bidder in accordance with this Section. Thereafter, DEP may, in its discretion, award the contract to the next lowest bidder or rebid the contract. Any amendment to or reformation of a bid or a contract to rectify such an error or mistake therein is strictly prohibited. Where a unilateral error or mistake is discovered in a low bid, such bid may be withdrawn upon written approval of the ACCO if the following conditions are met:

(a) the mistake is known or made known to DEP prior to the awarding of the contract or within three days after the opening of the bid, whichever period is shorter; and

(b) the price bid was based on an error of such magnitude that enforcement would be unconscionable; and

(c) the bid was submitted in good faith and the bidder submits credible evidence that the mistake was a clerical error as opposed to a judgment error; and

(d) the error in the bid is actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work papers, documents, or materials used in the preparation of the bid sought to be withdrawn; and

(e) it is possible to place the City in the same condition that had existed prior to the receipt of the bid.

14. LOW TIE BIDS

(A) When two or more low responsive bids from responsible bidders are identical in price, meeting all the requirements and criteria set forth in the IFB, the ACCO will break the tie in the following manner and order of priority:

(i) Award to a certified New York City minority owned, or woman-owned business or emergency business entity bidder;
(ii) Award to a New York City bidder;

(iii) Award to a certified New York State small, minority, or woman-owned business bidder;
(iv) Award to a New York State bidder.

(B) If two or more bidders still remain equally eligible after application of paragraph (A) above, award shall be made by a drawing by lot limited to those bidders. The bidders involved shall be invited to attend the drawing. A witness shall be present to verify the drawing and shall certify the results on the bid tabulation sheet.

15. REJECTION OF BIDS

(A) Rejection of Individual Bids.

DEP may reject a bid if:

(i) The bidder fails to furnish any of the information required pursuant to Section 22 or 29 hereof; or if

(ii) The bidder is determined to be not responsible pursuant to the PPB Rules; or if

(iii) The bidder is determined to be non-responsive pursuant to the PPB Rules; or if

(iv) The bid, in the opinion of the ACCO, contains unbalanced bid prices and is thus non-responsive.

(B) REJECTION OF ALL BIDS.

The ACCO may reject all bids and may elect to re-solicit bids or by any other method authorized by the PPB Rules.

16. RIGHT TO APPEAL DETERMINATIONS OF NON-RESPONSIVENESS OR NON-RESPONSIBILITY AND RIGHT TO PROTEST SOLICITATIONS AND AWARD

The bidder has the right to appeal a determination of non-responsiveness or non- responsibility and any vendor has the right to protest a solicitation and award. For further information concerning these rights, the bidder is directed to the PPB Rules.

17. EQUAL EMPLOYMENT OPPORTUNITY

This IFB is subject to applicable provisions of federal, State, and local laws and executive orders requiring equal employment opportunity.

18. AUDIT BY THE COMPTROLLER

The New York City Comptroller is charged with the audit of City contracts. Any vendor who believes that there has been unfairness, favoritism, or impropriety in the bid process should inform the

Comptroller, Office of Contract Administration, One Centre Street, Room 835, New York, NY; telephone number (212) 669-2323.

19. BID, PERFORMANCE, AND PAYMENT SECURITY

(A) BID SECURITY.

The Mayor's Office of Contract Services or the ACCO may require the submission of bid security in an amount and type specified in Schedule A to the General Conditions. **If bid security is required on Schedule A, no bid will be considered which is not submitted pursuant to the submission requirements in the *Electronic Bidding Notice*. The bid security shall assure the City and DEP of the adherence of the bidder to its bid, and the execution of the Contract, in form included in this IFB, if its bid is accepted.** The bidder is advised that submission of a bid bond where the surety on such bond fails to meet the criteria set forth herein shall result in the rejection of the bid as non-responsive.

(i) If a bid bond is furnished to satisfy the bid security requirement, it shall be submitted in the form included herein, and pursuant to the submission procedures in the Contents and Instructions. The bid bond must be issued by a surety company that is authorized to do business in the State of New York. The bid bond shall insure the City of New York to the extent of not less than the amount stated in Schedule A.

(ii) If a bank certified check is submitted as bid security, it must be upon a state or national bank or a trust company or check of such bank or trust company signed by a duly authorized officer thereof, drawn to the City, which the Comptroller shall approve as of equal value with the sum required in Schedule A.

(iii) Bid security not submitted through PASSPort will be returned upon the submitting bidder's request.

(B) PERFORMANCE SECURITY.

The ACCO or the Mayor's Office of Contract Services may require performance security in the form set forth herein, in the amount specified in Schedule A. The performance security shall be delivered by the Contractor to the Contract Management Office *within ten days after the receipt of a Notice of Award*. If a Contractor fails to deliver the required performance security, the award shall be rescinded, its bid security shall be enforced and award of the Contract may be made to the next lowest responsive and responsible bidder or the Contract may be rebid.

(C) PAYMENT SECURITY.

Payment security is required in the amount specified in Schedule A. The payment security, in the form set forth herein, shall be delivered by the Contractor to DEP's Contract Management Office within ten days after the receipt of a Notice of Award. If a Contractor fails to deliver the required payment security, the award shall be rescinded, its bid security shall be enforced, and award of the Contract may be made to the next lowest responsive and responsible bidder, or the Contract may be rebid.

(D) ACCEPTABLE SECURITY.

(i) Acceptable security for bids, performance and payment shall be limited to:

(a) a one-time bond in a form satisfactory to the City (the bidder must use the forms included in this IFB and PASSPort); or

(b) a bank certified check or money order; or

(c) other financial instruments as determined by the Mayor's Office of Contract Services in consultation with the Comptroller.

(ii) When the successful bidder deposits obligations of The City of New York as performance and payment security, the Comptroller may sell and use the proceeds thereof for any purpose for which the principal or surety on such bond would be liable under the terms of the Contract. If the money is deposited with the Comptroller, the successful bidder shall not be entitled to receive interest on such money from the City.

(iii) Security provided in the form of bonds must be prepared on the form of bonds authorized by the City of New York. Forms for the bid, performance, and payment bonds are included in the IFB documents. Such bonds must have as surety thereunder such survey company or companies as are:

(a) Approved by the City of New York

(b) Authorized to do business in the State of New York

(c) Approved by the Department of the Treasury of the United States

(iv) Premiums for any required bonds must be included in the base bid.

20. FAILURE TO EXECUTE CONTRACT AND FURNISH SECURITY OR INSURANCE

In the event the successful bidder fails to execute the Contract and furnish the required security and insurance, or fails make any other submission required hereunder, within ten days after Notice of Award of the Contract, the bid security of the successful bidder, or so much thereof as shall be applicable to the amount of the award made, shall be retained by the City, and the successful bidder shall be liable for and hereby agrees to pay the City on demand the difference between the price bid and the price for which such Contract shall be subsequently relet, including the cost of such reletting less the amount of such bid security. No plea of mistake in such accepted bid shall be available to the bidder for the recovery of such bid security or as a defense to any action based upon such accepted bid. Further, should the bidder's failure to comply with this Section cause any funding agency, body or group (federal, State, City, public, private, etc.) to terminate, cancel or reduce the funding on this project, the bidder in such event shall be liable also to the City for the amount of actual funding withdrawn by such agency, body or other entity on this project less the amount of the forfeited bid security.

21. POWER OF ATTORNEY

Attorneys-in-fact who sign bid bonds or performance and payment bonds must file with each bond a certified copy of their power of attorney to sign said bonds.

22. BIDDER RESPONSIBILITY AND QUALIFICATIONS

Bidders must include in their bids, or upon demand by DEP, all information necessary for a determination of bidder responsibility, as set forth in this IFB.

(A) BIDDER'S RECORDS AND SWORN STATEMENTS.

DEP may require any bidder to furnish all books of account, records, vouchers, statements or other information concerning the bidder's financial status for examination as may be required by DEP to ascertain the bidder's responsibility and capability to perform the Contract. If required, a bidder must also submit a sworn statement setting forth such information as DEP may require concerning present and proposed plant and equipment, the personnel and qualifications of its working organizations, prior experience and performance record.

(B) ORAL EXAMINATION ON QUALIFICATIONS.

In addition thereto, and when directed by DEP, the bidder, or a responsible officer, agent, or employee of the bidder, must submit to an oral examination to be conducted by DEP in relation to its proposed tentative plan and schedule of operations, and such other matters as DEP may deem necessary in order to determine the bidder's ability and responsibility to perform the work in accordance with the Contract.

(C) FAILURE TO SUPPLY INFORMATION.

If the bidder fails or refuses to supply any of the documents or information set forth in this Section or fails to comply with any of the requirements hereof, DEP may reject its bid.

23. EMPLOYMENT REPORTS (DEPARTMENT OF SMALL BUSINESS SERVICES)

In accordance with New York City Executive Order No. 50 (1980) as modified by Executive Order No. 108 (1986), the filing of a complete Employment Report is a requirement of doing business with the City of New York for construction contractors with a contract valued at $1,000,000 or more and for subcontractors with construction subcontracts of $750,000 or more. The required forms and information are included in the bid booklet.

Prior to the award of a contract resulting from this IFB, the apparent successful bidder will be required to submit the following:

(A) Employment Report

(B) Subcontractor Employment Report (if subcontract is equal to or in excess of $750,000)

(C) Less than $750,000 Subcontractor Certificate (for subcontracts valued at less than $750,000)

In addition, if the apparent successful bidder will award a subcontract for non-construction services worth $100,000 or more, a Supply and Service Employment Report, available from the City Department of Small Business Services, must be provided.

24. LABOR LAW REQUIREMENTS

The successful bidder will be required to comply strictly with all federal, State, and local labor laws and regulations, including, but not limited, to providing on-the-job training opportunities and payment of prevailing wages and supplements as required by the New York State Labor Law Section 220. The successful bidder must post at the jobsite all signs and notices required by the Labor Law.

All requests for clarification of the classification of trades to be employed in the performance of the work under this Contract shall be to the "Discussion Forum" in PASSPort, at least 48 hours prior to the bid opening date.

In the event that a trade not listed in the classification of trades required to be used at the time of the award of the Contract is in fact employed during the performance of this Contract, the Contractor shall be required to obtain from the City Comptroller the prevailing wage rates and supplementary benefits for the trades used and to complete the performance of this Contract at the price at which the Contract was awarded.

25. INSURANCE

Bidders are advised that the insurance requirements contained herein are regarded as a material term of this Contract. The Contractor must procure and maintain the types and amounts of insurance specified in Schedule A, in accordance with Article 22 of the Standard Construction Contract.

Prior to execution of any Contract resulting from this solicitation, the successful bidder must submit proof of its commercial general liability, commercial automobile liability, workers' compensation, employer's liability and disability benefits coverage (pursuant to Section 57 and Section 220(8) of the New York State Workers' Compensation Law) to DEP.

ALL other required insurance documentation must be submitted prior to commencing the Work.

26. LUMP SUM CONTRACTS

Bids on lump sum contracts will be compared on the basis of the lump sum price bid, as adjusted for alternate prices bid, if any.

27. UNIT PRICE CONTRACTS

(A) COMPARISON OF BIDS

Bids on unit price contracts will be compared on the basis of a total estimated bid price, arrived at by taking the sum of the estimated quantities of each unit price item multiplied by the corresponding

unit price bid, and including any lump sum prices bid on designated items, in accordance with the Engineer's Estimate of Quantities set forth in the Bid Form.

(B) VARIATIONS FROM ENGINEER'S ESTIMATE

The total estimated bid price will be used solely to compare bids to determine the lowest bidder. DEP does not promise to pay the successful bidder this total estimated bid price, or to require any particular lump sum item or any of the unit price items. The terms and conditions applicable to overruns of unit price items are set forth in Article 26 of the Standard Construction Contract.

28. CITY'S LIMITED TAX EXEMPTION

Unless this Contract indicates otherwise, the City is exempt from the payment of federal, State and local taxes on tangible personal property sold to the City pursuant to the Contract. The bid price(s) must be exclusive of such taxes and shall be so construed. Bidders are referred to Article 62 of the Standard Construction Contract.

29. LICENSES AND PERMITS

At the time the bid is submitted, the bidder must have all licenses that are required by New York State and/or New York City, or any other authority with jurisdiction, for a contractor that will perform the type of work required by the Contract. The successful bidder will also be required to obtain all other necessary licenses and permits to perform the work, at its own expense.

30. MULTIPLE PRIME CONTRACTORS

If more than one prime Contractor will be involved on this project, all Contractors are required to examine the IFB packages for all other parts of the project.

31. LOCALLY BASED ENTERPRISE REQUIREMENTS (LBE)

This Contract is subject to the LBE requirements of New York City Administrative Code § 6-108.1 and the regulations promulgated thereunder, **unless** either: (a) the Subcontractor Utilization Plan (included in this IFB as Schedule B, if applicable) contains minority- and women- owned business enterprise ("M/WBE") requirements that the successful bidder must meet, or (b) New York State Revolving Fund M/WBE requirements apply, as indicated in PASSPort. The bidder is referred to the provisions set forth in Article 67 of the Standard Construction Contract for details of the LBE requirements.

32. NO BLASTING

Unless otherwise permitted in the Specifications or Contract Drawings, no blasting will be allowed under this Contract. The Contractor shall use line drilling or other acceptable methods.

33. COMPTROLLER'S CERTIFICATE

This Contract shall not be binding or of any force unless the Comptroller of the City shall endorse hereon

his/her certificate that there remains unexpended and unapplied, as provided in Section 6-101 of the Administrative Code of the City of New York, a balance of the appropriation of funds applicable thereto sufficient to pay the estimated expense of executing this Contract. This Contract shall continue in force only after annual appropriation of funds by the City of New York and certification as hereinabove set forth.

34. CERTIFICATION BY NON-GOVERNMENTAL ENTITY OR MEMBERSHIP IN NON-GOVERMENTAL ORGANIZATION

In the Specifications included in this Contract, wherever certification or training by a non- governmental entity, or membership in a non-governmental organization is required, this shall be deemed to require such certification, training or membership or possession of equivalent qualifications or characteristics as determined by the Engineer. The previous sentence shall not be construed to be a waiver of any legally required federal, State or local certification, training or licensing requirement, nor shall it apply where certification by the manufacturer of materials or equipment is called for.

35. PROMPT PAYMENT

The Prompt Payment provisions set forth in the PPB Rules are applicable to payments made under the Contract resulting from this solicitation. The provisions require the payment to contractors of interest on payments made after the required payment date except as set forth in the PPB Rules. The Contractor must submit a proper invoice to receive payment, except where the Contract provides that the Contractor will be paid at predetermined intervals without having to submit an invoice for each scheduled payment. Determinations of interest due will be made in accordance with the provisions of the PPB Rules.

END OF INFORMATION FOR BIDDERS

New Help Desk information:

Doing Business with the City of New York

To do business with the City of New York, organizations need to create a vendor account in the City's Payee Information Portal (PIP) (to get paid) and also in Procurement and Sourcing Solutions Portal (PASSPort) (for all other contracting actions, including completing vendor disclosures, finding and responding to contracting opportunities, signing the contract upon contract award, and much more). The Mayor's Office of Contract Services (MOCS) developed and maintains PASSPort.

Learn more about PASSPort and contracting with NYC – visit the MOCS website:
Getting Started: An Introduction to Doing Business with the City of New York

To view contracting opportunities, visit the PASSPort Public Portal.

Note: A PASSPort account is required to respond to solicitations (RFx). Organizations looking to respond to Health and Human Services (HHS) solicitations need to have an approved HHS Prequalification Application in PASSPort.

Need Help or Have a Question?

- For assistance with **PIP**, please refer to the PIP website.
- For **PASSPort** learning resources, visit MOCS Learning to Use PASSPort.

For technical assistance when using **PASSPort**, submit an inquiry to the MOCS Service Desk.

- For assistance regarding **solicitations (RFx),** reach out to the soliciting City Agency via the email address listed for the relevant RFx in PASSPort, or post a question via the Discussion Forum of the RFx.

Thank you for your continued partnership - looking forward to continued success in this next phase in Elevating Procurement!

SECTION D:

List of Equipment/Manufacturers Form for Which Bidder Seeks Approval

LIST OF EQUIPMENT/MATERIAL MANUFACTURERS FORM

Where applicable to a particular Contract, this LIST OF EQUIPMENT/MATERIAL MANUFACTURERS must be signed and submitted by the bidder with the bid. See Division 01, Section 01 43 20 - Approval of Product Manufacturers for details on the requirements for manufacturer approval. **The Bidder must indicate either a "Named Manufacturer" OR a proposed "or equal" manufacturer for EACH of the items listed in the table below. Only one of the columns should be filled in for each equipment/material item, not both**. If any item listed below is not filled in with either a "Named Manufacturer" or an "or equal" by the apparent low bidder, then the bidder must re-submit the list and designate a "Named Manufacturer" for the item(s) within 24 hours after bid opening. Failure to comply with these requirements may cause the bid to be rejected as non-responsive.

Specification Reference*	Equipment/Material	Named Manufacturer (List Only One)	"Or Equal" Manufacturer (List Only One)
26 24 13, 2.01	Switchboards		
26 24 19, 2.01	Motor Control Centers		
26 29 13.16, 2.01	Reduced-Voltage Motor Controller		
26 29 23, 2.01	Variable-Frequency Motor Controllers		
26 31 00, 2.01	Solar Energy Electrical Power Generation		
26 33 53, 2.01	Static Uninterruptible Power Supply		
26 36 23, 2.01	Automatic Transfer Switches		
26 36 23.11, 2.01	Medium-Voltage Automatic Transfer Switches		
27 11 16, 2.01	Network Racks		
27 11 19, 2.01	Patch Panels		
27 16 16, 2.01	Media Converters, Adapters, and Transceivers		
27 21 29, 2.01	Network Switches and Hubs		
40 05 59.33, 2.01.A	Cast Iron Slide Gates		

40 05 59.33, 2.01.B	Electric Motor Actuators		
40 05 60.01, 2.01.A	Roller Gates		
40 05 60.01, 2.01.B	Electric Motor Operators		
41 22 24, 2.01.A.	Bridge Cranes		
40 63 43 2.01.A.1	Programmable Logic Controllers		
40 63 43 2.01.A.2	Programmable Logic Controllers		
40 63 43 2.01.A.3	Programmable Logic Controllers		
43 41 13.13	Epoxy-Lined Welded Steel Tank		

***** - Section #, Article # and Paragraph # under which manufacturer(s) is/are named for the equipment/material.

Contract # _____

The above information is certified as correct.

By: _____ (Authorized Officer of Bidder)

_____ (Name of Bidder Firm)

Date: _____

SECTION E:

Bid Bond Form

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS, That we,

_____

_____

hereinafter referred to as the "Principal", and _____

_____

hereinafter referred to as the "Surety" are held firmly bound to THE CITY OF NEW YORK, hereinafter referred to as the "CITY", or to its successors and assigns in the penal sum of:

_____ Dollars

($_____), lawful money of the United States, for the payment of which said sum of money well and truly to be made, we, and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Whereas, the Principal is about to submit (or has submitted) to the City the accompanying Bid, hereby made a part hereof, to enter into a Contract in writing for

_____

_____.

NOW, THEREFORE, the conditions of this obligation are such that, if the Principal shall not withdraw said Bid without the consent of the City for a period of forty-five (45) days after the opening of bids and in the event of acceptance of the Principal's Bid by the City, if the Principal shall:

(a) Within ten (10) days after notification by the City execute in quadruplicate and deliver to the City all the executed counterparts of the Contract in the form set forth in this Invitation For Bid, in accordance with the Bid as accepted, and

(b) Furnish a Performance Bond and separate Payment Bond, as may be required by the City for the faithful performance and proper fulfillment of such Contract, which bonds shall be satisfactory in all respects to the City and shall be executed by good and sufficient sureties, and

(c) In all respects perform the Contract created by the acceptance of said Bid as provided in the Information For Bidders, bound herewith and hereby made a part hereof, or if the City shall reject the aforesaid Bid, then this obligation shall be null and void; otherwise to remain in full force and effect.

BID BOND

In the event that the Bid of the Principal shall be accepted and the Contract be awarded to him/her the Surety hereunder agrees subject only to the payment by the Principal of the premium therefor, if requested by the City, to write the aforementioned Performance and Payment Bonds in the form set forth in this Invitation For Bid.

It is expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

There shall be no liability under this bond if, in the event of the acceptance of the Principal's Bid by the City either a Performance Bond or a Payment Bond, or both, shall not be required by the City on or before the thirtieth day after the date on which the City signs the Contract.

The Surety, for the value received, hereby stipulates and agrees that the obligations of the Surety and its bond shall in no way be impaired or affected by any postponements of the date upon which the City will receive or open bids, or by any extensions of the time within which the City may accept the Principal's Bid or by any waiver by the City of any of the requirements of the Information For Bidders, and the Surety hereby waives notice of any such postponements, extensions, or waivers.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals and such of them as are corporations have caused their corporate seals to be hereto affixed and their presents to be signed by their proper officers this_____day of _____,_____.

(SEAL) _____ (L.S.)
Principal
By:_____

(SEAL) _____
Surety
By:_____

The Acknowledgment, on the next page, shall be subscribed and sworn to before a Notary Public or Commissioner of Deeds

BID BOND

ACKNOWLEDGMENT OF PRINCIPAL - IF A CORPORATION

State of_____ County of _____ss:
On this _____ day of _____,____
before me personally appeared _____
to me known who, being by me (duly sworn) did depose and say that he/she resides at
_____
and that he/she is the_____ of _____
_____ __
the corporation described in and which executed the foregoing instrument; that he/she knows the seal of said corporation; that one of the seals affixed to said instrument is such seal, that it was so affixed by order of the directors of said corporation, and that he/she signed his/her name thereto by like order.

_____
Notary Public

ACKNOWLEDGMENT OF PRINCIPAL - IF A PARTNERSHIP

State of _____ County of _____ss:
On this _____ day of _____, ____
before me personally appeared _____
to me known and known to me to be one of the members of the firm of:
_____
described in and who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same as and for the act and deed of said firm.

_____
Notary Public

ACKNOWLEDGMENT OF PRINCIPAL - IF AN INDIVIDUAL

State of _____ County of _____ss:
On this _____ day of _____,____
before me personally appeared _____
to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed same.

_____
Notary Public

****

AFFIX ACKNOWLEDGMENTS AND JUSTIFICATIONS OF SURETIES

SECTION F:

Equal Employment Opportunity -
Executive Order No. 50 Employment Report

Division of Labor Services
1 Liberty Plaza
New York, New York 10006
Phone: (212) 513–6323
Fax: (212) 618-8879

CONSTRUCTION EMPLOYMENT REPORT INSTRUCTIONS

WHO MUST FILE A CONSTRUCTION EMPLOYMENT REPORT

A Construction Employment Report (ER) must be filed if you meet the following conditions:

CONTRACT FUNDING SOURCE	CONTRACTOR	CONTRACT VALUE	SUBMISSION REQUIREMENT
Federal/Federally assisted	Prime and subcontractors	$10,000 or greater	Construction Employment Report
City and state funded	Prime contractor	$1,000,000 or greater	
	Subcontractor	$750,000 or greater	
		Less than $750,000	Less than $750K (city/state) form

Prime Contractor:

- A general contractor or construction manager selected to perform work on a construction project funded (in whole or in part) by the federal government with a proposed contract value of $10,000 or more.
- A general contractor or construction manager selected to perform work on a construction project funded or assisted by the City of New York with a proposed contract value of $1,000,000 or more.

Subcontractor:

- A subcontractor selected to perform work on a construction project funded (in whole or in part) by the federal government with a proposed contract value of $10,000 or more.
- A subcontractor selected to perform work on a construction project funded or assisted by the City of New York with a proposed contract value of $750,000 or more.
- A subcontractor selected to perform work on a construction project funded or assisted by the City of New York with a proposed contract value of less than $750,000 must submit a “Less than $750,000” form online at DLS Contract Compliance (nyc.gov).

WHERE TO FILE

Employment Reports must be filed with the City agency awarding the contract. If you are a contractor or subcontractor who will be working for a private developer in receipt of funding or assistance from the City, the ER must be filed with the City agency with jurisdiction over the developer's project.

DLS REVIEW PROCESS

In accordance with Executive Order 50 (EO 50), upon receipt by DLS of a completed ER, DLS conducts a review of the contractor's current employment policies, practices and procedures, as well as perform a statistical analysis of the contractor's workforce, if necessary. The process is as follows:

1. Upon a complete submission, the DLS team will perform a complete evaluation of the forms, policies and procedures and follow up with an outcome within fifteen (15) business days. The substantive compliance review does not commence until the submission is complete. **An incomplete submission will delay the review process and may preclude or interrupt the contract approval.**

2. If the ER submission is complete, the compliance review will proceed, resulting in one of the following:

   Certificate of Approval
   The contractor is found to be in compliance with all applicable laws and regulations. The approval is valid for 36 months.

   Conditional Certificate of Approval
   The contractor is required to take corrective actions in order to be in compliance with EO 50. The contractor must meet the conditions within one month.

   Determination of Nonperformance
   The contractor has failed to take the required corrective actions stipulated in the Conditional Certificate. A determination of nonperformance may prevent a contractor from receiving an award of a contract.

HOW TO COMPLETE THE EMPLOYMENT REPORT

Contents

General Information
Part I: Contractor/Subcontractor Information
Part II: Employment Policies and Practices
Part III: Contract Bid Information and Projected and Current Workforce
Forms Signature Page

PART I: CONTRACTOR/SUBCONTRACTOR INFORMATION

Questions 7 – 11: Please provide the required contact information for your company. All contracts must have a designated Equal Employment Officer.

Question 12: If you are a subcontractor, you must state the name of the contractor for whom you are providing the construction services.

Question 13: Please provide the number of permanent employees in your company.

Question 14a-g: The Project Identification Number (PIN) and the Contract Registration ID Number (CT#) can be obtained from the City agency. Provide a description of the trade work you will perform on this project and the address where the work will be performed. Subcontractors can obtain this information from the contract they have with the prime contractor.

Questions 15 – 18: If your firm has received a valid DLS Administrative Certificate of Approval within the past 36 months, audited by the United States Department of Labor, Office of Federal Contract Compliance Programs (OFCCP), the certificate may be used to comply with EO50 requirements.

If your company was issued a Conditional Certificate of Approval, all required corrective actions must have been taken. Failure to comply will result in a Non-Performance Corrective Actions Notice.

Question 18: If the company was audited by the OFCCP, also provide the following:

- Identify the reviewing OFCCP office by its name and address.
- If a conditional certificate of compliance was issued by the OFCCP, attach a copy of the certificate in lieu of completing Parts II and III;

Question 19: Please provide a copy of any Collective Bargaining Agreement(s) which is negotiated through an employer trade association on behalf of your organization or any of its affiliates.

PART II: EMPLOYMENT POLICIES AND PRACTICES

Remember to label all documents with the question number for which they are submitted.

Questions 20a – k: You must respond to the questions as to whether or not your firm has documents reflecting written policies, benefits and procedures. If so, then you must identify **by name** each document in which the policy(ies), procedure(s) and benefit(s) is located and submit copies of all of the document(s). If your firm follows unwritten practices or procedures, include an explanation of how they operate. Please submit the most current document(s), including all applicable amendments. Label each document and/or unwritten practice according to the question to which it corresponds (e.g. 20a, 20b, etc.)

Questions 21a – h: Inquires about the manner/methods by which you comply with the requirements of the Immigration Reform and Control Act of 1986 (IRCA).

Question 22: Inquires into where and how I-9 forms are maintained and stored.

Questions 23a – e: Inquires into whether or not there is a requirement that an applicant or employee be subjected to a medical examination at any given time. Copies of the medical information questionnaire and instructions must be submitted with the Employment Report.

Question 24: Indicate the existence and location of all statements of your firm's Equal Employment Opportunity policy and attach a copy of each statement.

Question 25: Submit any current Affirmative Action Plan(s) created pursuant to Executive Order 11246.

Question 26: If your firm or collective bargaining agreement has an internal grievance procedure, indicate this and submit a copy of the policy and procedure. If unwritten, explain its nature and operation. Explain how your firm's procedure addresses EEO complaints.

Question 27: If your employees have used the procedure in the last three (3) years, please submit an explanation in the format indicated below:

1. Number of complaint(s)	2. Nature of the complaint(s)	3. Position(s) of the complainant(s)	4. Was an investigation conducted? Y/N	5. Current status of the disposition

Question 28: Indicate whether in the past three (3) years complaints have been filed with a court of law or administrative agency, naming your company as a defendant (or respondent) in a complaint alleging violation of any anti- discrimination or affirmative action laws. If yes, develop and submit a log to show, for each administrative/and or judicial action filed, the following information:

1. Name(s) of complainant(s)	2.Administrative agency or court in which action was filed	3. Nature of the complaint(s)	4. Current status	5. If not pending the complaint's disposition

Question 29: Identify each job for which a physical qualification exists. Identify and explain the physical qualification(s) for each stated job. Submit job descriptions for each job and the reasons for the qualifications.

Question 30: Identify each job for which there exists any qualification related to age, race, color, national origin, sex, creed, disability, marital status, sexual orientation or citizenship status. Identify and explain the specific related qualification for each job stated. Submit job descriptions for each job and the reasons for the qualifications.

PART III: CONTRACT BID INFORMATION AND PROJECTED AND CURRENT WORKFORCE FORMS

FORM A: CONTRACT BID INFORMATION – USE OF SUBCONTRACTORS/TRADES

Your projections for the utilization of subcontractors on the proposed contract are to be provided in this section. A chart has been provided for the identification of subcontractors. Information is to be provided to the extent known at the time the ER is filed for review by DLS. If the subcontractor's name is unknown, then write “unknown”. Under "ownership", enter the appropriate race/ethnic and gender code. If the contract is federally funded or assisted and the subcontractor is being utilized in accordance with applicable federal requirements with respect to Minority Business Enterprise or Woman Business Enterprise requirements, enter the appropriate code. This will also apply to state funded contracts with similar requirements for minority and female owned businesses.

FORM B: PROJECTED WORKFORCE FOR WORK TO BE PERFORMED ON THIS PROJECT

For each trade to be engaged by your company for this project, enter the projected workforce for Males and Females by trade classification in the charts provided.

FORM C: CURRENT WORKFORCE FOR WORK TO BE PERFORMED ON THIS PROJECT

For each trade *currently* engaged by your company for all work performed in NYC, enter the current workforce for Males and Females by trade classification in the charts provided.

SIGNATURE PAGE

The signatory of this Employment Report and all other documents submitted to DLS must be an official authorized to enter into a binding legal agreement. The signature page must be completed in its entirety and notarized.

The City of New York Department of Small Business Services
Division of Labor Services Contract Compliance Unit
1 Liberty Plaza, New York, New York 10006
Phone: (212) 513 – 6323
Fax: (212) 618-8879

CONSTRUCTION EMPLOYMENT REPORT

GENERAL INFORMATION

1. Your contractual relationship in this contract is: Prime contractor____ Subcontractor____

1a. Are M/WBE goals attached to this project? Yes ____ No ____

2. Please check one of the following if your firm would like information on how to certify with the City of New York as a:

___Minority Owned Business Enterprise
___Women Owned Business Enterprise
___Disadvantaged Business Enterprise
___Locally Based Business Enterprise
___Emerging Business Enterprise

2a. If you are certified as an **MBE**, **WBE**, **LBE, EBE** or **DBE**, what city/state agency are you certified with? _____ Are you DBE certified? Yes ____ No ____

3. Please indicate if you would like assistance from SBS in identifying certified M/WBEs for contracting opportunities: Yes___ No___

4. Is this project subject to a project labor agreement? Yes ____ No ____

5. Are you a Union contractor? Yes ____ No ____ If yes, please list which local(s) you affiliated with _____

6. Are you a Veteran owned company? Yes ____ No ____

PART I: CONTRACTOR/SUBCONTRACTOR INFORMATION

7. _____
Employer Identification Number or Federal Tax I.D. Email Address

8. _____
Company Name

9. _____
Company Address and Zip Code

10. _____
Chief Operating Officer Telephone Number

11. _____
Designated Equal Opportunity Compliance Officer Telephone Number
(If same as Item #10, write "same")

12. _____
Name of Prime Contractor and Contact Person
(If same as Item #8, write "same")

13. Number of employees in your company: _____

14. Contract information:

(a) _____ (b) _____
Contracting Agency (City Agency) Contract Amount

(c) _____ (d) _____
Procurement Identification Number (PIN) Contract Registration Number (CT#)

(e) _____ (f) _____
Projected Commencement Date Projected Completion Date

(g) Description and location of proposed contract:

_____

_____

15. Has your firm been reviewed by the Division of Labor Services (DLS) within the past 36 months and issued a Certificate of Approval? Yes___ No___

If yes, attach a copy of certificate.

16. Has DLS within the past month reviewed an Employment Report submission for your company and issued a Conditional Certificate of Approval? Yes___ No___

If yes, attach a copy of certificate.

NOTE: DLS WILL NOT ISSUE A CONTINUED CERTIFICATE OF APPROVAL IN CONNECTION WITH THIS CONTRACT UNLESS THE REQUIRED CORRECTIVE ACTIONS IN PRIOR CONDITIONAL CERTIFICATES OF APPROVAL HAVE BEEN TAKEN.

17. Has an Employment Report already been submitted for a different contract (not covered by this Employment Report) for which you have not yet received compliance certificate?
Yes___ No___ If yes,

Date submitted: _____
Agency to which submitted: _____
Name of Agency Person: _____
Contract No: _____
Telephone: _____

18. Has your company in the past 36 months been audited by the United States Department of Labor, Office of Federal Contract Compliance Programs (OFCCP)? Yes___ No___

If yes,

(a) Name and address of OFCCP office.

_____

_____

(b) Was a Certificate of Equal Employment Compliance issued within the past 36 months? Yes___ No___

If yes, attach a copy of such certificate.

(c) Were any corrective actions required or agreed to? Yes___ No___

If yes, attach a copy of such requirements or agreements.

(d) Were any deficiencies found? Yes___ No___

If yes, attach a copy of such findings.

19. Is your company or its affiliates a member or members of an employers' trade association which is responsible for negotiating collective bargaining agreements (CBA) which affect construction site hiring? Yes___ No___

If yes, attach a list of such associations and all applicable CBA's.

PART II: DOCUMENTS REQUIRED

20. For the following policies or practices, attach the relevant documents (e.g., printed booklets, brochures, manuals, memoranda, etc.). If the policy(ies) are unwritten, attach a full explanation of the practices. See instructions.

_____ (a) Health benefit coverage/description(s) for all management, nonunion and union employees (whether company or union administered)

_____ (b) Disability, life, other insurance coverage/description

_____ (c) Employee Policy/Handbook

_____ (d) Personnel Policy/Manual

_____ (e) Supervisor's Policy/Manual

_____ (f) Pension plan or 401k coverage/description for all management, nonunion and union employees, whether company or union administered

_____ (g) Collective bargaining agreement(s).

_____ (h) Employment Application(s)

_____ (i) Employee evaluation policy/form(s).

_____ (j) Does your firm have medical and/or non-medical (i.e. education, military, personal, pregnancy, child care) leave policy?

___ (k) Sexual Harassment Policy

21. To comply with the Immigration Reform and Control Act of 1986 when and of whom does your firm require the completion of an I-9 Form?

(a) Prior to job offer	Yes___ No___
(b) After a conditional job offer	Yes___ No___
(c) After a job offer	Yes___ No___
(d) Within the first three days on the job	Yes___ No___
(e) To some applicants	Yes___ No___
(f) To all applicants	Yes___ No___
(g) To some employees	Yes___ No___
(h) To all employees	Yes___ No___

22. Explain where and how completed I-9 Forms, with their supportive documentation, are maintained and made accessible.

_____
_____

23. Does your firm or any of its collective bargaining agreements require job applicants to take a medical examination? Yes___ No___

If yes, is the medical examination given:

(a) Prior to a job offer	Yes___ No___
(b) After a conditional job offer	Yes___ No___
(c) After a job offer	Yes___ No___
(d) To all applicants	Yes___ No___
(e) Only to some applicants	Yes___ No___

If yes, list for which applicants below and attach copies of all medical examination or questionnaire forms and instructions utilized for these examinations.

_____
_____

24. Do you have a written equal employment opportunity (EEO) policy? Yes___ No___

If yes, list the document(s) and page number(s) where these written policies are located.

_____
_____

25. Does the company have a current affirmative action plan(s) (AAP)
_____Minorities and Women
_____Individuals with handicaps
_____Other. Please specify _____

26. Does your firm or collective bargaining agreement(s) have an internal grievance procedure with respect to EEO complaints? Yes___ No___

If yes, please attach a copy of this policy.

If no, attach a report detailing your firm's unwritten procedure for handling EEO complaints.

27. Has any employee, within the past three years, filed a complaint pursuant to an internal grievance procedure or with any official of your firm with respect to equal employment opportunity? Yes___ No___

If yes, attach an internal complaint log. See instructions.

28. Has your firm, within the past three years, been named as a defendant (or respondent) in any administrative or judicial action where the complainant (plaintiff) alleged violation of any anti-discrimination or affirmative action laws? Yes___ No___

If yes, attach a log. See instructions.

29. Are there any jobs for which there are physical qualifications? Yes___ No___

If yes, list the job(s), submit a job description and state the reason(s) for the qualification(s).

___

___

30. Are there any jobs for which there are age, race, color, national origin, sex, creed, disability, marital status, sexual orientation, or citizenship qualifications? Yes___ No___

If yes, list the job(s), submit a job description and state the reason(s) for the qualification(s).

___

___

SIGNATURE PAGE

I, (print name of authorized official signing)_____ hereby certify that the information submitted herewith is true and complete to the best of my knowledge and belief and submitted with the understanding that compliance with New York City's equal employment requirements, as contained in Chapter 56 of the City Charter, Executive Order No. 50 (1980), as amended, and the implementing Rules and Regulations, is a contractual obligation. I also agree on behalf of the company to submit a certified copy of payroll records to the Division of Labor Services on a monthly basis.

_____
Contractor's Name

_____
Name of person who prepared this Employment Report Title

_____
Name of official authorized to sign on behalf of the contractor Title

_____
Telephone Number

_____
Signature of authorized official Date

If contractors are found to be underutilizing minorities and females in any given trade based on Chapter 56 Section 3H, the Division of Labor Services reserves the right to request the contractor's workforce data and to implement an employment program.

Contractors who fail to comply with the above mentioned requirements or are found to be in noncompliance may be subject to the withholding of final payment.

Willful or fraudulent falsifications of any data or information submitted herewith may result in the termination of the contract between the City and the bidder or contractor and in disapproval of future contracts for a period of up to five years. Further, such falsification may result in civil and/and or criminal prosecution.

To the extent permitted by law and consistent with the proper discharge of DLS' responsibilities under Charter Chapter 56 of the City Charter and Executive Order No. 50 (1980) and the implementing Rules and Regulations, all information provided by a contractor to DLS shall be confidential.

Only original signatures accepted.

Sworn to before me this _____ day of _____ 20 _____

_____
Notary Public Authorized Signature Date

FORM A. CONTRACT BID INFORMATION: USE OF SUBCONTRACTORS/TRADES

1. Do you plan to subcontractor work on this contract? Yes___ No___

2. If yes, complete the chart below.

NOTE: All proposed subcontractors with a subcontract in excess of $750,000 must complete an Employment Report for review and approval before the contract may be awarded and work commences.

SUBCONTRACTOR'S NAME*	OWNERSHIP (ENTER APPROPRIATE CODE LETTERS BELOW)	WORK TO BE PERFORMED BY SUBCONTRACTOR	TRADE PROJECTED FOR USE BY SUBCONTRACTOR	PROJECTED DOLLAR VALUE OF SUBCONTRACT

***If subcontractor is presently unknown, please enter the trade (craft name).**

OWNERSHIP CODES
- W: White
- B: Black
- H: Hispanic
- A: Asian
- N: Native American
- F: Female

FORM B: PROJECTED WORKFORCE

TRADE CLASSIFICATION CODES

(J) Journeylevel Workers (A) Apprentice
(H) Helper (TRN) Trainee
(TOT) Total by Column

For each trade to be engaged by your company for this project, enter the projected workforce for Males and Females by trade classification on the charts below.

Trade:

_____

Union Affiliation, if applicable

_____

Total (Col. #1-10):

_____

Total Minority, Male & Female (Col. #2,3,4,5,7,8,9, & 10):

_____

Total Female (Col. #6 – 10):

_____

	MALES					FEMALES				
	(1) White Non Hisp.	(2) Black Non Hisp.	(3) Hisp.	(4) Asian	(5) Native Amer.	(6) White Non Hisp.	(7) Black Non Hisp.	(8) Hisp.	(9) Asian	(10) Native Amer.
J										
H										
A										
TRN										
TOT		T								

What are the recruitment sources for you projected hires (i.e., unions, government employment office, job tap center, community outreach)?

_____

_____

FORM B: PROJECTED WORKFORCE

Trade: _____

Union Affiliation, if applicable _____

Total (Col. #1-10): _____

Total Minority, Male & Female (Col. #2,3,4,5,7,8,9, & 10): _____

Total Female (Col. #6 – 10): _____

	MALES					FEMALES				
	(1) White Non Hisp.	(2) Black Non Hisp.	(3) Hisp.	(4) Asian	(5) Native Amer.	(6) White Non Hisp.	(7) Black Non Hisp.	(8) Hisp.	(9) Asian	(10) Native Amer.
J										
H										
A										
TRN										
TOT		T								

What are the recruitment sources for you projected hires (i.e., unions, government employment office, job tap center, community outreach)?

_____

_____

FORM C: CURRENT WORKFORCE

TRADE CLASSIFICATION CODES

(J) Journeylevel Workers (A) Apprentice
(H) Helper (TRN) Trainee
(TOT) Total by Column

For each trade currently engaged by your company for all work performed in New York City, enter the current workforce for Males and Females by trade classification on the charts below.

Trade: _____

Union Affiliation, if applicable _____

Total (Col. #1-10): _____

Total Minority, Male & Female (Col. #2,3,4,5,7,8,9, & 10): _____

Total Female (Col. #6 – 10): _____

	MALES					FEMALES				
	(1) White Non Hisp.	(2) Black Non Hisp.	(3) Hisp.	(4) Asian	(5) Native Amer.	(6) White Non Hisp.	(7) Black Non Hisp.	(8) Hisp.	(9) Asian	(10) Native Amer.
J										
H										
A										
TRN										
TOT		T								

What are the recruitment sources for you projected hires (i.e., unions, government employment office, job tap center, community outreach)?

_____

_____

FORM C: CURRENT WORKFORCE

Trade:

_____

Union Affiliation, if applicable

_____

Total (Col. #1-10):

_____

Total Minority, Male & Female (Col. #2,3,4,5,7,8,9, & 10):

_____

Total Female (Col. #6 – 10):

_____

	MALES					FEMALES				
	(1) White Non Hisp.	(2) Black Non Hisp.	(3) Hisp.	(4) Asian	(5) Native Amer.	(6) White Non Hisp.	(7) Black Non Hisp.	(8) Hisp.	(9) Asian	(10) Native Amer.
J										
H										
A										
TRN										
TOT		T								

What are the recruitment sources for you projected hires (i.e., unions, government employment office, job tap center, community outreach)?

_____

_____

SECTION G:

Subcontractor Approval Information and Forms

Subcontractor Pre-Approval Statement – **Prevailing Wage Contracts**

Agency: _____

Prime Contractor: _____

Subcontractor: _____

Contract #: _____

On behalf of the subcontractor and contract shown above, I affirm that I have reviewed the following information with the prime contractor:

- The work to be done or the trades that will be employed on the subcontract;
- The Comptroller's prevailing wage schedules for each trade;
- The requirement to pay the prevailing wage and supplement rates in effect at the time the work is done, and the dates of likely changes in such rates (July 1 and January 1);
- The registration, ratio and payment guidelines for apprentices, and whether their use is optional or required under this contract;
- The requirement to use City-approved certified payroll forms, the need to fill those forms out completely, and to submit such original payrolls within thirty (30) days of issuance of the first payroll and every thirty (30) days thereafter;
- The requirement to use standard sign-in and sign-out logs or an agency-approved electronic or biometric system, and that such logs must be submitted to the resident engineer or agency representative daily;
- The requirement that all workers on job sites shall wear laminated photo identification badges;
- The prohibition on cash payments to workers and subcontractors; all workers must be paid by check or direct deposit weekly (bi-weekly, where permitted by law [certain non-construction workers only]), and that for contracts over $1,000,000 and subcontracts over $750,000 such checks must be generated by either a payroll service or an agency-approved automated system; and

I further affirm that the subcontractor will comply with these and all other relevant requirements of the New York State Labor Law and City of New York laws and regulations concerning payment of prevailing wages and supplements.

Subcontractor Signature: _____ Date: _____

Printed Name: _____

Position: _____

Prime Contractor Witness: _____ Date: _____

Printed Name: _____

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SECTION H

Environmental Facilities Corporation | Department of Health

KATHY HOCHUL
Governor

MAUREEN A. COLEMAN
President and CEO

Equivalency Project

Mandatory State Revolving Fund Terms and Conditions

For Equivalency Projects Funded with NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund

---

Identify Contract Type prior to Advertisement for Bid:

☑ **Construction**

- ☑ **Treatment Works and Drinking Water Projects**
- ☐ **Non-Treatment Works**

☐ **Non-Construction**

Effective October 1, 2025

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

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INTRODUCTION

The terms and conditions below must be incorporated verbatim into contracts receiving SRF financial assistance. Additional information relating to each of the requirements is included in the companion guidance document. Recipients, Contractors, Subcontractors, and any other involved entities must also comply with any and all applicable rules and regulations not listed below or in the companion guidance document.

REQUIRED CONTRACT LANGUAGE

COMMONLY USED TERMS

The following commonly used terms are defined herein as follows:

Broker means a firm that does not itself perform, manage or supervise the work of its contract or subcontract in a manner consistent with the normal business practices for contractors or subcontractors in its line of business.

Construction means the process by which a contractor or subcontractor builds, alters, repairs, remodels, improves or demolishes infrastructure.

Contract means an agreement between a Recipient and a Contractor.

Contractor means all bidders, prime contractors, surety that is completing performance for a defaulted contractor pursuant to a performance bond, non-construction service providers, and consultants as hereinafter defined, unless specifically referred to otherwise.

Equivalency means projects in the amount equal to the funds “directly made available” by an Environmental Protection Agency (EPA) Capitalization Grant and funding for those projects is considered federal funds, or federal financial assistance. The Equivalency designation is indicated in the Intended Use Plan.

Manufactured products means articles, materials, or supplies that have been processed into a specific form and shape or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. If an item is classified under Build America, Buy America as an iron or steel product, a construction material, or a section 70917(c) material under 2 CFR § 184.4(e), then it is not a manufactured product.

Manufacturer means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.

MBO is designated and employed by the Recipient as a Minority Business or Compliance Officer responsible for MWBE/DBE/SDVOB/EEO reporting and compliance.

Non-Construction 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.

Recipient means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due thereunder are being paid in whole or in part. Responsible through Project Finance Agreement (PFA) to comply with EFC requirements.

State means the State of New York.

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.

Supplier means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

Treatment Works is defined in Clean Water Act (CWA) Section 212, this does not include nonpoint source projects as defined in CWA Section 319 and estuary management program projects as defined in CWA Section 320.

SECTION 1 FEDERAL ARCHITECTURAL AND ENGINEERING PROCUREMENT REQUIREMENTS

Any Architectural and Engineering (A/E) services for all Clean Water State Revolving Fund (CWSRF) projects and for Drinking Water State Revolving Fund (DWSRF) projects are required to be procured in compliance with 40 USC 1101 et. seq., and 48 CFR Part 36 Subpart 36.6. The Recipient must certify compliance to receive financing. Disregard this section if it does not apply to this Contract.

SECTION 2 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR FEDERAL DISADVANTAGED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITY GROUP MEMBERS

The Equal Employment Opportunities requirements of this section apply to all Contracts and Subcontracts, with the exception of: (1) the requirements under Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A which apply only to construction Contracts and Subcontracts; and (2) the Federal Affirmative Action Regulations requirements which apply only to construction Contracts and Subcontracts greater than $10,000.

The Disadvantaged Business Enterprises ("DBE") requirements of this section apply to construction, equipment, services, and/or supplies Contracts.

I. General Provisions

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

1. 40 CFR Part 33 ("Federal DBE Regulations") for contracts under EPA financial assistance agreements, as those terms are defined therein.

2. Title VI of the Civil Rights Act of 1964 and 40 CFR Part 7 ("Title VI") for any program or activity receiving federal financial assistance, as those terms are defined therein.

3. Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A ("Title VII") for construction contracts related to any government programs providing federal financial assistance, as those terms are defined therein.

4. 41 CFR Part 60-4 ("Federal Affirmative Action Regulations") for federal or federally assisted construction contracts in excess of $10,000, as those terms are defined therein.

5. Section 504 of the Rehabilitation Act of 1973 ("Section 504") for any program or activity receiving federal financial assistance, as those terms are defined therein.

6. The Age Discrimination Act of 1975 ("Age Discrimination Act") for any program or activity receiving federal financial assistance, as those terms are defined therein.

7. Section 13 of the Federal Water Pollution Control Act ("Clean Water Act") Amendments of 1972 ("Section 13") for any program or activity receiving federal financial assistance under the Clean Water Act, as those terms are defined therein.

B. Upon request from the Recipient and/or EFC, Contractor will provide complete responses to inquiries and all DBE and EEO records available within a reasonable time or as otherwise determined by EFC.

C. 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 or enforcement proceedings as allowed by the Contract.

D. If any terms or provisions herein conflict with Federal DBE Regulations, Title VI, Title VII, or Federal Affirmative Action Regulations, such law and regulations shall supersede these requirements.

E. The Contractor and Subcontractor shall not discriminate on the basis of race, color, national origin, age, disability, or sex in the performance of this Contract. The Contractor and Subcontractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Contractor and Subcontractor to carry out these requirements is a material breach of this Contract which may result in the termination of this Contract or other legally available remedies.

II. Equal Employment Opportunities (EEO)

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

B. For federally assisted construction Contracts, the Contractor and Subcontractor will comply with the requirements of 41 CFR § 60-1.4(b) and (c), and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor and Subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

C. The Contractor shall comply with the provisions of the Human Rights Law (Executive Law Article 15), Title VI, Title VII, the Federal Affirmative Action Regulations, Section 504, Age Discrimination Act, Section 13, 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.

D. Pursuant to 41 CFR § 60-1.7 for federally assisted construction Contracts, Contractor and Subcontractor will annually file an EEO-1 Report with the Joint Reporting Committee for the Office of Federal Contract Compliance Programs (OFCCP) and the Equal Employment Opportunity Commission (EEOC) according to the instructions provided at https://www.eeoc.gov/employers/eeo-1-survey/eeo-1-instruction-booklet, if Contractor or Subcontractor:

1. Is not exempt from compliance pursuant to 41 CFR § 60-1.5;
2. Has 50 or more employees;
3. Is a prime Contractor or first tier Subcontractor; or Subcontractor below the first tier which performs construction work at the site of construction; and
4. Has a Contract, Subcontract, or purchase order amounting to $50,000 or more.

E. Pursuant to 40 CFR § 7.95, the Contractor shall display a copy of the EEO notice at the project site in a visible location. The notice shall accommodate individuals with impaired vision or hearing and should be provided in languages other than English where appropriate. The notice must also identify the employee responsible for its EEO compliance. See guidance document for sample notice.

F. For federal or federally assisted construction contracts in excess of $10,000, the Contractor and Subcontractor will comply with the Affirmative Action Regulations and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor place affirmative action goals on Contracts and Subcontracts, as established by the United States Department of Labor. See guidance document for goals.

G. The Contractor will include the provisions of Subdivisions II(A) and II(B) 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.

III. Good Faith Efforts and Fair Share Objectives for DBEs

A. Fair Share Objectives for this Contract are 20%

B. Good Faith Efforts

Pursuant to 40 CFR § 33.301, the Contractor must demonstrate and document "good faith efforts" to provide meaningful participation by DBEs as Subcontractors or Suppliers in the performance of the Contract.

1. For purposes of demonstrating good faith efforts and achieving the fair share objectives established herein, the Contractor should seek out the participation of the following certified entities:
    a. DBEs certified by the Small Business Administration (SBA) directory available at: https://web.sba.gov/pro-net/search/dsp_dsbs.cfm
    b. DBEs certified in New York State: https://nysucp.newnycontracts.com/

2. Participation of Brokers and Truckers/Haulers
    a. Contractors cannot count the participation of a DBE who acts as a Broker or passive conduit of funds without performing, managing, or supervising the work of its contract or subcontract in a manner consistent with normal business practices. If 50% or more of the total dollar amount of a DBE's prime contract or subcontract is subcontracted to a non–DBE, the DBE prime contractor or subcontractor will be presumed to be a Broker.
    b. Contractors may count the participation of a DBE trucker/hauler only if the trucker/hauler is performing a "commercially useful function," according to the following factors:
        i. The DBE must be responsible for the management and supervision of the entire trucking/hauling operation for which it is responsible on a particular

contract, and there cannot be a contrived arrangement for the purpose of meeting DBE objectives.

ii. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

C. DBE Utilization Plan

1. The Contractor represents and warrants that Contractor has submitted a completed copy of the EFC DBE Utilization Plan with all required bid forms to the MBO no later than the execution date of this Contract.

2. The Contractor agrees to use such DBE Utilization Plan for the performance of DBEs on the Contract.

3. The Contractor further agrees that a failure to submit and/or use such DBE 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. The Contractor must report any changes to the Utilization Plan after Contract award and during the term of the Contract to the MBO. The Contractor shall indicate the changes to the Recipient in the Quarterly Report immediately following the change. See Section III(E), *Quarterly Report*. At EFC's discretion, an updated DBE Utilization Plan form and good faith effort documentation may be required to be submitted. When a change order is executed the change order and supporting documentation should be submitted to the MBO and a revised Utilization Plan may be required at EFC's discretion.

5. The Contractor shall submit copies of all fully executed subcontracts, agreements, and purchase orders that are referred to in the DBE Utilization Plan to the MBO within 30 days of their execution.

D. Submission of Good Faith Effort Documentation

1. If the Contractor, after making good faith efforts, is unable to meet the DBE fair share objectives, the Contractor must submit documentation showing good faith efforts made by the Contractor to meet the fair share objectives. Such documentation should be submitted to the MBO in accordance with the instructions on the DBE Utilization Plan.

2. If the MBO, upon review of the DBE Utilization Plan and updated Quarterly Reports determines that the Contractor is failing or refusing to comply with the good faith effort requirements or that the good faith efforts are not in the requested format, the Recipient may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within a reasonable time and provide documentation showing good faith efforts as requested.

E. Quarterly Report

1. The Contractor agrees to submit a Quarterly Report to the MBO by the fifteenth business day following the end of each calendar quarter over the term of this Contract documenting the payments made and the progress towards achievement of the DBE fair share objectives of the Contract. The Quarterly 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 Quarterly Report must reflect all Utilization Plan revisions, final adjusted payments to subcontractors, and all change orders and be marked as "final".

2. The Contractor agrees to submit any other information as may be requested by the MBO or EFC during the term of the Contract as needed to assist EFC for completion of federal

reporting to EPA.

F. Other Requirements

1. All contracts shall comply with the contract administration requirements outlined at 40 CFR 33.302.

SECTION 3 BUILD AMERICA, BUY AMERICA (BABA) ACT AND AMERICAN IRON AND STEEL (AIS) REQUIREMENTS

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

I. BABA Requirements

Tthe DWSRF or CWSRF Contract or Subcontract shall be subject to the Build America, Buy America Act, and the regulations promulgated thereafter (Pub. L. No. 117-58, §§ 70901-70953, and 2 CFR Part 184), which requires, among other things, that no SRF funds "may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States."

The Contractor shall submit with their bid or proposal documents an executed BABA Contractor's Certification on the form attached hereto as Attachment 2 acknowledging to and for the benefit of the Recipient of the Clean Water State Revolving Fund ("CWSRF") or the Drinking Water State Revolving Fund ("DWSRF") financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation ("EFC") through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron, steel, manufactured products, and construction materials used in the project be produced in the United States ("BABA Requirement") including iron, steel, manufactured products, and construction materials provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

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

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Recipient to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Contractor has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Contractor agree that the EFC is a third-party beneficiary and neither this paragraph, nor any other provision of this Agreement necessary to give this paragraph force or effect, shall be amended or waived without the prior written consent of the EFC.

II. AIS Requirements

The requirements of this section apply to (1) all contracts for which Part 1 of this section does not apply, (2) all Construction Contracts and Subcontracts for DWSRF projects and CWSRF Treatment Works projects and (3) all contracts for the purchase of iron and steel products for a DWSRF project or CWSRF Treatment Works project. Disregard this section if it does not apply to this Contract or

Subcontract.

The Contractor shall submit with their bid or proposal documents an executed AIS Contractors Certification on the form attached hereto as Attachment 3 acknowledging to and for the benefit of the Recipient of the Clean Water State Revolving Fund ("CWSRF") or the Drinking Water State Revolving Fund ("DWSRF") financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation ("EFC") through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron and steel products used in the project be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

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

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Recipient to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Contractor has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Contractor agree that the EFC is a third-party beneficiary and neither this paragraph, nor any other provision of this Agreement necessary to give this paragraph force or effect, shall be amended or waived without the prior written consent of the EFC.

SECTION 4 DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS

The requirements of this section apply to all Construction Contracts and Subcontracts greater than $2,000 for either DWSRF projects or CWSRF Treatment Works projects. Disregard this section if it does not apply to this Contract or Subcontract.

For Contracts in Excess of $2,000:

(a) Required Contract Clauses

1. Minimum Wages

(i) *Wage rates and fringe benefits*

All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

As provided in paragraphs (d) and (e) of this section the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *provided,* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (1)(ii) of this section) and the Davis–Bacon poster (WH–1321) must be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

The Davis-Bacon poster (WH-1321) can be found at https://www.dol.gov/whd/regs/compliance/posters/davis.htm . Wage determinations may be obtained from the US Department of Labor's website, https://sam.gov/.

(ii) *Frequently recurring classifications*

(A) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR Part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph (a)(1)(iii) of this section, provided that:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
2. The classification is used in the area by the construction industry; and,
3. The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(B) The Administrator will establish wage rates for such classifications in accordance with paragraph (a)(1)(iii)(A)(3) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

(iii) *Conformance*

(A) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
2. The classification is used in the area by the construction industry; and,
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(C) If the Contractor and the laborers and mechanics to be employed in the classification (if

known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

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

(E) The contracting officer must promptly notify the Contractor of the action taken by the Wage and Hour Division under paragraphs (a)(1)(iii)(C) and (D) of this section. The Contractor must furnish a written copy of such determination to each affected worker, or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph (a)(1)(iii)(C) or (D) of this section mustbe paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iv) *Fringe benefits not expressed as an hourly rate*

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

(v) *Unfunded plans*

If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *provided,* that the Secretary of Labor has found, upon the written request of the Contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis–Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

(vi) *Interest*

In the event of a failure to pay all or part of the wages required by the Contract, the Contractor will be required to pay interest on any underpayment of wages.

2. Withholding.

(i) *Withholding requirements*

The Recipient, Subrecipient at any tier, and/or contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor, so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime Contractor or any Subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in paragraph (a) of this section for violations of this contract, or to satisfy any such liabilities required by this Contract or any other Federal contract, or federally-assisted contract subject to Davis–Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2).

The necessary funds may be withheld from the Contractor under this contract, any other Federal contract with the same prime contractor, or any other federally-assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the Contractor liability for which the funds were withheld.

In the event of a Contractor's failure to pay any laborer or mechanic, including any apprentice or helper, working on the site of the work (or otherwise working on construction or development of the project under a development statute) all or part of the wages required by the Contract, or upon the Contractor's failure to submit the required records as discussed in paragraph (a)(3)(iv) of this section, the Recipient, Subrecipient at any tier, and/or contracting agency may on its own initiative and after written notice to the Contractor, sponsor, applicant, or owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(ii) *Priority to withheld funds*

The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both over claims to those funds by:

(A) A Contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a Contractor, or a Contractor's bankruptcy estate;

(D) A Contractor's assignee(s)

(E) A Contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

3. Payrolls and basic records.

(i) *Basic record requirements*

(A) Length of record retention

All regular payrolls and other basic records must be maintained by the Contractor and any Subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in a construction or development of the project under a development statute) for a period of at least three years after all the work on the prime contract is completed.

(B) Information required

Such records must contain the name, Social Security number, last known address, telephone number, and email address of each such worker, each worker's correct classification(s) of work actually performed;, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis–Bacon Act), daily and weekly number of hours actually worked in total on each covered contract; deductions made; and actual wages paid.

(C) Additional records relating to fringe benefits

Whenever the Secretary of Labor has found under 29 CFR § 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits

under a plan or program described in section 40 U.S.C. 3141(2)(B) of the Davis–Bacon Act, the Contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(D) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

(ii) *Certified payroll requirements*

(A) Frequency and method of submission

The Contractor or Subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, a copy of all payrolls to the Recipient. The prime contractor is responsible for the submission of all certified payrolls by all Subcontractors. A prime contractor may permit or require Contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the Contractor, the contracting agency, EFC, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the Contractor is unable or limited in its ability to use the electronic system.

(B) Information required

The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i)(B), except that full social security numbers and home addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's social security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at https://www.dol.gov/agencies/whd/government-contracts/construction/forms or its successor website. It is not a violation of this section for a prime Contractor to require a Subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the Recipient (or the applicant, sponsor, or owner).

(C) Statement of Compliance

Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor, or the Contractor's or Subcontractor's agent who pays or supervises the payment of the persons employed under the Contract and must certify the following:

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

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

3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as

specified in the applicable wage determination incorporated into the Contract.

(D) Use of Optional Form WH-347

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

(E) Signature

The signature by the Contractor, Subcontractor, or the Contractor's or Subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(F) Falsification

The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(G) Length of certified payroll retention

The Contractor or Subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iii) *Contracts, Subcontracts, and related documents*

The Contractor or Subcontractor must maintain this Contract or Subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The Contractor or Subcontractor must preserve these Contracts, Subcontracts, and related documents during the course of the work and for a period of 3 years after all work on the prime contract is completed.

(iv) *Required disclosures and access*

(A) Required record disclosures and access to workers

The Contractor or Subcontractor must make the records required under paragraphs (a)(3)(i) through (iii) of this section, and any other documents the Recipient, EFC, EPA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statues referenced by 29 CFR § 5.1, available for inspection, copying, or transcription by authorized representatives of the Recipient, EFC, EPA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(B) Sanctions for non-compliance with records and worker access requirements

If the Contractor or Subcontractor fails to submit the required records, make them available, or refuses to permit worker interviews during working hours on the job, the federal agency may, after written notice to the Recipient, Contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR § 5.12. In addition, any Contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the Contractor or a person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location

of the records and the volume of production.

(C) Required information disclosures

Contractors and Subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the EPA if the agency is a party to the contract, or to the Wage and Hour Division of the Department of Labor. If the federal agency is not such a party to the contract, the Contractor, Subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the EPA, Recipient, EFC, or subrecipient at any tier, contracting agency, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and trainees.

(i) *Apprentices*

(A) Rate of pay

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA) Training, or with a State Apprenticeship Agency recognized by the OA, A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program., In the event the OA or a State Apprenticeship Agency recognized by the OA, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(B) Fringe benefits

Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(C) Apprenticeship ratio

The allowable ratio of apprentices to journey workers on the job site in any craft classification must not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph (a)(4)(i)(D) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(4)(i)(A) of this section, must be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(D) Reciprocity of ratios and wage rates

Where a Contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journey worker’s hourly rate) applicable within the locality in which the construction is being

performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ration and wage rate specified in the Contractor's registered program must be observed.

(ii) *Equal employment opportunity*

The use of apprentices and journey workers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5. Reserved

6. Subcontracts

The Contractor or Subcontractor must insert in any Subcontracts the clauses contained in 29 CFR § 5.5(a)(1) through (11) or a link to the DBRA Requirements for Contractors and Subcontractors Under EPA Grants documents on EPA's Contract Provisions for Davis-Bacon and Related Acts webpage, along with applicable wage determination(s) and such other clauses or contract modifications as the EPA may by appropriate instructions require, and a clause requiring the Subcontractors to include these clauses and wage determination(s) in any lower-tier Subcontracts. The prime Contractor and any Subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of underpayment or loss, due to any workers of lower-tier Subcontractors, and may be subject to debarment, as appropriate.

7 through 9. Reserved

10. Certification of eligibility

(i) By entering into this Contract, the Contractor certifies that neither it nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government Contracts by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 40 U.S.C. 6144(b) or 29 CFR 5.12(a).

(iii) The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. § 1001.

11. Anti-Retaliation

It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any Contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part of 29 CFR part 1 or 3;

(ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

(iv) Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

For Contracts in Excess of $100,000, in addition to part (a):

(b) Contract Work Hours and Safety Standards Act (CWHSSA)

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

2. **Violation; Liability for Unpaid Wages; Liquidated Damages**. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

3. **Withholding for Unpaid Wages and Liquidated Damages.**

(i) *Withholding process*

The EPA, EFC, Recipient, Subrecipient at any tier, and/or contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime Contractor or any Subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section, any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the Contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the Contractor liability for which the funds were withheld.

(ii) *Priority to withheld funds*

The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(1) of this section, or both, over claims to those funds by:

(A) A Contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(D) A Contractor's assignee(s);

(E) A Contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907

4. **Subcontracts**. The Contractor or Subcontractor must insert in any Subcontracts the clauses set forth in paragraphs (1) through (5) of this section and also a clause requiring the Subcontractors to include these clauses in any lower-tier Subcontracts. The prime contractor is responsible for compliance by any Subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (5). In the event of any violations of these clauses, the prime contractor and any Subcontractor(s) responsible will be liable for any unpaid wages for monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-Retaliation**

It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any Contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

(ii) Filing any complain, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWSSA or this part;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

(iv) Informing any other person about their rights under CWHSSA or this part.

SECTION 5 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT

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

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

In addition, the Contractor and any Subcontractors have not been debarred from or deemed ineligible for Government contracts or federally assisted Construction contracts pursuant to Executive Order 12549.

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

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

SECTION 6 RESTRICTIONS ON LOBBYING

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

The Contractor and any Subcontractor bidding or proposing a Contract or Subcontract in excess of $100,000 shall submit with their bid or proposal documents an executed Certification Regarding Lobbying pursuant to 40 CFR Part 34 ("Lobbying Certification") in the form attached hereto as Attachment 4, consistent with the prescribed form provided in Appendix A to 40 CFR Part 34.

SECTION 7 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

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

This prohibition is effective for obligations and expenditures of EPA financial assistance funding on or after 8/13/2020.

As required by 2 CFR 200.216, EPA recipients and subrecipients, including borrowers under EPA funded revolving loan fund programs (Recipients), are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). EPA funds may not be used to purchase:

a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
b. Telecommunications or video surveillance services provided by such entities or using such equipment.
c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances:

a. Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:
(1) Procure or obtain, extend or renew a contract to procure or obtain;
(2) Enter into a contract (or extend or renew a contract) to procure; or
(3) Obtain the equipment, services, or systems.

Contractors and Subcontractors shall not procure or install prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, that are recorded in the System for Award Management exclusion list located at https://sam.gov/SAM/.

SECTION 8 CONSTRUCTION SIGNS

The requirements of this section apply to all EFC projects. Additional permanent signage is required for projects receiving funding from the NYS Bond Act.

If Contractor is expected to provide and install an EFC Construction Sign, a specification will be included in the enclosed contract documents.

ATTACHMENTS (Required Forms)

Attachment 1 – EFC DBE Utilization Plan

Environmental Facilities Corporation | Department of Health

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) 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 to the Recipient's 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 obtained from EFC.

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

DBEs on this form may include disadvantaged firms certified by the New York State Unified Certification Program (NYSUCP), and disadvantaged firms certified by the Small Business Administration. In addition, the participation of DBEs will be credited according to the following requirements:

- Contractors cannot count the participation of a DBE who acts as a broker or passive conduit of funds without performing, managing, or supervising the work of its contract or subcontract in a manner consistent with normal business practices. If 50% or more of the total dollar amount of a DBE's prime contract or subcontract is subcontracted to a non–DBE, the DBE prime contractor or subcontractor will be presumed to be a broker.
- Contractors may count the participation of a DBE trucker/hauler only if the trucker/hauler is performing a "commercially useful function," according to the following factors:
    - The DBE must be responsible for the management and supervision of the entire trucking/hauling operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE objectives.
    - The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

See the Mandatory Equivalency Terms and Conditions or consult your designated MBO for further guidance.

Instructions for Minority Business Officers (MBO):

The MBO must complete Section 1. Email the completed, signed (electronic signature box checked and dated) form to your EFC Program Compliance Specialist.

The subject heading of the email to the EFC Program Compliance Specialist should follow the format "UP, Project Number, Contractor." EFC will review the Utilization Plan and email the MBO an acceptance or denial.

If the Utilization Plan will not meet or exceed the DBE fair share objective, then the good faith effort documentation noted in Section 4 must be submitted with this form.

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

SECTION 1: MUNICIPAL INFORMATION					
Recipient/Municipality:		**County:**			
Project No.:		**Contract ID:**		**Registration No. (NYC only):**	
Minority Business Officer:		**Email:**		**Phone #:**	
Address of MBO:					
Electronic Signature of MBO: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.				**Date:**	

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION					
Firm Name:				**Contract Type:** ☐ Construction ☐ Other Services	
Is the Prime Firm certified as a DBE? ☐ Yes ☐ No If yes, please include Prime information in Section 3.					
Address:		**Phone #:**		**Fed. Employer ID #:**	
Description of Work:		**Email:**			
Award Date:	**Start Date:**	**Completion Date:**	**DBE Fair Share Objective**	**PROPOSED DBE Participation**	
Total Contract Amount: $ **DBE Eligible Contract Amount: $** (DBE Fair Share Objectives are applied to this amount and includes all change orders, amendments, & specialty waivers)			**Total: 20**% $	**Total:** % $	
If fair share objectives are not met, documentation must be attached: ☐ No Participation ☐ Short of the DBE Fair Share Objective					
☐ **Specialty Equipment/Services:** must be of SIGNIFICANT cost – attach list of cost and type of equipment and good faith effort documentation					

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

SECTION 3: DBE SUBCONTRACTOR INFORMATION			
This Submittal is: ☐ The First/Original Utilization Plan ☐ Revised Utilization Plan #:			
DBE Subcontractor Information		**Contract Amount**	**For EFC Use:**
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

SECTION 3: DBE SUBCONTRACTOR INFORMATION continued			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			

SECTION 4: GOOD FAITH EFFORT DOCUMENTATION

Utilization Plans that do not meet the Fair Share Objective must be accompanied by the documentation requested in numbers 1 – 7, as listed below. Specialty Equipment Exclusion requests must be accompanied by the documentation requested in number 8 – 12, as listed below. Specialty Services Exclusion requests must be accompanied by the documentation requested in number 13, as listed below. Please contact the MBO and/or EFC for assistance or to request sample documentation.

Provide the following:

1. A letter of explanation detailing the scope of work, DBE search results, and results of good faith efforts that were made.

2. A scope of work that shows what subcontracting opportunities are in the contract. This could be an engineering proposal, schedule of values, or other similar documents.

3. Screenshots of search results (using commodity codes) from DBE Directories of all certified DBEs that were solicited for purposes of complying with your DBE fair share objective. Each search should be saved as an individual file.

4. A log of solicitation results, consisting of the list of DBE 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). The log should show that each firm was contacted twice by two different methods (e.g., email and phone); who was spoken to; what was said; and the final outcome of the solicitation.

5. List of the general circulation, trade association, and DBE oriented publications and dates of publication soliciting for certified DBE participation as a subcontractor/supplier and copies of such solicitations.

6. Description of the negotiations between the contractor and certified DBEs for the purposes of complying with the DBE goals of this contract.

7. Any other information deemed relevant to the request.

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

Documentation for Requests for Specialty Equipment Exclusions:

8. A letter of explanation containing information about the equipment, why the equipment is specialty and why no DBE firms could be utilized to provide the equipment.

9. 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.

10. Letter, email, or screenshot of website from the manufacturer listing their distributors in NYS and the locations.

11. Screenshots of DBE Directory searches for the equipment or service showing that it is not found in the Directory.

12. An invoice or executed purchase order showing the value of the equipment.

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

Documentation for Requests for Specialty Service Exclusions:

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

SIGNATURE	
Electronic Signature of Contractor: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all DBE subcontractors will participate in subcontracts in accordance with the requirements of 40 CFR Part 33. **Name** (Please Type)**:**	**Date:**

Attachment 2 – BABA Contractor's Certification

Environmental Facilities Corporation | Department of Health

BABA CONTRACTOR CERTIFICATION

FOR CONSTRUCTION CONTRACTS PAID FOR WITH EQUIVALENCY FUNDS THROUGH
THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS
OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project No.: _____

SRF Recipient Name: _____

I certify that all iron and steel, manufactured products and construction materials permanently incorporated into the project under this construction contract will be and/or have been produced in the United States or have been waived by the United States Environmental Protection Agency (EPA) and the Made in America Office, in accordance with the requirements of the EPA and Pub. L. No. 117-58 and any regulations promulgated thereunder. I will develop and maintain the necessary documentation to demonstrate that the applicable products permanently incorporated into the project were produced in the United States and make such documentation available to The New York State Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 3 – AIS Contractor's Certification

Environmental Facilities Corporation | Department of Health

AIS CONTRACTOR CERTIFICATION

FOR CONSTRUCTION CONTRACTS FUNDED THROUGH
THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS
OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project No.: _____

SRF Recipient Name: _____

I certify that the iron and steel products permanently incorporated into the public water system or wastewater treatment works project under this construction contract will be and/or have been produced in the United States or have been waived by the United States Environmental Protection Agency (EPA), in accordance with the requirements of the EPA and 33 U.S.C. § 1388, 42 U.S.C. § 300j-12(a)(4) and any regulations promulgated thereunder. I will develop and maintain necessary documentation to demonstrate that the iron and steel products permanently incorporated into the project were produced in the United States, and make such documentation available to The New York State Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 4 – Lobbying Certification

Environmental Facilities Corporation | Department of Health

CERTIFICATION REGARDING LOBBYING
FOR
CONTRACTS, GRANTS, LOANS, AND
COOPERATIVE AGREEMENTS
40 CFR Part 34

SRF Project No.: _____
Recipient: _____
Project Description: _____

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Signature: _____
Name: _____
Title: _____
Company Name: _____
Date: _____
Contract ID: _____

Environmental Facilities Corporation | Department of Health

KATHY HOCHUL
Governor

MAUREEN A. COLEMAN
President and CEO

Guidance For Equivalency Project Mandatory State Revolving Fund Terms and Conditions

For Equivalency Projects Funded with NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund

Effective October 1, 2025

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

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INTRODUCTION

The New York State Environmental Facilities Corporation ("EFC") implements the New York State Revolving Fund ("SRF") for both Clean Water and Drinking Water projects. The SRF encompasses several funding programs, including, but not limited to, the SRF financial assistance loan programs, emerging contaminant grants, and the lead service line replacement program.

This Guidance on Mandatory SRF Terms and Conditions provides a brief description of federal program requirements for Contracts and Subcontracts funded in whole or part by the New York State Clean Water and Drinking Water SRFs, and guidance materials to assist entities in complying with these requirements. Contracts that do not meet the required conditions may not be eligible, in whole or in-part, for financing.

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.

PROGRAM REQUIREMENTS SUMMARY

The following requirements apply to Equivalency projects funded with the NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund. Note some requirements do not apply to non-Treatment Works projects, as discussed within the relevant sections of this guidance:

- Architectural and Engineering (A/E) Procurement pursuant to 40 U.S.C. 1101 et seq. and 48 Code of Federal Regulations (CFR) Part 36 Subpart 36.6;
- Participation by Disadvantaged Business Enterprises ("DBE") in United States Environmental Protection Agency ("EPA") Programs pursuant to 40 CFR Part 33;
- Equal Employment Opportunities pursuant to Titles VI and VII of the Civil Rights Act of 1964, 40 CFR Part 7, and 41 CFR Part 60-1 Subpart A;
- Affirmative Action requirements pursuant to 41 CFR Part 60-4;
- Non-discrimination requirements pursuant to Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972;
- Build America, Buy America Act (BABA) pursuant to P.L. 117-58 and 2 CFR Part 184;
- American Iron and Steel ("AIS") pursuant to P.L. 113-76, Consolidated Appropriates Act, 2014; WRRDA Section 608 of the Federal Water Pollution Control Act, as revised;
- Davis Bacon Related Acts ("DB") consisting of the following: The Davis Bacon Act; Copeland Act (40 U.S.C. § 3145); Reorganization Plan No. 14; Department of Labor 29 CFR Parts 1, 3, and 5; Contract Work Hours and Safety Standards Act;
- Requirements regarding suspension and debarment pursuant to 2 CFR Part 180, 2 CFR Part 1532 and 29 CFR § 5.12; and,

- Restrictions on Lobbying pursuant to 40 CFR Part 34.

EFC or its authorized representatives, and other governmental entities as applicable, reserve the right to conduct occasional site visits to verify compliance with SRF program requirements and review recipients monitoring of 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 for the latest version of the Mandatory State Revolving Fund Equivalency Terms and Conditions (Equivalency T&Cs) to ensure that the most recent contract language is being used.

GUIDANCE MATERIALS

COMMONLY USED TERMS

The following commonly used terms are defined herein as follows:

Broker means a firm that does not itself perform, manage or supervise the work of its contract or subcontract in a manner consistent with the normal business practices for contractors or subcontractors in its line of business.

Construction means the process by which a contractor or subcontractor builds, alters, repairs, remodels, improves or demolishes infrastructure.

Contract means an agreement between a Recipient and a Contractor.

Contractor means all bidders, prime contractors, surety that is completing performance for a defaulted contractor pursuant to a performance bond, non-construction service providers, and consultants as hereinafter defined, unless specifically referred to otherwise.

Equivalency means projects in the amount equal to the funds “directly made available” by an Environmental Protection Agency (EPA) Capitalization Grant and funding for those projects is considered federal funds, or federal financial assistance. The Equivalency designation is indicated in the Intended Use Plan.

Manufactured products means articles, materials, or supplies that have been processed into a specific form and shape or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. If an item is classified under Build America, Buy America as an iron or steel product, a construction material, or a section 70917(c) material under 2 CFR § 184.4(e), then it is not a manufactured product.

Manufacturer means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.

MBO is designated and employed by the Recipient as a Minority Business or Compliance Officer responsible for MWBE/DBE/SDVOB/EEO reporting and compliance.

Non-Construction 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.

Recipient means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due thereunder are being paid in whole or in part. Responsible through Project Finance Agreement (PFA) to comply with EFC requirements.

State means the State of New York.

State Recipient means Environmental Facilities Corporation, Department of Health, and Department of Environmental Conservation.

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.

Supplier means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

Treatment Works is defined in Clean Water Act (CWA) Section 212. This does not include nonpoint source projects as defined in CWA Section 319 and estuary management program projects as defined in CWA Section 320.

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.

Type of Contract	A/E Procurement Section 1	**DBE** Section **2**	EEO[1] Section **2**	Title VII Section **2**	BABA & AIS Section 3	Davis Bacon Section 4	FAAR[2] Section **2**	Suspension & Debarment Section 5	Restrictions on Lobbying Section **6**	Prohibition on Telecommunications Section 7
Construction: Treatment Works & Drinking Water Projects										
All		**X**	**X**	**X**	**X**			**X**		**X**
If greater than:										
$2,000		**X**	**X**	**X**	**X**	**X**		**X**		**X**
$10,000		**X**	**X**	**X**	**X**	**X**	**X**	**X**		**X**
$100,000		**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**
Construction: Non-Treatment Works										
All		**X**	**X**	**X**				**X**		**X**
If greater than:										
$10,000		**X**	**X**	**X**			**X**	**X**		**X**
$100,000		**X**	**X**	**X**			**X**	**X**	**X**	**X**
Non-Construction Provider										
All	**X**[3]	**X**	**X**		**X**					**X**
If greater than:										
$25,000		**X**	**X**		**X**					**X**
$100,000		**X**	**X**		**X**				**X**	**X**

[1] For purposes of this table, "EEO" includes the following: EEO requirements under 40 CFR Part 33, Title VI, Section 504, Age Discrimination Act, and Section 13.

[2] For purposes of this table, "FAAR" means the Federal Affirmative Action Regulations.

3 Architectural and Engineering Services for federal CWSRF and/or DWSRF grants and financing

SECTION 1 GUIDANCE FOR FEDERAL ARCHITECTURAL AND ENGINEERING PROCUREMENT REQUIREMENTS

I. Federal A/E Requirements

A. Types of Services
The types of services covered are contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or A/E services as defined in 40 U.S.C. 1102(2)(A-C) below:

(A) professional services of an architectural or engineering nature, as defined by state law, if applicable, that are required to be performed or approved by a person licensed, registered, or certified to provide the services described in this paragraph;
(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and
(C) other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

B. Applicability
A/E services must be procured pursuant to this guidance for such A/E services to be eligible for any Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF) grant or financing.

C. Qualification Based Procurement
The requirements for qualification-based procurement are as follows:
1. Public announcement of the solicitation (e.g., a Request for Qualifications);
2. Evaluation and ranking of the submitted qualifications statements based on established, publicly available criteria (e.g., identified in the solicitation). Evaluation criteria should be based on demonstrated competence and qualification for the type of professional services required (e.g., past performance, specialized experience, and technical competence in the type of work required);
3. Discussion with at least three firms to consider anticipated concepts and compare alternative methods for furnishing services;
4. Selection of at least three firms considered to be the most highly qualified to provide the required services; and
5. Contract negotiation with the most highly qualified firm to determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, professional nature, and the estimated value of the services to be rendered. In the event that a contract cannot be negotiated with the most highly qualified firm, negotiation continues in order of qualification.

D. Compliance
Municipalities will be required to complete an EFC Certification for Architectural/Engineering Services Procurement for Federally Funded Projects. The Certification must be signed by an authorized representative of the municipality. It cannot be signed by a hired contractor or consultant.

The Certification for Architectural/Engineering Services Procurement for Federally Funded Projects and documentation evidencing completion of the procurement steps outlined above

is required to be kept on file by the municipality and be made available for inspection upon EFC's request.

E. Amendments

Significant contractual amendments are subject to this requirement. Significant contractual amendments are amendments to existing contracts that have a value greater than $100,000 AND introduce a new scope of work or task.

II. Summary of A/E Procurement Forms

A. Forms to be Submitted

1. **Certification for Architectural/Engineering Services Procurement**
   To be submitted by the Recipient with executed agreement for reimbursement of funds.

SECTION 2 GUIDANCE FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR FEDERAL DISADVANTAGED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITY GROUP MEMBERS

I. Equal Employment Opportunities (EEO)

A. EEO Poster

Applicable to all construction Contracts

Attachment 1, *EEO Poster*, is the notice provided by the United States Department of Labor. Contractor must identify the employee responsible for EEO compliance in the designated area, as required by 40 CFR § 7.95. A copy of the EEO poster can be found at: https://www.eeoc.gov/sites/default/files/2023-06/22-088_EEOC_KnowYourRights6.12ScreenRdr.pdf

B. EEO Goals

Applicable to construction Contracts greater than $10,000

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

II. Good Faith Efforts and Fair Share Objectives for DBEs

A. Fair Share Objectives

The Terms & Conditions Section 2(III)(A) provide the applicable Fair Share Objectives for the contract. DBE fair share objectives for a contract will be based on the fair share objectives in place at the time of the execution date of each respective contract, unless otherwise specified. Please contact the MBO if you have any questions about the applicable DBE fair share objectives for your contract.

B. Good Faith Efforts

The Contractor must make good faith efforts to develop an adequate DBE Utilization Plan and must continue such good faith efforts in order to try to meet or exceed applicable DBE

fair share objectives. The Contractor shall maintain documentation of good faith efforts to solicit participation of DBE firms for identified SRF-funded Equivalency projects. If a Contractor is unable to meet contract DBE fair share objectives, documentation of such good faith efforts must accompany the Utilization Plan. See Terms & Conditions Section 2(III)(D). The Contractor should also continue good faith efforts to seek opportunities for DBE participation during the life of the contract even if proposed fair share objectives 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, DBEs.
- Printed screenshots of the applicable directory for DBEs 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 DBE firms to participate in the work, with the responses.
- A log prepared by the Contractor in a sortable spreadsheet documenting the Contractor's solicitation of DBEs for participation as Subcontractors or Suppliers. The log should consist of the list of DBE firms solicited, the type of work they were solicited to perform (or equipment to provide), how the solicitation was made (fax, phone, email), the date of the solicitation, and the outcome.
  See a sample log at https://efc.ny.gov/mwbe-forms
  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. email followed by phone call, and entered in additional columns on the log.
- Any bids or quotes received from non-DBE firms that were more competitive than a bid or quote from DBEs, along with the DBE's bid or quote for comparison.
- Copies of any advertisements of at least 30 days to effectively seek participation of certified DBEs timely published in appropriate general circulation, trade and DBE oriented publications, together with listing and dates of publication of such advertisements. A log should be kept of the responses to the ads, similar to the log for DBE firm solicitation and should include the non-DBE firms that responded and the bid prices.
- Documents demonstrating that insufficient DBEs are reasonably available to perform the work.
- The date of pre-bid, pre-award, or other public meetings scheduled by the Recipient, if any, and the contact information of any DBEs 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 DBE participation in their work. For instance, Prime Contractors and MBOs should develop a list of DBE firms that have expressed interest in working on SRF-funded projects.

C. DBE Utilization Plan
Applicable to construction Contracts greater than $100,000 and Non-Construction Provider Contracts greater than $25,000

1. The DBE Utilization Plan must be submitted to the MBO after the bid opening, but in no case later then the execution date of the contract.

2. The MBO will evaluate the completed DBE Utilization Plan and the good faith effort documentation. When the MBO finds the Utilization Plan sufficient, it will be forwarded to EFC for review. If the MBO finds the Utilization Plan or good faith effort insufficient, the Contractor should work with the MBO to address deficiencies before the MBO submits to EFC for final review.

3. In coordination with the MBO, EFC will accept a DBE Utilization Plan upon consideration of many factors, including the following:
   a. The DBE Utilization Plan indicates that the proposed fair share objectives for the project will be achieved;
      i. A Contractor, who is a certified DBE, will be credited for up to 100% of their certification but should deduct any subcontracting by non-DBE subcontractors from their own DBE credit; and,
   b. Submittal of adequate documentation to demonstrate good faith efforts and/or support a specialty equipment/services exclusion as described below in Section III(E).

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

D. Eligibility for DBE Participation Credit

1. To receive DBE participation credit, Contractors or Subcontractors performing work that have been identified in an approved DBE Utilization Plan must be certified DBEs pursuant to 40 CFR Part 33 by an authorized certifying entity such as the Small Business Administration (SBA).

2. Prime Contractors may also include second tier Subcontractors (Subcontractors hired by Subcontractors) on their Utilization Plan.

3. Participation of Brokers and Truckers/Haulers
   a. Contractors cannot count the participation of a DBE who acts as a Broker or passive conduit of funds without performing, managing, or supervising the work of its contract or subcontract in a manner consistent with normal business practices. If 50% or more of the total dollar amount of a DBE's prime Contract or Subcontract is subcontracted to a non–DBE, the DBE prime contractor or subcontractor will be presumed to be a Broker.
   b. Contractors may count the participation of a DBE trucker/hauler only if the trucker/hauler is performing a "commercially useful function," according to the following factors:
      i. The DBE must be responsible for the management and supervision of the entire trucking/hauling operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE objectives.
      ii. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

E. Submission of Good Faith Effort Documentation
Applicable to construction Contracts greater than $100,000 and Non-Construction Provider Contracts greater than $25,000

1. If the Contractor's application of good faith efforts does not result in the utilization of DBE firms to achieve the aforementioned fair share objectives or a specialty equipment/service exclusion is requested, the Contractor may attach appropriate documentation of good faith efforts as noted in Section III(B) above and submit same to the MBO. See also Terms & Conditions Section 2(III)(D).

2. The MBO will review each Utilization Plan that does not meet the fair share objectives based on the good faith effort criteria presented above and the documentation

submitted with the Utilization Plan. When the MBO deems the documentation acceptable, the MBO will submit the documentation to EFC for final review.

3. The Contractor may request a specialty equipment/service exclusion from the MBO in cases where:
   a. equipment is made by only one non-DBE manufacturer,
   b. the technical specifications call for equipment that is not available through a DBE Supplier;
   c. the equipment is constructed on site by specially trained non-DBE labor;
   d. the service is not available through a DBE (such as work done by Consolidated Edison);
   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 DBE 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 DBE Eligible Amount and the fair share objectives will be applied to the DBE Eligible Amount. This determination is made at the discretion of EFC.

Example:
$2,000,000 - $500,000 = $1,500,000
Total Contract Value - Specialty equipment/service = DBE Eligible Amount
The DBE fair share objectives are applied to the DBE Eligible Amount.

A request for a specialty equipment/service deduction can be indicated on the Utilization Plan form and submitted to the MBO. The request must include: a copy of the page from the contract where the equipment or service is described; an email or screenshot of the manufacturer's website showing the manufacturer's representatives (if manufactured item); a DBE search result for the representative; and documentation of the cost of each item. Additional documentation may be requested by the MBO or EFC.

III. Subcontractor's Responsibilities

A. Subcontractors should:
   1. Maintain their DBE certifications and notify the Contractor and MBO of any change in their certification status.
   2. Notify the Contractor of any DBE Subcontractors they hire so they may be included on the Contractor's Utilization Plan as a second-tier subcontractor.
   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 required EFC Terms & Conditions 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 DBE Utilization Plan.

IV. Summary of DBE and EEO Forms

A. Forms to be Submitted Prior to Contract Execution
   1. **DBE Utilization Plan**
      Applicable to construction Contracts greater than $100,000 and Non-Construction Provider Contracts greater than $25,000

To be submitted by the Contractor to the MBO with the bid documentation, but in no case later than the award date of the contract.

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

1. **EEO-1 Report**
Applicable to all construction Contracts

To be reported in the online filing system by the Contractor and Subcontractor, as applicable, annually during the term of the Contract or Subcontract. The reporting period is typically May – July. When the data collection period is open, the filing system can be accessed on this website: https://eeocdata.org/eeo1/signin and the instruction booklet can be obtained from this website: https://eeocdata.org/EEO1/home/index. See Terms & Conditions Section 2(II).

2. **Good Faith Effort Documentation**
Applicable to construction Contracts greater than $100,000 and Non-Construction Provider Contracts greater than $25,000

To be submitted by the Contractor to the MBO if the Contractor's good faith efforts do not result in obtaining DBE participation that meets the fair share objectives. The DBE Utilization Plan form contains a list of the required documentation.

3. **Quarterly Report**
Applicable to construction Contracts greater than $100,000 and Non-Construction Provider Contracts greater than $25,000

To be submitted by the Contractor to the MBO by the fifteenth business day following the end of each calendar quarter over the term of the Contract. This form is emailed to the MBO by EFC prior to the end of the quarter and will then be passed on to the Contractor. The Contractor must complete the form and email the completed form to the MBO.

V. Protests/Complaints

Contractors or Subcontractors who have any concerns, issues, or complaints regarding the implementation of EFC's DBE & 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, if warranted, and determine whether action is required. If the Contractor or Subcontractor believes the issue has not been resolved to their satisfaction, they may appeal in writing to EFC for consideration.

VI. Waste, Fraud, and Abuse

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

A. Waste, Fraud, and Abuse Poster
Applicable to all construction Contracts

Attachment 12, *Waste Fraud and Abuse Poster*, is the notice provided by the USEPA – Office of Inspector General. A copy of the poster can be found at: https://www.epa.gov/system/files/documents/2022-08/2022_HOTLINEPOSTER_crc_85x11_aug2022.pdf

SECTION 3 GUIDANCE FOR BUILD AMERICA, BUY AMERICA (BABA) ACT AND AMERICAN IRON AND STEEL (AIS) REQUIREMENTS

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

The Build America, Buy America Act was signed into law in 2021 creating a BABA requirement that expands upon and is broader in scope than the AIS requirement. BABA applies to iron, steel, manufactured products and construction materials on all DWSRF and CWSRF Equivalency projects, whereas the AIS requirement applies to only iron and steel products on projects waived for BABA and Treatment Works projects funded with DWSRF or CWSRF. BABA and AIS will not apply to individual projects at the same time. Accordingly, all DWSRF or CWSRF Equivalency Contracts and Subcontracts are subject to the BABA requirement, unless an EPA waiver applies or can be obtained. If a BABA EPA waiver applies or is obtained, then the AIS requirement applies, unless an AIS EPA waiver is separately obtained.

I. BABA Requirements

If a Recipient uses CWSRF and DWSRF financial assistance to fund all or a part of the construction, alteration, maintenance or repair a public water system or Treatment Works, then all the iron, steel, manufactured products, and construction materials incorporated in the project must be produced in the United States.

Please consult Subsection II below for AIS requirements associated with iron and steel products.

Manufactured products must be manufactured in the United States and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States must be greater than 55% of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product. See 2 CFR § 184.2(a). The costs of components of a manufactured product are determined according to 2 CFR § 184.5. A letter from the manufacturer must be provided certifying compliance with BABA. At a minimum, the letter must (1) be on company letterhead and signed by a company representative; (2) reference the project; (3) contain a list of products used in the final manufactured product; (4) include the City and State where the final manufacturing takes place; (5) reference BABA; and (6) include statement that the product "meets the 55% component test" for manufactured products.

Construction materials must have all manufacturing processes for the construction material occur in the United States. Some examples of construction materials are non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), glass (including optic glass), fiber optic cable (including drop cable), optical fiber, lumber, engineered wood and drywall. Minor additions of articles, materials, supplies or binding agents to a construction material do not change the categorization of the construction material. Produced in the United States is defined as followed for the materials listed below.

1. Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.
2. Plastic and polymer-based products. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.
3. Glass. All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.
4. Fiber optic cable (including drop cable). All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the

United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.
5. Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.
6. Lumber. All manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.
7. Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.
8. Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

A. BABA Project Waivers

The EPA may waive the BABA requirement for a project if:

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

A request for a waiver must include adequate information for EPA's evaluation of the request, including:

1. Waiver type (nonavailability, unreasonable cost, or public interest)
2. Recipient name and Unique Entity Identifier (UEI)
3. Financial Assistance listing name and number
4. Total cost of expenditures, including Federal and non-Federal funds
5. Infrastructure project description and location
6. List of iron or steel item(s), manufactured products, and construction material(s) proposed to be excepted from Buy America requirements, including name, cost, country(ies) of origin (if known), and relevant PSC and NAICS code for each
7. A certification that the Recipient made a good faith effort to solicit bids for domestic products supported by terms in RFPs, contracts and nonproprietary communications with the prime contractor.
8. A statement of waiver justification, including a description of efforts made by the Recipient in an attempt to avoid the need for a waiver. Such a justification may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation
9. Anticipated impact if no waiver is issued
10. Any relevant comments received through the public comment period

Recipients may request waivers from EPA if the recipient reasonably believes a waiver is justified. Requests for BABA waivers must be submitted through the Recipient to EFC for Clean Water or DOH for Drinking Water projects on form OMB Control No. 0505-0028 Build America Buy America Waiver Request Data Collection. Upon review, EFC/DOH will submit BABA waiver requests to EPA. When EPA receives a request for a waiver, EPA will submit to OMB Made in America Office (MIAO) and publish the request and any accompanying material on the MIAO official public Internet site, allowing public input on the request for a period of not less than 15 calendar days before granting or denying the waiver request. The form is available for use on EFC's website under Forms & Guidance: https://efc.ny.gov/american-iron-and-steel-and-build-america-buy-america-guidance.

Additionally, OMB MIAO has the authority to issue waivers that are national in scope. National waivers may be for specific products or in the public's interest.

B. Adjustment Period Waiver
The Adjustment Period Waiver is noteworthy as it waives the BABA requirements for DWSRF and CWSRF projects that initiated project design planning prior to May 14, 2022. Any listed projects subject to the adjustment period waiver will be notified in writing from EFC/DOH.

C. De Minimis Waiver
The De Minimis General Applicability Waiver, "De Minimis" permits the use of miscellaneous materials subject to BABA as long as the funds used for the de minimis incidental components cumulatively comprise no more than 5% of the total project cost. Items covered by de minimis are miscellaneous in character and often low-cost and bought in bulk. This waiver is not additive with the existing American Iron and Steel national de minimis waiver. An AIS and BABA Compliance and De Minimis Worksheet is available for use on EFC's website under Forms & Guidance: https://efc.ny.gov/american-iron-and-steel-and-build-america-buy-america-guidance.

D. Small Project Waiver
The small project waiver permits a municipality with a project in an assistance agreement with EFC totaling less than $250,000 to be waived from the BABA requirements.

OMB continues to adopt additional waivers and issue further guidance on waivers. Additional information on waivers can be found at EPA's website at: https://www.epa.gov/cwsrf/build-america-buy-america-baba-approved-waivers. All waivers will be posted on the OMB MIAO website at https://www.madeinamerica.gov.

Additional information and guidance about the BABA requirement can be found at EPA's website: https://www.epa.gov/cwsrf/build-america-buy-america-baba#rfi.

II. AIS Requirements

If a Recipient uses CWSRF or DWSRF financial assistance to fund all or a part of the construction, alteration, maintenance or repair a public water system or Treatment Works, the Recipient must use iron and steel products that are produced in the United States for the entire project.

The term "iron and steel products" means the following permanently installed products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, or construction materials. For one of the listed products to be considered subject to the AIS requirement, it must be made of greater than 50% iron and steel, measured by material cost (with the exception of reinforced precast concrete products).

The term "produced in the United States" means that all manufacturing processes of the iron or steel, including application of coatings, take place in the United States, with the exception of metallurgical processes involving refinement of steel additives. All manufacturing processes includes processes such as melting, refining, forming, rolling, drawing, finishing, fabricating and coating. Further, if a domestic iron and steel product is taken out of the US for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement and the material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin.

The EPA may waive the AIS requirement for a Treatment Works project if:

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

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

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

EPA can assist with material availability research prior to a waiver request. Requests for EPA assistance must be submitted through EFC for Clean Water and DOH for Drinking Water projects. EFC/DOH will request any necessary supporting documentation and submit to EPA for feedback.

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

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

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

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

Items covered by the de minimis waiver are:

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

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

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

To use the de minimis waiver, Contractors should prepare a record in spreadsheet form that tracks the cost of all materials incorporated into the project. This spreadsheet can be either project specific or contract specific. If it is contract specific, a material tracking record for each

construction contract should be prepared and items that are subject to the AIS de minimis waiver should be highlighted. There should be a clear calculation available to indicate that the cost of the de minimis iron and steel items is 5% or less of the total cost of all materials. An AIS and BABA Compliance and De Minimis Worksheet is available for use on EFC's website under Forms & Guidance: https://efc.ny.gov/american-iron-and-steel-and-build-america-buy-america-guidance.

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

SECTION 4 GUIDANCE FOR DAVIS BACON (DB) PREVAILING WAGE REQUIREMENTS

The requirements of this section apply to all construction Contracts and Subcontracts greater than $2,000 for either DWSRF projects or CWSRF Treatment Works projects.

I. Davis-Bacon Act

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

A. Requirements for Recipients.

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

1. Applicability of the DB prevailing wage requirements.

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

2. Obtaining Wage Determinations.

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

(i) While the solicitation remains open, the Recipient must monitor https://sam.gov/content/wage-determinations weekly to ensure that the wage

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

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

(b) If the Recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing Contractor (ordering instrument) rather than by publishing a solicitation, the Recipient must insert the appropriate DOL wage determination from https://sam.gov/content/wage-determinations into the ordering instrument.

(c) Recipient must update wage determinations after contract award when the contract or order is changed to include additional, substantial construction[4] either

(i) not within the scope of the work, or when the contract or

(ii) the order is changed to require the Contractor to perform work for an additional time period not originally obligated, including when an option is exercised on a contract or order.

The Recipient must include the most recent revision of any wage determination(s) at the time the contract is changed, or the option is exercised.

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

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

B. Compliance Verification

(a) The Recipient must periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that Contractors or Subcontractors are paying the appropriate wage rates. All interviews must be

[4] When the cost of construction exceeds either $2,500,000 or 20% of total project costs.

conducted in confidence. The Recipient must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

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

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

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

(e) Recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at https://www.dol.gov/agencies/whd/contact/complaints.

II. Applicable State and Local Labor Standards

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

III. Responsibilities of Contractors and Subcontractors

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

1. Display the Davis Bacon Wage Poster and applicable federal, state, and local wages in a visible area at the construction site. This poster may be found on the EFC website (Attachment 10)at https://nysefc.app.box.com/s/d6sys8owtgzv4ndqjvqvpwr0htp20l9s.
2. Make your employees available for wage interviews if necessary. Wage interviews must be conducted confidentially and using Labor Standard Interview Form (SF-1445),

included in Attachment 11.

3. Use federal payroll form WH-347 and complete the certifications on the back. If another form is being used, inform the Recipient and obtain a determination that the form is equivalent to the federal form. (Refer to the attached required forms)
4. Pay the higher of applicable prevailing federal, state, or local wages, including benefits (fringe & holidays), to each trade and overtime not less than one and one-half times the basic rate of pay for hours in excess of forty hours on Contracts in excess of $100,000. The wage rates apply to Subcontractor trades as well.
5. Maintain proof of apprentice and trainee ratios for both Contractor and Subcontractor and certifications onsite.
6. Pay wages to your employees and your Subcontractors on a weekly basis. Ensure that your Subcontractors are paying their employees weekly.
7. Ensure that the Subcontracts contain the Davis Bacon contract language, the applicable federal, state, or local wage determinations and equal employment opportunity language. This language is provided in the EFC Terms & Conditions. Federal wage determinations are available at https://sam.gov/content/wage-determinations.
8. Provide payroll forms and apprentice and trainee certifications to the Recipient for their records.
9. Report potential waste, fraud and abuse violations to the EPA Davis Bacon Contact and DOL Wages and Hours District Office found on their website. https://sam.gov/.

B. Any violations in payroll reporting or unpaid wages are subject to a daily monetary penalty.

SECTION 5 GUIDANCE FOR REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT

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

Neither the Contractor nor any of its Subcontractors have contracted with, or will contract with, any debarred or suspended party under the following lists:

- A list of debarred and suspended contractors, pursuant to 2 CFR Parts 180 and 1532, 29 CFR § 5.12, and Executive Order 12549 is available on the US Department of Labor's website at www.sam.gov/SAM.

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

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

SECTION 6 GUIDANCE FOR RESTRICTIONS ON LOBBYING

The requirements of this section apply to all Contracts and Subcontracts greater than $100,000.

With their bid or proposal submittal, each Contractor and any Subcontractor that has a Contract or Subcontract exceeding $100,000 shall provide to the Recipient a completed Certification Regarding Lobbying pursuant to 40 CFR Part 34 ("Lobbying Certification") on Attachment 3 consistent with the prescribed form provided in Appendix A to 40 CFR Part 34. The form provides a certification that the Contractor or Subcontractor will not expend appropriated federal funds to pay any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, officer or employee of Congress or any employee of any Member of Congress in accordance with the provisions of

40 CFR Part 34, and to maintain such certification for their own records.

SECTION 7 GUIDANCE ON PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

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

Effective August 13, 2020, Recipients of SRF funding must comply with regulations at 2 CFR 200.216, *Prohibition on certain telecommunication and video surveillance services or equipment*, implementing section 889 of Public Law 115-232. The regulation prohibits the use of Federal funds to procure (enter into, extend, or renew contracts) or obtain equipment, systems, or services that use "covered telecommunications equipment or services" identified in the regulation as a substantial or essential component of any system, or as critical technology as part of any system. Prohibitions extend to the use of Federal funds by recipients and subrecipients to enter into a contract with an entity that "uses any equipment, system, or service that uses covered telecommunications equipment or services" as a substantial or essential component of any system, or as critical technology as part of any system. Certain equipment, systems, or services, including equipment, systems, or services produced or provided by entities subject to the prohibition are recorded in the System for Award Management exclusion list.

There is no exhaustive list of components and services that fall under the prohibition. Contractors should exercise due diligence and be particularly mindful of procuring and installing project components with internet or cellular connections. Examples of common video and telecommunications equipment include, automatic meter reading (AMR) technology and advanced metering infrastructure (AMI), instrumentation control systems (e.g. process control systems, distributed control systems and programmable logic controls), and security cameras and other electronic security measures. Items included in the prohibition are not eligible SRF costs, and the SRF programs cannot reimburse Recipients for these costs.

SECTION 8 GUIDANCE FOR CONSTRUCTION SIGNS

The requirements of this section apply to all EFC projects. Additional permanent signage is required for projects receiving funding from the NYS Bond Act.

All projects are expected to post a construction sign, the Recipient may determine the party required to provide and install the sign. Sample construction sign specifications can be found at www.efc.ny.gov for standard signage, as applicable. Permanent signage for projects receiving funding from the NYS Bond Act is available upon request, as applicable.

SECTION 9 SUMMARY OF CONTRACTOR REQUIREMENTS FOR SRF-FUNDED EQUIVALENCY PROJECTS

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

Forms should be submitted electronically via email or through EFC's dropbox

To be submitted with this bid:	**Guidance Section**
☐ Lobbying Certification	Section 6
☐ BABA Contractor's Certification	Section 3
☐ AIS Contractor's Certification	Section 3

To be submitted prior to or upon Contract award:	
☐ Executed Contracts, Subcontracts, agreements, and purchase orders	
☐ Utilization Plan and/or Good Faith Effort Documentation	Section 2

Tasks for construction start:	
☐ Ensure that all Subcontracts contain correct Required EFC Terms & Conditions	
☐ Display EEO Poster	Section 2
☐ Display Waste, Fraud and Abuse Poster	Section 2
☐ Ensure Construction Sign is Posted	Section 8
☐ Pay the higher of prevailing federal, state, or local wages including benefits	Section 4
☐ Display Davis Bacon Wage Poster AND Federal Wage Rates	Section 4
☐ Use Federal Payroll Form (WH-347) or equivalent	Section 4
☐ Obtain apprentice certifications	Section 4
☐ Obtain BABA or AIS Manufacturer's Certs for all applicable products	Section 3

Ongoing documentation & tasks:	
☐ Submit EEO-1 Report, online	Section 2
☐ Submit Quarterly Reports to MBO	Section 2
☐ Maintain weekly certified payrolls for all Prime & Subcontractors	Section 4
☐ Maintain proof of payments for DBE Subcontractors	Section 2
☐ Maintain BABA or AIS Manufacturer's Certifications	Section 3

ATTACHMENTS (Required Forms)

Attachment 1 – EEO Poster

Know Your Rights:
Workplace Discrimination is Illegal

The U.S. Equal Employment Opportunity Commission (EEOC) enforces Federal laws that protect you from discrimination in employment. If you believe you've been discriminated against at work or in applying for a job, the EEOC may be able to help.

Who is Protected?

- Employees (current and former), including managers and temporary employees
- Job applicants
- Union members and applicants for membership in a union

What Organizations are Covered?

- Most private employers
- State and local governments (as employers)
- Educational institutions (as employers)
- Unions
- Staffing agencies

What Types of Employment Discrimination are Illegal?

Under the EEOC's laws, an employer may not discriminate against you, regardless of your immigration status, on the bases of:

- Race
- Color
- Religion
- National origin
- Sex (including pregnancy, childbirth, and related medical conditions, sexual orientation, or gender identity)
- Age (40 and older)
- Disability
- Genetic information (including employer requests for, or purchase, use, or disclosure of genetic tests, genetic services, or family medical history)
- Retaliation for filing a charge, reasonably opposing discrimination, or participating in a discrimination lawsuit, investigation, or proceeding
- Interference, coercion, or threats related to exercising rights regarding disability discrimination or pregnancy accommodation

What Employment Practices can be Challenged as Discriminatory?

All aspects of employment, including:

- Discharge, firing, or lay-off
- Harassment (including unwelcome verbal or physical conduct)
- Hiring or promotion
- Assignment
- Pay (unequal wages or compensation)
- Failure to provide reasonable accommodation for a disability; pregnancy, childbirth, or related medical condition; or a sincerely-held religious belief, observance or practice
- Benefits
- Job training
- Classification
- Referral
- Obtaining or disclosing genetic information of employees
- Requesting or disclosing medical information of employees
- Conduct that might reasonably discourage someone from opposing discrimination, filing a charge, or participating in an investigation or proceeding
- Conduct that coerces, intimidates, threatens, or interferes with someone exercising their rights, or someone assisting or encouraging someone else to exercise rights, regarding disability discrimination (including accommodation) or pregnancy accommodation

What can You Do if You Believe Discrimination has Occurred?

Contact the EEOC promptly if you suspect discrimination. Do not delay, because there are strict time limits for filing a charge of discrimination (180 or 300 days, depending on where you live/work). You can reach the EEOC in any of the following ways:

Submit an inquiry through the EEOC's public portal: *https://publicportal.eeoc.gov/Portal/Login.aspx*

Call 1–800–669–4000 (toll free)
1–800–669–6820 (TTY)
1–844–234–5122 (ASL video phone)

Visit an EEOC field office (information at *www.eeoc.gov/field-office*)

E-Mail *info@eeoc.gov*

Additional information about the EEOC, including information about filing a charge of discrimination, is available at *www.eeoc.gov*.

EMPLOYERS HOLDING FEDERAL CONTRACTS OR SUBCONTRACTS

The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) enforces the nondiscrimination and affirmative action commitments of companies doing business with the Federal Government. If you are applying for a job with, or are an employee of, a company with a Federal contract or subcontract, you are protected under Federal law from discrimination on the following bases:

Race, Color, Religion, Sex, Sexual Orientation, Gender Identity, National Origin

Executive Order 11246, as amended, prohibits employment discrimination by Federal contractors based on race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

Asking About, Disclosing, or Discussing Pay

Executive Order 11246, as amended, protects applicants and employees of Federal contractors from discrimination based on inquiring about, disclosing, or discussing their compensation or the compensation of other applicants or employees.

Disability

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals with disabilities from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment by Federal contractors. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship to the employer. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

Protected Veteran Status

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits employment discrimination against, and requires affirmative action to recruit, employ, and advance in employment, disabled veterans, recently separated veterans (i.e., within three years of discharge or release from active duty), active duty wartime or campaign badge veterans, or Armed Forces service medal veterans.

Retaliation

Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination by Federal contractors under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under OFCCP's authorities should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP)
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210
1–800–397–6251 (toll-free)

If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services. OFCCP may also be contacted by submitting a question online to OFCCP's Help Desk at *https://ofccphelpdesk.dol.gov/s/*, or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor and on OFCCP's "Contact Us" webpage at *https://www.dol.gov/agencies/ofccp/contact*.

PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Race, Color, National Origin, Sex

In addition to the protections of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial assistance.

Individuals with Disabilities

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

If you believe you have been discriminated against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

(Revised 6/27/2023)

Attachment 2 – EFC DBE Utilization Plan

Environmental Facilities Corporation | Department of Health

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) 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 to the Recipient's 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 obtained from EFC.

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

DBEs on this form may include disadvantaged firms certified by the New York State Unified Certification Program (NYSUCP), and disadvantaged firms certified by the Small Business Administration. In addition, the participation of DBEs will be credited according to the following requirements:

- Contractors cannot count the participation of a DBE who acts as a broker or passive conduit of funds without performing, managing, or supervising the work of its contract or subcontract in a manner consistent with normal business practices. If 50% or more of the total dollar amount of a DBE's prime contract or subcontract is subcontracted to a non–DBE, the DBE prime contractor or subcontractor will be presumed to be a broker.
- Contractors may count the participation of a DBE trucker/hauler only if the trucker/hauler is performing a "commercially useful function," according to the following factors:
    - The DBE must be responsible for the management and supervision of the entire trucking/hauling operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE objectives.
    - The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

See the Mandatory Equivalency Terms and Conditions or consult your designated MBO for further guidance.

Instructions for Minority Business Officers (MBO):

The MBO must complete Section 1. Email the completed, signed (electronic signature box checked and dated) form to your EFC Program Compliance Specialist.

The subject heading of the email to the EFC Program Compliance Specialist should follow the format "UP, Project Number, Contractor." EFC will review the Utilization Plan and email the MBO an acceptance or denial.

If the Utilization Plan will not meet or exceed the DBE fair share objective, then the good faith effort documentation noted in Section 4 must be submitted with this form.

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

SECTION 1: MUNICIPAL INFORMATION					
Recipient/Municipality:		**County:**			
Project No.:		**Contract ID:**		**Registration No. (NYC only):**	
Minority Business Officer:		**Email:**		**Phone #:**	
Address of MBO:					
Electronic Signature of MBO: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.				**Date:**	

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION					
Firm Name:				**Contract Type:** ☐ Construction ☐ Other Services	
Is the Prime Firm certified as a DBE? ☐ Yes ☐ No If yes, please include Prime information in Section 3.					
Address:		**Phone #:**		**Fed. Employer ID #:**	
Description of Work:		**Email:**			
Award Date:	**Start Date:**	**Completion Date:**	**DBE Fair Share Objective**	**PROPOSED DBE Participation**	
Total Contract Amount: $ **DBE Eligible Contract Amount: $** (DBE Fair Share Objectives are applied to this amount and includes all change orders, amendments, & specialty waivers)			**Total: 20**% $	**Total:** % $	
If fair share objectives are not met, documentation must be attached: ☐ No Participation ☐ Short of the DBE Fair Share Objective					
☐ **Specialty Equipment/Services:** must be of SIGNIFICANT cost – attach list of cost and type of equipment and good faith effort documentation					

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

SECTION 3: DBE SUBCONTRACTOR INFORMATION			
This Submittal is: ☐ The First/Original Utilization Plan ☐ Revised Utilization Plan #:			
DBE Subcontractor Information		**Contract Amount**	**For EFC Use:**
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

SECTION 3: DBE SUBCONTRACTOR INFORMATION continued			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			

SECTION 4: GOOD FAITH EFFORT DOCUMENTATION

Utilization Plans that do not meet the Fair Share Objective must be accompanied by the documentation requested in numbers 1 – 7, as listed below. Specialty Equipment Exclusion requests must be accompanied by the documentation requested in number 8 – 12, as listed below. Specialty Services Exclusion requests must be accompanied by the documentation requested in number 13, as listed below. Please contact the MBO and/or EFC for assistance or to request sample documentation.

Provide the following:

1. A letter of explanation detailing the scope of work, DBE search results, and results of good faith efforts that were made.

2. A scope of work that shows what subcontracting opportunities are in the contract. This could be an engineering proposal, schedule of values, or other similar documents.

3. Screenshots of search results (using commodity codes) from DBE Directories of all certified DBEs that were solicited for purposes of complying with your DBE fair share objective. Each search should be saved as an individual file.

4. A log of solicitation results, consisting of the list of DBE 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). The log should show that each firm was contacted twice by two different methods (e.g., email and phone); who was spoken to; what was said; and the final outcome of the solicitation.

5. List of the general circulation, trade association, and DBE oriented publications and dates of publication soliciting for certified DBE participation as a subcontractor/supplier and copies of such solicitations.

6. Description of the negotiations between the contractor and certified DBEs for the purposes of complying with the DBE goals of this contract.

7. Any other information deemed relevant to the request.

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

Documentation for Requests for Specialty Equipment Exclusions:

8. A letter of explanation containing information about the equipment, why the equipment is specialty and why no DBE firms could be utilized to provide the equipment.

9. 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.

10. Letter, email, or screenshot of website from the manufacturer listing their distributors in NYS and the locations.

11. Screenshots of DBE Directory searches for the equipment or service showing that it is not found in the Directory.

12. An invoice or executed purchase order showing the value of the equipment.

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

Documentation for Requests for Specialty Service Exclusions:

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

SIGNATURE	
Electronic Signature of Contractor: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all DBE subcontractors will participate in subcontracts in accordance with the requirements of 40 CFR Part 33. **Name** (Please Type)**:**	**Date:**

Attachment 3 – Lobbying Certification

Environmental Facilities Corporation | Department of Health

CERTIFICATION REGARDING LOBBYING
FOR
CONTRACTS, GRANTS, LOANS, AND
COOPERATIVE AGREEMENTS
40 CFR Part 34

SRF Project No.: _____
Recipient: _____
Project Description: _____

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Signature: _____
Name: _____
Title: _____
Company Name: _____
Date: _____
Contract ID: _____

Attachment 4 – BABA Contractor's Certification

Environmental Facilities Corporation | Department of Health

BABA CONTRACTOR CERTIFICATION

FOR CONSTRUCTION CONTRACTS PAID FOR WITH EQUIVALENCY FUNDS THROUGH
THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS
OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project No.: _____

SRF Recipient Name: _____

I certify that all iron and steel, manufactured products and construction materials permanently incorporated into the project under this construction contract will be and/or have been produced in the United States or have been waived by the United States Environmental Protection Agency (EPA) and the Made in America Office, in accordance with the requirements of the EPA and Pub. L. No. 117-58 and any regulations promulgated thereunder. I will develop and maintain the necessary documentation to demonstrate that the applicable products permanently incorporated into the project were produced in the United States and make such documentation available to The New York State Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 5 – BABA Waiver Request Form

OMB Control No: 0505-0028
Expires: 09/30/2026

BUILD AMERICA BUY AMERICA WAIVER REQUEST DATA COLLECTION

This data collection is for submitting a waiver request to the Build America, Buy America requirements. According to the Build America Buy America Act (BABAA), "none of the funds made available for a Federal financial assistance program for infrastructure, including each deficient program[1], may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States."

Waivers are explained in the Office of Management and Budget Memorandum 22-11 and required by the Infrastructure, Investments and Jobs Act (IIJA) sections 70901 through 70952. Each waiver request must provide responses to the form questions, as applicable. Instructions are provided in the next paragraph. Recipient instructions can be found on pages 9 through 12 of this document. Contact your Federal Agency contact for your award or for additional assistance with completing this data collection.

Instructions: The applicant/recipient/subrecipient need to complete questions 1 through 16, sign and certify the form, and email/submit the waiver request to the Federal agency contact identified in your Federal award notification. The Federal agency will complete questions 1A through 11A. The Federal agency will review and determine to approve or not approve the waiver request.

If additional space is needed, see attachment instructions on page 8.

Required fields are marked with an asterisk (*)

Questions to be Answered by the Applicant, Recipient, or Subrecipient

1. Submitter Type: * ◯ Applicant ◯ Recipient ◯ Subrecipient

2. Submitter Contact Information

Legal Name *	Unique Entity Identifier (UEI) *

Address 1 *

Address 2

City *	County/Parish	State
Province	**Country ***	**Zip/Postal Code ***

3. Submitter First and Last Name*

4. Submitter Email * **5. Submitter Phone Number ***

[1] See IIJA, § 70913(c) for description of the term "deficient program."

6. Describe the infrastructure project description and location, to the extent known. *

7. Total funding, including federal and non-federal shares: *

8. Total estimated infrastructure costs, including all federal and non-federal shares (to the extent known): *

9. Is this waiver for a specific product or a category of products? Check one below: *

a. ◯ Specific Product

b. ◯ Category of Products

10. Listing of Materials, Technical Specifications, and Quantity: *

List of iron or steel items, manufactured products, and construction materials proposed to be excepted from BABAA requirements, including name, cost, countries of origin (if known), and relevant Product Service Code (PSC) and North American Industry Classification System (NAICS) code for each. List each item separately. List the name of the product, how much the product costs, in U.S. dollars, the country or countries of origin, if known, and the relevant PSC and NAICS for each product. Links to manuals that provide the PSC and NIACS codes:

- PSC Codes: https://www.acquisition.gov/psc-manual
- NAICS Codes: https://www.census.gov/naics/

10.1 Technical specification descriptions of items to be waived, if applicable.

10.2 Quantity required:

11. Waiver Type *

Choose one of the three waiver types listed in this section and only answer the questions applicable to the chosen waiver type.

- Nonavailability waivers: Complete questions 11.1.1, and 11.1.2.
- Unreasonable Cost waivers: Complete questions 11.2.1, 11.2.2, and 11.2.3.
- Public Interest waivers: Complete question 11.3.

11.1 ☐ Nonavailability Waiver

Applicable responses to the following are required:

11.1.1 A description of the due diligence performed by the applicant, including names and contact information of the manufacturers, distributors, or suppliers contacted for quotes (minimum 3), and the responses provided.

11.1.2 If one or more respondent indicated that they could provide a Build America Buy America (BABA) compliant item, but you are requesting the non-availability waiver because the lead time to obtain the BABA compliant item is excessive, indicate below how the difference in lead time between a BABA compliant and non-compliant item is going to cause the project to miss a significant milestone or deadline.

11.2 ☐ **Unreasonable Cost Waiver** (BABA compliance increases total project cost by more than 25 percent)

Applicable responses to the following are required:

11.2.1 What is the additional cost of the BABA compliant items, compared to using iron and steel, manufactured products, and construction materials of non-domestic or unknown origin? Attach documentation of prices for BABA compliant and non-compliant items for items to be included in the cost comparison. Attach an additional PDF file if needed. *(See page 8 for attachment instructions)*

11.2.2 What is the additional administrative cost for compliance with the BABA requirements? Attach a certification from the engineer or architect attesting to the actual or expected additional administrative cost. Attach an additional PDF file if needed. *(See page 8 for attachment instructions)*

11.2.3 The BABA requirements will be waived for individual items until the total additional cost of BABA compliance is less than 25 percent of the total project cost. Which items is the applicant requesting to be waived from the BABA requirements to reduce costs below the 25 percent cost threshold?

11.3 ☐ **Public Interest Waiver**

Explain how waiving the BABA requirement for this project or product serves the public interest.

12. Additional Waiver Information

Provide any additional information for the Agency's consideration of the requested waiver.

13. Anticipated Impacts *

Identify any anticipated impacts if no waiver is issued. Attach additional PDF pages if needed.
(See page 8 for attachment instructions)

14. Certifying Official Name: *

15. Certifying Official Signature: *

16. Date of Certification: *

Questions to be Answered by the Federal Agency

All fields are required and must be filled out.

If additional space is needed see attachment instructions on page 8.

Federal agency instructions can be found on pages 13 and 14 of this document.

1A. Federal Awarding Agency

2A. Federal Financial Assistance Program Listing Number

3A. Federal Financial Assistance Program Title

4A. Federal Awarding Agency Point of Contact

First Name	Last Name
Email	Phone

5A. FAIN and Federal Awarding Agency Organizational Information

Provide the Federal Award Identification Number (FAIN) (if available) and Federal Agency name, subcomponent name (if known), and the CGAC code (e.g., Common Government-wide Accounting Classification (CGAC) Agency Code).

Enter the Federal Agency name, and subcomponent name, if known, and the CGAC code. USDA's CGAC code is 012. For example, an appropriate response would be U.S. Department of Agriculture, Forest Service, CGAC 012.

FAIN

Federal Agency name, and subcomponent name, if known, and the CGAC code

6A. Waiver Level

Select one of the four waiver levels:

◯ Project ◯ Award ◯ Program ◯ Agency

7A. Is this a general applicability waiver?

Yes ◯ No ◯

8A. Agency Summary and Determination

Provide an agency summary and determination regarding the waiver request.

9A. Agency Waiver

This response should be a narrative and include all necessary information to support the justification for a waiver. To avoid the need for a project-specific waiver, a justification may cite, if applicable, the absence of any BABA compliant bids received in response to a solicitation.
(See page 8 for attachment instructions).

10A. Public Comments

Provide any relevant comments received through the public comment period. This section is to be filled out after the waiver has been posted to the Agency's BABA Website. For example, the USDA website is found at https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver.

11A. Waiver Timeline

Select the timeline you are requesting for the waiver of the BABAA domestic sourcing requirements.

◯ **For the entire period of performance** of the grant in which the infrastructure projects will occur.

OR

◯ **For a limited time during the period of performance of the grant.** We request a waiver of the identified BABAA domestic sourcing requirements from [ ] to [ ] date.

File Attachment Instructions

Attach PDF files if additional space is needed to answer any of the questions in this form. Indicate which questions the attachment addresses.

To attach a file, select the "Attach File" button to open the Attachment Panel in Adobe Reader or Acrobat.

Attach File

Drag and drop your attachments to the panel or select the "Add a New Attachment" button from the left Attachment panel in Adobe reader or Acrobat.
Please indicate which questions the attachments address by naming your file with the question number (i.e., Question 9A.pdf).

Recipient Instructions:

1. **Submitter Type:** Select a submitter type. Applicant, Recipient or Subrecipient.
2. **Submitter Contact Information:**
   - **Legal Name:** Required. Enter the legal name of the financial assistance award recipient that is seeking a waiver under the award. This is the organization that has registered with the System for Award Management (SAM). Information on registering with SAM may be obtained by visiting SAM.gov.
   - **UEI**: Required. Enter the organization's Unique Entity Identifier (UEI) received from SAM. The UEI is a unique 12 character organization identifier. Information on registering with System for Award Management (SAM.gov) may be obtained by visiting the Grants.gov website. If the entity is not required to register in SAM.gov, respond "Exempt from registration in SAM.gov."
   - **Address:** Required. Enter address: **Address 1** (required); **City** (required); **County/Parish, State** (required if country is US); **Province; Country** (required); **9-digit ZIP/Postal Code** (required if country is US). If +4 does not exist or it is unknown for the address, enter "0000".
3. **Submitter First and Last Name**: Provide the first and last name of the person submitting the waiver request.
4. **Submitter Email**: Enter the email of the person submitting the waiver request.
5. **Submitter Phone Number:** Enter the area code and phone number of the person submitting the waiver request. Include the area code, phone number and phone extension if applicable.
6. **Describe the infrastructure project description and location** (to the extent known). The location can be an address (street, city, state, country and postal code) or a description of an area, such as a roadway or tract of land. Global Positioning System (GPS) location information may also be used.
7. **Total Funding, including Federal and non-Federal shares**: Report the total funding amount for the award, in whole dollars. If the entity is contributing non-Federal funds, sometimes known as cost sharing or match, and add that to the Federal funding amount and report the sum of the two figures in the field.
8. **Total estimated infrastructure costs, including all Federal and non-Federal shares** (to the extent known)**:** List the portion of the total award amount that represents construction costs, including any Federal funding being used for this project. If the entity is contributing non-Federal funds, sometimes known as cost sharing or match, add that to the Federal funding amount and report the sum of the two figures in the field.
9. **Is this a waiver for a specific product or a category of products?** Check the box next to Specific Product or Category of products.

   Example:
   9a. **Product waiver:** 8-inch stainless steel valves
   9b. **Category of products**: all valves on the project.

10. **Listing of Materials, Technical Specifications, and Quantity**

    List of iron or steel item(s), manufactured products, and construction material(s) proposed to be excepted from BABAA requirements, including name, cost, country(ies) of origin (if known), and relevant Product Service Code (PSC) and North American Industry Classification System (NAICS) code for each. Please see the instructions below for listing the items. List the name of the product, how much the product costs, in U.S. Dollars, the country or countries of origin, if known, and the relevant PSC and NAICS for each product. Links to manuals that provide the PSC and NIACS codes can be found below.

10.1 **Technical specifications description of items to be waived, if applicable.** Provide the technical specifications for each of the items listed in question 10.

10.2 Quantity required: List the quantity required for each item listed in question 10.

- PSC Codes: https://www.acquisition.gov/psc-manual
- NAICS Codes: https://www.census.gov/naics/

List each item separately.

- "Manufactured Product": Items that consist of two or more of the listed construction materials below that have been combined together through a manufacturing process, and items that include at least one of the listed construction materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials. For example, a plastic framed sliding window should be treated as a manufactured product while plate glass should be treated as a construction material.
- "Construction Materials" includes an article, material, or supply— other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives— that is or consists primarily of:
  - non-ferrous metals;
  - plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
  - glass (including optic glass);
  - lumber; or drywall.

11. Waiver type: Choose one of the three waiver types listed in this section and only answer the questions applicable to the chosen waiver type:

- **Nonavailability waivers:** Complete questions 11.1, 11.1.1, and 11.1.2.
- **Unreasonable Cost waiver**s: Complete questions 11.2, 11.2.1, 11.2.2, and 11.2.3.
- **Public Interest waivers:** Complete question 11.3.

Provide sufficient information related to the specific request.

11.1 **Nonavailability Waiver:** Check this box if seeking a Nonavailability waiver. By choosing this selection, this means you are unable to obtain American made iron, steel, manufactured products, or construction materials for an infrastructure project. You are requesting the Federal agency to waive the application of the Build America Buy America domestic preference. You must demonstrate market research, which may be accomplished with assistance from the Federal agency, and adequately considered qualified alternate items, products, or materials.

Applicable responses to the following are required:

11.1.1 A description of the due diligence performed by the applicant, engineer/architect, or contractor, including names and contact information of the manufacturers, distributors, or suppliers contacted for quotes (minimum 3), and the responses provided.

11.1.2 If one or more respondent indicated that they could provide a BABA compliant item, but you are requesting the non-availability waiver because the lead time to obtain the BABA compliant item is excessive, indicate below how the difference in lead time between a BABA compliant and non-compliant item is going to cause the project to miss a significant milestone or deadline.

11.2 **Unreasonable Cost.** (BABA compliance increases total project cost by more than 25 percent). This checkbox is chosen when the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the total project cost to the overall project by more than 25 percent. You are requesting the Federal agency to waive the application of the BABAA domestic preference. You must provide documentation to the Federal agency that no domestic alternatives are available within the cost parameter. This may be accomplished with assistance from the Federal agency.

Applicable responses to the following are required:

11.2.1 What is the additional cost of BABA compliant iron and steel, manufactured products, and construction materials, compared to items of non-domestic or unknown origin? Attach documentation of prices for BABA compliant and non-compliant items for items to be included in the cost comparison. Such documentation may include quotes from suppliers or bid tabulations from bid actions which solicited both BABA compliant and non-compliant products. Attach an additional PDF file if needed.

11.2.2 What is the additional administrative cost for compliance with the BABA requirements? Attach a certification from the engineer or architect attesting to the actual or expected additional administrative cost. Attach an additional PDF file if needed.

11.2.3 The BABAA allows for a waiver in cases where "the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent." If you are requesting a waiver under this requirement, we will waive items until the excess costs due to BABA are less than 125 percent of the non-BABA project. The BABA requirements will be waived for individual items until the total additional cost of BABA compliance is less than 25 percent of the total project cost.

For example, the project has three items which each cost $20 for the non-domestic item. The equivalent domestic item costs $30. Total project cost includes those items, along with $40 of labor and soft costs. ("Soft costs" is a construction industry term or contractor accounting term for an expense item that is not considered direct construction cost. Soft costs include architectural, engineering, financing, and legal fees, and other pre- and post-construction expenses.) In this example, administration of BABA adds $4 to soft costs. The total cost of the non-BABA project would be $100 (3 x $20 + $40) and the BABA project is $134 (3 x $30 + $44), a 34 percent increase. Waiving BABA requirements for one of the three items would decrease total project cost to $124, which is less than 25 percent cost threshold.

Item	BABA cost	Non-BABA cost
Construction contracts		
Items procured outside of construction contract		
Architecture/engineering services		
Subconsultants		
Land and right-of-ways		
Legal services		
Funds administration		
Construction management		
Construction contingency		
Interest		
Equipment		
Refinancing		
Other soft costs		
Total Project Cost	**A**	**B**

1) Percentage increase in total project cost due to BABA (= 100 percent multiplied by (A-B)/B):

2) Dollar amount to be waived (= A – 1.25 multiplied by B):

Indicate which items the applicant wishes to waive from the BABA requirements to bring the total costs below 125 percent of the non-BABA total project cost. Items should be selected judiciously so that the total cost savings of using non-BABA items exceeds the amount in Row 2 by the smallest practicable amount. Only items submitted in response to question 10.2.1 are eligible for a waiver (it is not expected that soft costs will be affected significantly by the waiver).

11.3 Public Interest. Explain how waiving the BABA requirement for this project or product serves the public interest. By choosing this checkbox, you will explain how waiving the BABA domestic preference for this project or product serves the public interest. You can demonstrate definite impacts on the community if specific items, products or materials are not utilized in an infrastructure project. You are requesting the Federal agency waive the application of the BABA domestic preference because the domestic content preference would be inconsistent with the public interest. You will ensure this waiver is used judiciously and construed to ensure the maximum utilization of goods, products, and materials produced in the United States.

12. **Waiver Additional Information:** Indicate any additional information for the Agency's consideration of the requested waiver.
13. **Anticipated Impacts:** Identify any anticipated impacts if no waiver is issued. Provide a narrative that will explain the impact to the award, project, or the public should the waiver be denied. Attach additional PDF pages if needed.
14. **Certifying Official Name:** The name of the person who is certifying the waiver request.
15. **Certifying Official Signature:** The signature of the person who is certifying the waiver request will sign this section.
16. **Date of Certification:** Provide the date (MM/DD/YYYY) that the signature was provided.

Federal Agency Instructions:

1A. Provide the Federal awarding agency.

2A. Provide the Federal financial assistance program listing number.

3A. Provide the Federal financial assistance program title.

4A. Provide the first name, last name, email, and phone number of the Federal awarding agency point of contact.

5A. Provide the Federal Award Identification Number (FAIN) (if available) and the Federal awarding agency organizational information (e.g., Common Government wide Accounting Classification (CGAC) Agency Code). Enter the Federal Agency name, and subcomponent name if known, and the CGAC code. **USDA's CGAC code is 012. For example, an appropriate response would be U.S. Department of Agriculture, Forest Service, CGAC 012.**

6A. Indicate waiver level. Project, Award, Program or Agency.

7A. Is this a general applicability waiver? Indicate if this is a general applicability waiver or not.

8A. Agency summary and determination regarding the waiver request. Provide a narrative summarizing the Federal Agency's determination of the waiver request. It should include the reasons for approving or disapproving the waiver.

9A. Agency waiver: In an attempt to avoid the need for a project specific waiver, such a justification may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation. This should be a narrative and include all necessary information to support the justification for a waiver. This may be submitted as an attachment as a PDF file.

10A. Any relevant comments received through the public comment period. This is to be filled out after the waiver has been posted to the Agency's Buy American Website. For example, the USDA website if found here: https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver.

11A. Select the timeline you are requesting for the waiver of the BABAA domestic sourcing requirements:

For the entire period of performance of the grant in which the infrastructure projects will occur.
OR
For a limited time during the period of performance of the grant. We request a waiver of the identified BABAA domestic sourcing requirements from [XX/XX/XXXX] only until [XX/XX/XXXX] date. After the identified end date, if there is a need for another waiver for the infrastructure projects, a new Build America Buy America Waiver Request form must be completed and submitted to the Federal agency. The waiver time frame cannot exceed the approved period of performance of the grant unless there is an approved grant extension by the Federal awarding agency.

Public Posting of Waiver Request Information

The BABAA domestic sourcing requirements waiver authority generally requires the Federal awarding agency to post this waiver information for a period of public comment and review. The Department will not publicly post information considered to be personally identifiable information (PII), including signatures and specific contact information such as an email address and phone number. However, all other information contained in this form, along with any supporting documentation, may be publicly posted so that the public has adequate information to comment on your requested wavier of the BABAA domestic sourcing requirements. If you feel that some of the information contained in this waiver request is "proprietary information" and do not want this information disclosed, please follow the instructions in "Submission of Proprietary Information", below. Please note that your designations of exempt material are not binding on the Department.

Submission of Proprietary Information

FOIA exempts from mandatory disclosure any "trade secrets or commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. 552(b)(4) (Exemption 4). In accordance with Exemption 4, the Department will maintain as confidential any documents submitted by you, or prepared by the applicant or grantee, that are both customarily and actually treated as private by the applicant or grantee, or closely held and not publicly disseminated. If you feel that some or all of this submission falls within the scope of Exemption 4 and is entitled to confidential treatment, you must indicate the specific information the applicant or grantee considers proprietary in a cover attachment to this form. Please note that your designations of exempt material are not binding on the Department.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0028. Public reporting burden for this collection of information is estimated to average 10 hours per response, including time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is *required to obtain or retain benefit* (with section 70914 of the Build America Buy America Act (Pub. L. No. 117-58 §§ 70901-70952)). If you have any comments concerning the accuracy of the time estimate, suggestions for improving this individual collection, or if you have comments or concerns regarding the status of your individual form, application, or survey, please contact your assigned program officer directly.

Attachment 6 – BABA Sample EPA Manufacturer's Certifications

The following information is provided as a sample letter of certification for **BABA** compliance for Non-Ferrous **Construction Materials**. **Documentation must be provided on company letterhead**.

Date

Company Name

Company Address

City, State Zip

Subject: Build America, Buy America Act Certification for Project XXXXXXXXXX (must state the water/wastewater system name, location, and/or project/contract title, that is specific and recognizable enough to easily associate it with this particular project)

I, (company representative), certify that the non-ferrous construction materials shipped/provided to the subject project are in full compliance with the Buy America, Build America Act requirement as mandated in the Infrastructure Investment and Jobs Act (IIJA) Pub. L. No. 117-58, §§ 70901-52 and in EPA's State Revolving Fund Programs (if applicable). Each manufacturing process required for the manufacture of the construction material and the inputs of the construction material occurred in the United States, per OMB Guidance 2 CFR 184.6. Detailed standard provided below.

Items, Products and/or Materials and relevant Product Service Code (PSC) and North American Industry Classification System (NAICS) code:

1. Xxxx
2. Xxxx
3. Xxxx

Such product manufacturing process(es) took place at the following location(s): (City and State)

1. Xxxx
2. Xxxx
3. Xxxx

If any of the above compliance statements change, we will immediately notify the subject project prime contractor.

Signature of company representative
Printed name of company representative
Professional title of company representative
Email address
Phone number

§ 184.6 Construction material standards.

(a) The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered "produced in the United States."

(1) ***Non-ferrous metals.*** All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.

(2) ***Plastic and polymer-based products.*** All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

(3) ***Glass.*** All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

(4) ***Fiber optic cable (including drop cable).*** All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

(5) ***Optical fiber.*** All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

(6) ***Lumber.*** All manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.

(7) ***Drywall.*** All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

(8) ***Engineered wood***. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

The following information is provided as a sample letter of certification for **BABA** compliance for **Manufactured Products**. **Documentation must be provided on company letterhead**.

Date

Company Name

Company Address

City, State Zip

Subject: Build America, Buy America Act Certification for Project XXXXXXXXXX (must state the water/wastewater system name, location, and/or project/contract title, that is specific and recognizable enough to easily associate it with this particular project)

I, (company representative), certify that the manufactured product(s) shipped/provided to the subject project is/are in full compliance with the Build America, Buy America Act requirement as mandated in the Infrastructure Investment and Jobs Act (IIJA) Pub. L. No. 117-58, §§ 70901-52 and in EPA's State Revolving Fund Programs (if applicable). This/these product(s) meet(s) the 55 percent component cost test, where the cost of components that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components; and final manufacturing occurred in the United States.

Items, Products and/or Materials and relevant Product Service Code (PSC) and North American Industry Classification System (NAICS) code:

1. Xxxx
2. Xxxx
3. Xxxx

Final product manufacturing process(es) took place at the following location(s): (City and State)

1. Xxxx
2. Xxxx
3. Xxxx

If any of the above compliance statements change, we will immediately notify the subject project prime contractor.

Signature of company representative
Printed name of company representative
Professional title of company representative
Email address
Phone number

The following information is provided as a sample letter of certification for **BABA** compliance for **Iron/Steel Products**. **Documentation must be provided on company letterhead**.

Date

Company Name

Company Address

City, State Zip

Subject: Build America, Buy America Act Certification for Project XXXXXXXXXX (must state the water/wastewater system name, location, and/or project/contract title, that is specific and recognizable enough to easily associate it with this particular project)

I, (company representative), certify that the (initial melting, reheating, refining, forming, rolling, drawing, finishing, fabricating, coating, assembly) of the following products and/or materials shipped/provided to the subject project are in full compliance with the American Iron and Steel Requirement (AIS) (if applicable), and for the iron/steel category of products in the Build America, Buy America Act requirement, as mandated in the Infrastructure Investment and Jobs Act (IIJA) Pub. L. No. 117-58, §§ 70901-52 and in EPA's State Revolving Fund Programs (if applicable).

Items, Products and/or Materials and relevant Product Service Code (PSC) and North American Industry Classification System (NAICS) code:

1. Xxxx
2. Xxxx
3. Xxxx

Such product manufacturing process(es) took place at the following location: (City and State)
Initial Melting location: (City and State)
Bending, Cutting, etc location: (City and State; list out each step taken by a different manufacturer or producer)

If any of the above compliance statements change, we will immediately notify the subject project prime contractor.

Signature of company representative
Printed name of company representative
Professional title of company representative
Email address
Phone number

Attachment 7 – AIS Contractor's Certification

Environmental Facilities Corporation | Department of Health

AIS CONTRACTOR CERTIFICATION

FOR CONSTRUCTION CONTRACTS FUNDED THROUGH
THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS
OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project No.: _____

SRF Recipient Name: _____

I certify that the iron and steel products permanently incorporated into the public water system or wastewater treatment works project under this construction contract will be and/or have been produced in the United States or have been waived by the United States Environmental Protection Agency (EPA), in accordance with the requirements of the EPA and 33 U.S.C. § 1388, 42 U.S.C. § 300j-12(a)(4) and any regulations promulgated thereunder. I will develop and maintain necessary documentation to demonstrate that the iron and steel products permanently incorporated into the project were produced in the United States, and make such documentation available to The New York State Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 8 – AIS Sample EPA Manufacturer's Certification

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

   Date

   Company Name

   Company Address

   City, State Zip

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

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

   Item, Products and/or Materials:

   1. Xxxx

   2. Xxxx

   3. Xxxx

   Such process took place at the following location: _____

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

   [Signed by company representative]

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

   Date

   Company Name

   Company Address

   City, State Zip

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

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

   Item, Products and/or Materials:

   1. Xxxx

   2. Xxxx

   3. Xxxx

   Such process took place at the following location: _____

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

   [Signed by company representative]

Attachment 9 – Federal Payroll Form (WH-347)

U.S. Department of Labor
Wage and Hour Division

Davis-Bacon and Related Acts Weekly Certified Payroll Form

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

Unless otherwise noted, the information requested is specific to the named project below.

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

U.S. Wage and Hour Division

Rev. January 2025
OMB No.: 1235-0008
Expires: 01/31/2028

☐ SUBMISSION OF FINAL DBRA CERTIFIED PAYROLL FORM ☐ PRIME CONTRACTOR ☐ SUBCONTRACTOR

PROJECT NAME	PROJECT NO. or CONTRACT NO.	CERTIFIED PAYROLL NO.	PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME
PROJECT LOCATION	**WAGE DETERMINATION NO.**	**WEEK ENDING DATE**	**PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS ADDRESS**

(1A)	(1B)	(1C)	(1D)	(1E)	(2)	(3)	(4)		(5)	(6A)	(6B)	(6C)	(7A)	(7B)	(8)				(9)
WORKER ENTRY NO.	WORKER LAST NAME	WORKER FIRST NAME	WORKER MIDDLE INITIAL	WORKER IDENTIFYING NO.	(J) JOURNEYWORKER (RA) REGISTERD APPRENTICE	LABOR CLASSIFICATION	ST = STRAIGHT TIME OT = OVERTIME	(TOP) DAYS OF WORK WEEK (BOTTOM) DATES HOURS WORKED EACH DAY	TOTAL HOURS WORKED FOR WEEK	HOURLY WAGE RATE PAID FOR ST AND OT	TOTAL FRINGE BENEFIT CREDIT	PAYMENT IN LIEU OF FRINGE BENEFITS	GROSS AMT EARNED	GROSS AMT EARNED FOR **ALL WORK**	DEDUCTIONS FOR **ALL WORK**				NET PAY TO WORKER FOR **ALL WORK**
															TAX WITH-HOLDINGS	FICA	OTHER (MUST SPECIFY, SEE INSTRUCTIONS)	TOTAL DEDUCTIONS	
							ST												
							OT												
							ST												
							OT												
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While use of Form WH-347 itself is optional, covered contractors and subcontractors performing work on Federal or federally assisted construction contracts are required by the DBRA regulations and the contract clauses to submit payroll information on a weekly basis. The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federal or federally financed construction contracts to, on a weekly basis, "furnish a statement on the wages paid each employee during the prior week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors and subcontractors to submit weekly certified payrolls to the appropriate Federal agency if the agency is a party to the contract (or, if the agency is not such a party, to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the Federal agency). Each certified payroll must be accompanied by a signed "Statement of Compliance" (e.g., page 2 of the WH-347 or another document with identical wording) indicating that the certified payrolls are accurate and complete, and that each laborer or mechanic has been paid not less than the required Davis-Bacon prevailing wage rate(s) (including any fringe benefits) for the work performed. DOL and contracting agencies receiving this information review the information to determine whether workers have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

	PROJECT NO. or CONTRACT NO.		

I paid or supervised the payment of the laborers or mechanics working on the above project during the stated time period. I certify the following:

☐ The payroll information submitted with this statement is correct and complete for the above project during the above period, and the wage and fringe benefit rates paid to the workers, including credit taken for the reasonably anticipated costs of a bona fide fringe benefit plan, fund or program, are not less than the applicable wage and fringe benefits rates for the

☐ All regular payrolls and all other basic records that the contractor is required to maintain for this payroll period are complete and accurate and will be made available upon request from the

☐ The classifications reported for each laborer or mechanic are the classification(s) of work that each worker actually performed.

☐ Any workers paid as apprentices during the above period are duly registered in a bona fide apprenticeship program registered with the Office of Apprenticeship, Employment and Training Administration, United States Department of Labor ("OA"), or a State Apprenticeship Agency ("SAA") recognized by Department of Labor. I have verified the registered apprenticeship program

	☐ OA	☐ SAA	
	☐ OA	☐ SAA	
	☐ OA	☐ SAA	

☐ Fringe benefits have been paid in cash and/or to bona fide fringe benefit plans, funds, or programs. Where the contractor is claiming an hourly credit for their contributions to or reasonably anticipated costs of a bona fide fringe benefit plan, fund, or program, provide plan information and the hourly credit claimed for each worker listed on the previous page of this form.

If an amount is listed in (6B) on the first page of this certified payroll form, enter the hourly credit claimed under each plan name, type and number for each worker and check whether the plan is funded or unfunded.

	☐ Funded	☐ Unfunded	☐ Funded	☐ Unfunded	☐ Funded	☐ Unfunded	☐ Funded	☐ Unfunded	☐ Funded	☐ Unfunded	☐ Funded	☐ Unfunded	
							Hourly Credit		Hourly Credit		Hourly Credit		
	Hourly Credit						Hourly Credit		Hourly Credit		Hourly Credit		
	Hourly Credit						Hourly Credit		Hourly Credit		Hourly Credit		
	Hourly Credit						Hourly Credit		Hourly Credit		Hourly Credit		
	Hourly Credit						Hourly Credit		Hourly Credit		Hourly Credit		
	Hourly Credit						Hourly Credit		Hourly Credit		Hourly Credit		
	Hourly Credit						Hourly Credit		Hourly Credit		Hourly Credit		
	Hourly Credit						Hourly Credit		Hourly Credit				

☐ All workers on the project have been paid the full weekly wages earned, and no rebates or deductions have been or will be made either directly or indirectly, other than permissible

		(____) ____-____	

CODE), AS WELL AS DEBARMENT FROM FUTURE FEDERAL AND FEDERALLY-ASSISTED CONTRACTS. INFORMATION REPORTED IN CERTIFIED PAYROLLS MAY BE SUBJECT TO DISCLOSURE IN RESPONSE TO A FREEDOM OF INFORMATION ACT REQUEST.

Attachment 10 – Davis Bacon Wage Poster

EMPLOYEE RIGHTS

UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/whd

WH1321 REV 10/17

Attachment 11 – Wage Interview Form (SF-1445)

LABOR STANDARDS INTERVIEW

CONTRACT NUMBER

NAME OF PRIME CONTRACTOR

NAME OF EMPLOYER

SUPERVISOR'S NAME

LAST NAME | FIRST NAME | MI

EMPLOYEE INFORMATION

LAST NAME | FIRST NAME | MI

STREET ADDRESS

CITY | STATE | ZIP CODE

WORK CLASSIFICATION | WAGE RATE

ACTION	CHECK BELOW YES	NO
Do you work over 8 hours per day?		
Do you work over 40 hours per week?		
Are you paid at least time and a half for overtime hours?		
Are you receiving any cash payments for fringe benefits required by the posted wage determination decision?		

WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?

HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?

DATE OF LAST WORK DAY BEFORE INTERVIEW *(YYMMDD)*

DATE YOU BEGAN WORK ON THIS PROJECT *(YYMMDD)*

TOOLS YOU USE

THE ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE

EMPLOYEE'S SIGNATURE | DATE *(YYMMDD)*

INTERVIEWER | SIGNATURE | TYPED OR PRINTED NAME | DATE *(YYMMDD)*

INTERVIEWER'S COMMENTS

WORK EMPLOYEE WAS DOING WHEN INTERVIEWED

ACTION *(If explanation is needed, use comments section)*	YES	NO
IS EMPLOYEE PROPERLY CLASSIFIED AND PAID?		
ARE WAGE RATES AND POSTERS DISPLAYED?		

FOR USE BY PAYROLL CHECKER

IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?

☐ YES ☐ NO

COMMENTS

CHECKER

LAST NAME | FIRST NAME | MI | JOB TITLE

SIGNATURE | DATE *(YYMMDD)*

Attachment 12 – Waste, Fraud, and Abuse Poster

OFFICE OF INSPECTOR GENERAL
U.S ENVIRONMENTAL PROTECTION AGENCY

To file a complaint, go to: epaoig.gov/epa-oig-hotline-information

THEFT AND MISUSE OF GOVERNMENT PROPERTY

MISMANAGEMENT AND WASTE OF FUNDS

PROGRAM FRAUD

CONFLICT OF INTEREST

COMPUTER CRIMES

CONTRACT, PROCUREMENT, AND GRANT FRAUD

ABUSE OF AUTHORITY

EMPLOYEE MISCONDUCT

HOTLINE COMPLAINT FORM

LABORATORY FRAUD

REPORT
FRAUD WASTE & ABUSE

U.S. EPA OIG
HOTLINE
888.546.8740

Visit epaoig.gov for anonymity guidelines and whistleblower information.

SECTION I:

Notice and Pre-Award Statement Form for Prevailing Wage Contracts

Prime Contractor Pre-Award Statement – **Prevailing Wage Contracts**

Agency: _____

Prime Contractor: _____

Contract #: _____

On behalf of the prime contractor and contract shown above, I affirm that I have reviewed the following information with the contracting agency:

- The work to be done or the trades that will be employed on the contract;
- The Comptroller's prevailing wage schedules for each trade;
- The requirement to pay the prevailing wage and supplement rates in effect at the time the work is done, and the dates of likely changes in such rates (July 1 and January 1);
- The requirement for written agreements with all subcontractors, which include prevailing wage and supplement requirements;
- The registration, ratio and payment guidelines for apprentices, and whether their use is optional or required under this contract;
- The requirement to use City-approved certified payroll forms, the need to fill those forms out completely, and to submit such original payrolls within thirty (30) days of issuance of the first payroll and every thirty (30) days thereafter;
- The requirement to use standard sign-in and sign-out logs or an agency-approved electronic or biometric system, and that such logs must be submitted to the resident engineer or agency representative daily;
- The requirement that all workers on job sites shall wear laminated photo identification badges;
- The prohibition on cash payments to workers and subcontractors; all workers must be paid by check or direct deposit weekly (bi-weekly, where permitted by law [certain non-construction workers only]), and that for contracts over $1,000,000 and subcontracts over $750,000 such checks must be generated by either a payroll service or an agency-approved automated system; and
- That the prime contractor shall be liable to the City for the cost of enforcement in the event the prime contractor or any subcontractor is found in violation of these requirements.

I further affirm that the prime contractor will comply with these and all other relevant requirements of the New York State Labor Law and City of New York laws and regulations concerning payment of prevailing wages and supplements, and that violation of such laws may subject the prime contractor to various administrative, civil and criminal penalties.

Prime Contractor Signature: _____ Date: _____

Printed Name: _____

Position: _____

Agency Witness: _____ Date: _____

Printed Name: _____

Rev 5/14

Printed on paper containing 30% post-consumer material.

Environmental Protection

SPECIAL NOTICE

NEW YORK STATE LABOR LAW WAGE REQUIREMENTS

This contract is subject to New York State Labor Law Section 220 which requires that construction workers on the site be paid prevailing wages and supplements.

Contractor is reminded that all wage provisions of this contract will be enforced strictly, and failure to comply will be considered when evaluating performance. Noncompliance may result in the contractor being debarred by the City from future contracts. Complaints filed with the Comptroller may result in decisions which may debar a contractor from bidding contracts with any state governmental entity and other political subdivisions.

Contractor is expected to submit accurate payroll reports and other required documents and verify attendance and job classification being utilized in compliance with the law, contract provisions and agency procedures. Also see **Information for Bidders** and **Contract** for additional information on prevailing wage requirements.

Notes:
1. If this Contract is subject to a Project Labor Agreement (PLA), refer to the PLA language in the Contract Documents as to how it impacts the Prevailing Wage Rate conditions (i.e. overtime, holidays, etc.).

2. If this Contract is funded under the New York State Revolving Loan Program (SRF), it shall be subject to the prevailing wages under NYS Labor Law Section 220 and the prevailing wages under United States Davis-Bacon Act. If there is a conflict between the wage rate set forth by the Davis Bacon Act or the wage rate established pursuant to §220 of the NYS Labor Law, the contractor shall pay the higher rate.

VERIFICATION OF PAYMENT TO SUBCONTRACTOR(S)
(TO BE ATTACHED TO EACH REQUEST FOR PAYMENT)

IN ACCORDANCE WITH **ARTICLES 17.11 AND 43.5,** OF THE CONTRACT, IT IS HEREBY CERTIFIED THAT THE FOLLOWING IS A TRUE, ACCURATE AND COMPLETE REPRESENTATION OF THE SUBCONTRACTOR WORK UNDER THIS CONTRACT, THAT PAYMENT TO SUBCONTRACTOR(S) FOR PRIOR WORK HAS BEEN MADE, AND THAT PAYMENT TO SUBCONTRACTOR(S) FOR WORK PERFORMED PURSUANT TO THIS PAYMENT REQUEST SHALL BE PAID TO THE NAMED SUBCONTRACTOR(S) NOT LATER THAN 7 DAYS AFTER PAYMENT HAS BEEN RECEIVED BY THE CONTRACTOR. IF THERE ARE NO PERFORMANCE AND PAYMENT BONDS FOR THIS CONTRACT, SEE ARTICLE 17.12 OF THE CONTRACT.

DEP CONTRACT DESIGNATION: _____ **REGISTRATION NUMBER**_____

PARTIAL PAYMENT NUMBER: _____

PAYMENT FOR WORK FROM: _____ **THROUGH** _____

NAME OF SUBCONTRACTOR, SUPPLIER OR SERVICE PROVIDER	VALUE OF SUBCONTRACT $	AMOUNT PREVIOUSLY PAID TO SUBCONTRACTOR FOR WORK IN PRIOR PAYMENT REQUESTS	AMOUNT INCLUDING RETAINAGE TO BE PAID FOR WORK INCLUDED IN THIS PAYMENT REQUEST

_____ _____
CONTRACTOR PERCENT WORK COMPLETED

_____ _____
PRINT NAME OF REPRESENTATIVE TITLE

_____ _____
AUTHORIZED SIGNATURE DATE

H 88 25 m 112407(70)

Certificate of Contractor to the Comptroller or Financial Officer of The City of New York

Under the provisions of Section 220-a of the Labor Law of the State of New York, and the terms and conditions of Contract.....with the Department of Environmental Protection of The City of New York, the undersigned CONTRACTOR hereby certifies to the Comptroller and the Director of Finance of The City of New York that the following is a true and correct statement of the amounts now due from the said CONTRACTOR to laborers for daily or weekly wages on account of labor performed upon the work under the aforementioned Contract, and for material and/or supplies delivered for use on the work, and for which payment is due, to wit:

NAMES	AMOUNTS DUE FOR LABOR	AMOUNTS DUE FOR MATERIALS & SUPPLIES

(**Note**: If no money is due to any laborers, state above *"None due to laborers."* If no money is due to other persons for material and/or supplies delivered for use on the work, state above *"None due to materialmen and supply men."*)

That the following is a true and correct list of all subcontractors who have employed laborers and/or used materials and/or supplies for work performed under said contract:

NAMES OF SUBCONTRACTORS	WORK SUBCONTRACTED

(I) or (we) have complied with all provisions of Section 220 of the New York State Labor Law. (**Note**: If no subcontractors are employed, state above *"None"*)

.....
Contractor

By.....
President

STATE OF NEW YORK,
} ss:
COUNTY OF.....

....., deposes and says that he/she is the
(name)
.....of
(title)
.....
(firm's name)

the CONTRACTOR named herein, and who executed the foregoing, that he/she has read the foregoing statement subscribed by him/her, and knows the comments thereof, and that the same is true of his/her own knowledge and is executed under the provisions of Section 220-a of the Labor Law of the State of NewYork, and the terms and conditions of Contract.....with the Department of Environmental Protection of The City of New York.

.....
President

Sworn/Affirmed to before me this .....day of.....,.....

.....Notary Public, County of_____

Note: A County Clerk's notarial certificate must accompany this document if it is executed outside the State of New York.

Certificate of Subcontractor to the Comptroller or Financial Officer of The City of New York

Under the provisions of Section 220-a of the Labor Law of the State of New York, and the terms and conditions of Contract.....with the Department of Environmental Protection of The City of New York, the undersigned CONTRACTOR hereby certifies to the Comptroller and the Director of Finance of The City of New York that the following is a true and correct statement of the amounts now due from the said CONTRACTOR to laborers for daily or weekly wages on account of labor performed upon the work under the aforementioned Contract, and for material and/or supplies delivered for use on the work, and for which payment is due, to wit:

NAMES	AMOUNTS DUE FOR LABOR	AMOUNTS DUE FOR MATERIALS & SUPPLIES

(**Note**: If no money is due to any laborers, state above *"None due to laborers."* If no money is due to other persons for material and/or supplies delivered for use on the work, state above *"None due to materialmen and supply men."*)

That the following is a true and correct list of all subcontractors who have employed laborers and/or used materials and/or supplies for work performed under said contract:

NAMES OF SUBCONTRACTORS	WORK SUBCONTRACTED

(I) or (we) have complied with all provisions of Section 220 of the New York State Labor Law. (**Note**: If no subcontractors are employed, state above *"None"*)

.....
Contractor

By.....
President

STATE OF NEW YORK,
} ss:
COUNTY OF.....

....., deposes and says that he/she is the
(name)
.....of
(title)
.....
(firm's name)

the CONTRACTOR named herein, and who executed the foregoing, that he/she has read the foregoing statement subscribed by him/her, and knows the comments thereof, and that the same is true of his/her own knowledge and is executed under the provisions of Section 220-a of the Labor Law of the State of NewYork, and the terms and conditions of Contract.....with the Department of Environmental Protection of The City of New York.

.....
President

Sworn/Affirmed to before me this .....day of.....

.....Notary Public, County of_____

Note: A County Clerk's notarial certificate must accompany this document if it is executed outside the State of New York.

SECTION J:

Electronic Funds Transfer ("EFT") Information and Form;

EFT/Direct Deposit Quick Start Guide

EFT/Direct Deposit Quick Start Guide

Vendors who want to direct NYC payments from FMS to a single bank account can enroll in EFT/Direct Deposit using the Payee Information Portal (PIP)

This guide provides the steps to set up a single bank account for vendor payments to be made with Electronic Funds Transfer (EFT)/Direct Deposit from the New York City Financial Management System (FMS). The EFT/Direct Deposit enrollment is done online at www.nyc.gov/PIP.

- If you already have a PIP User ID and password, you can login to PIP and proceed to add or change your bank account information.
- If you are a **new** vendor doing business with the City of New York, you can create a new PIP account and vendor code, and then add your bank account information for EFT immediately.

NOTE – Contact the City of New York's Department of Finance (DOF) directly at VendorEFT@Finance.nyc.gov instead of using the PIP EFT enrollment features if:

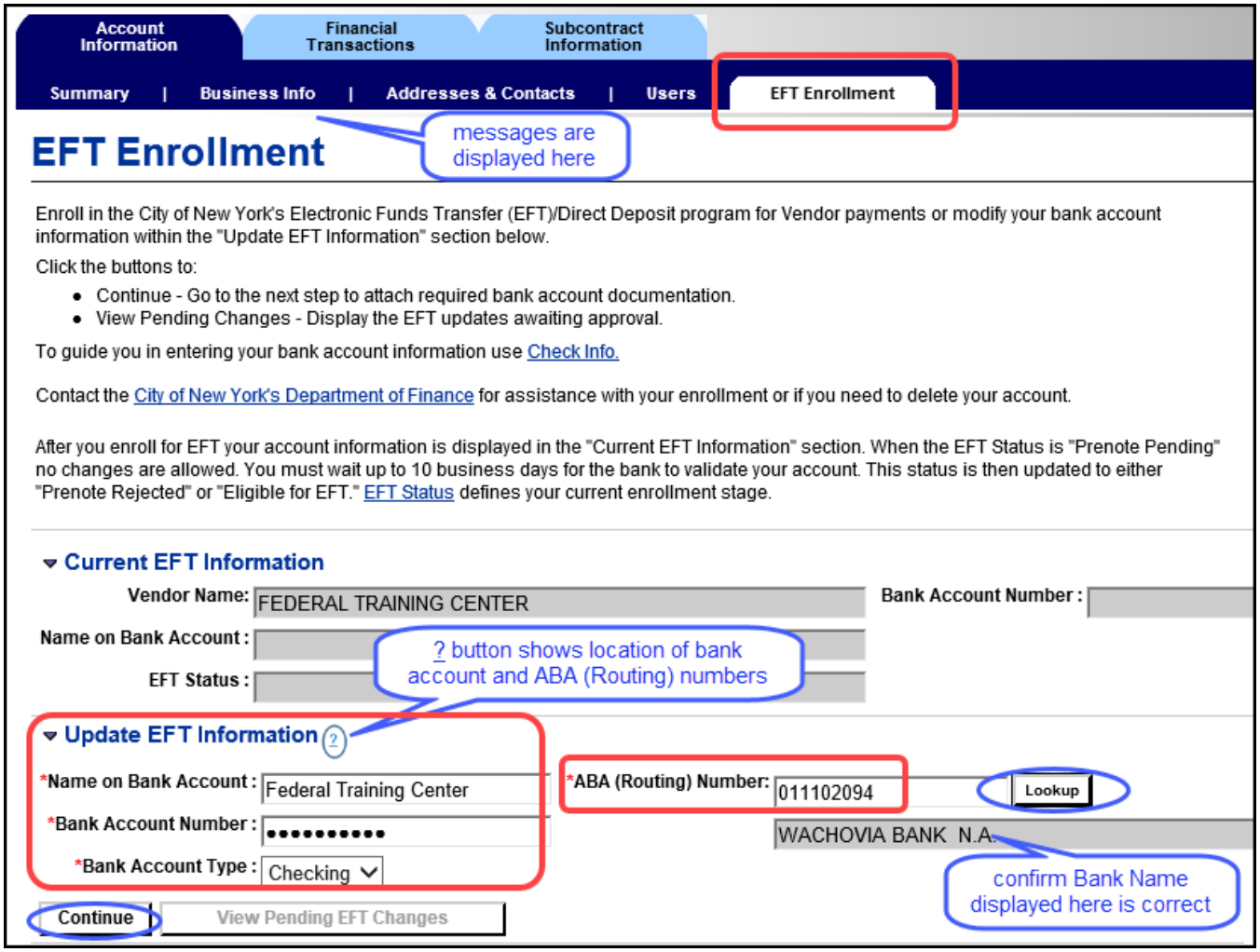
- **you have multiple bank accounts to be enrolled**
- **you want to delete the EFT bank account**
- **your business is a non-US business entity (foreign vendors)**

For enrollment you need the following information, preferably from one of your checks:

- Name on your Bank Account
- ABA (Routing) Number
- Your Bank Account Number and Type (checking or savings)
- At least one of the following documents, in electronic file format on your computer, to attach to the PIP enrollment submission.
  - Copy of voided check imprinted with vendor name
  - Current bank statement
  - Letter from your bank

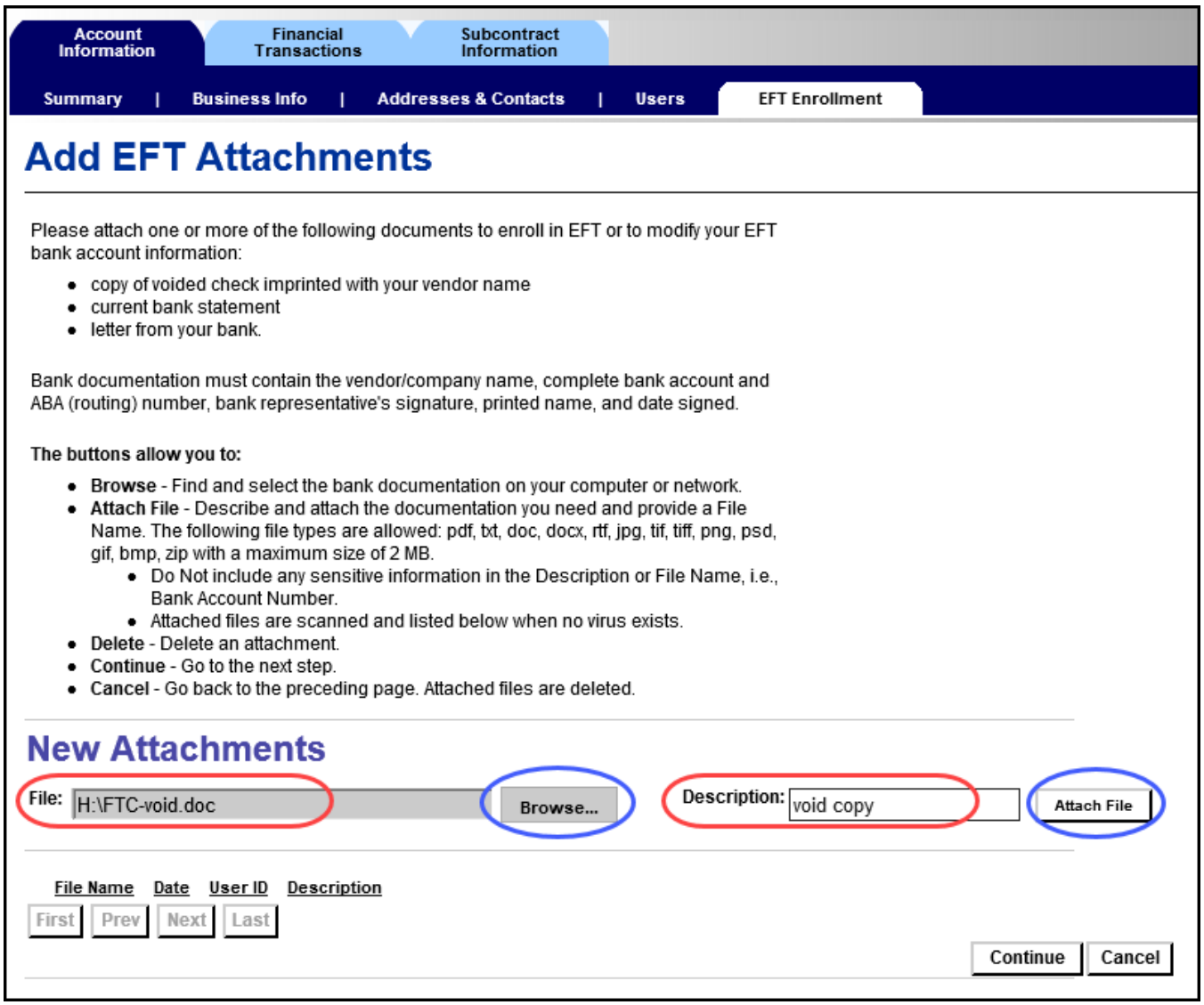
NOTE - The following attachment file types are allowed: pdf, txt, doc, docx, rtf, jpg, tif, tiff, png, psd, gif, bmp, and zip, with a maximum size of 2 MB each file. The File Name can contain the dash or underscore, but should not contain other special characters. Do not include any sensitive information in the Description or File Name, i.e., Bank Account Number.

1. Open the PIP home page, www.nyc.gov/pip and login.
2. Go to the ***EFT Enrollment*** tab.



In the **<u>Update EFT Information</u>** section near the bottom of the screen:

3. Enter *Name on Bank Account*, as it appears on your check or statement.
4. Enter the *Bank Account Number*, as printed on your check or statement.
5. Select the *Bank Account Type* from the drop down list, Checking or Savings.
6. Enter the *ABA (Routing) Number*, as printed on your check.
7. Click the ***Lookup*** button to display the bank name below your entry.
8. Confirm the *bank name* is correct. NOTE: If the bank name isn't displayed, a message at the top of the page explains the error. Verify your entry against your check.
9. Click the ***Continue*** button to attach your documentation.

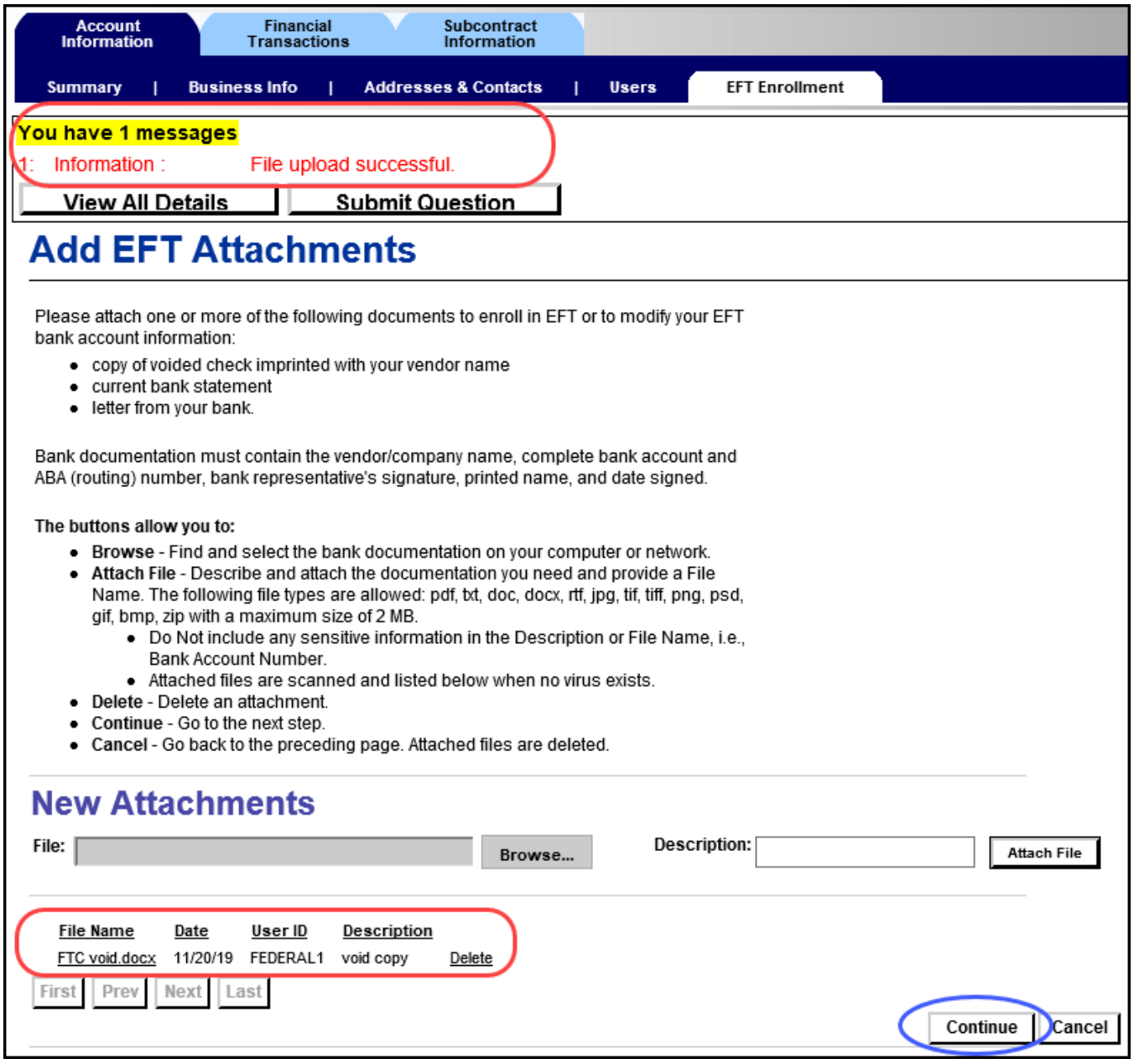


1. Click the ***Browse*** button to find your bank documentation on your computer.
2. When the **Choose File to Upload** window opens, find the file you need to attach and select it. The selected file name displays in the **File:** box next to the Browse button.
3. You have an option to enter a *Description* of the file.
4. Click the ***Attach File*** button.

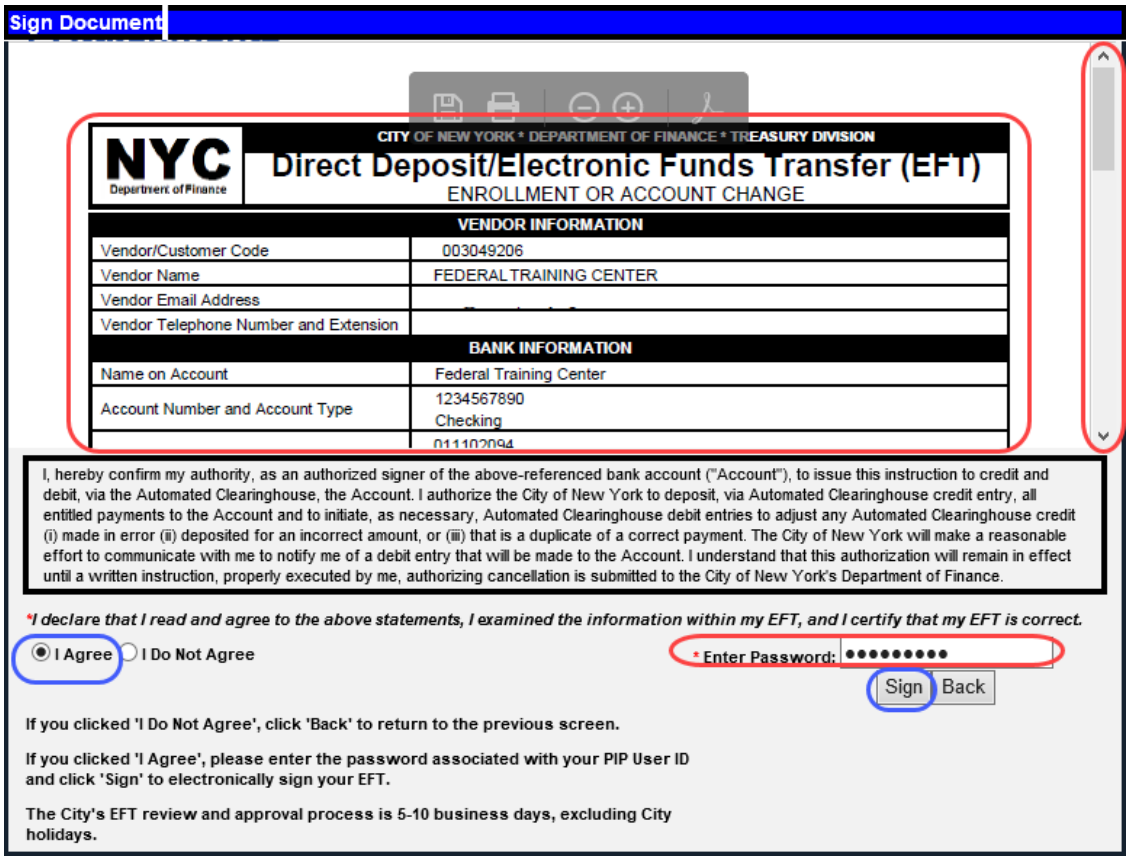
A message at the top of the page indicates that your file uploaded successfully. The file you attach successfully is displayed below. If it doesn't upload, the message will contain the explanation.

Files must be attached one at a time to be scanned for viruses; there is no limit to the number. If you have another file to attach, repeat steps 1-4 above.

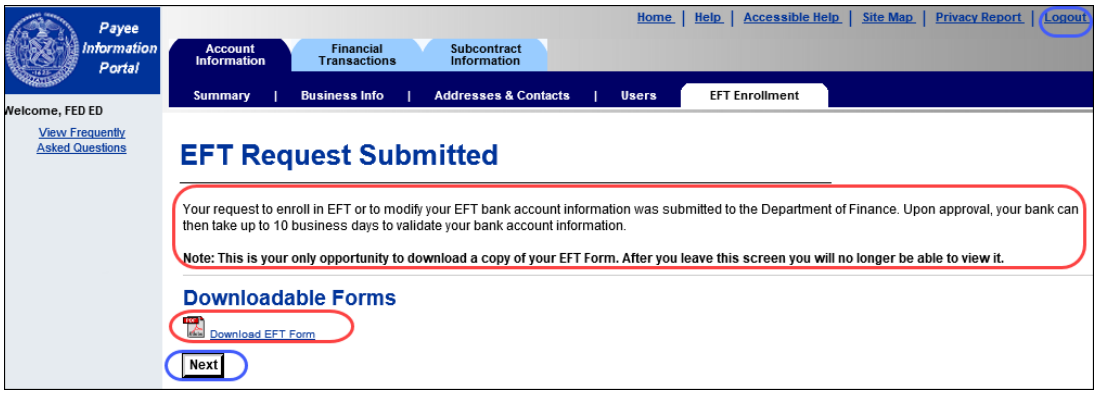
5. Click the ***Continue*** button to review and electronically sign the Direct Deposit/Electronic Funds Transfer (EFT) form.



A form is displayed with the bank information you entered. Carefully review it for accuracy.



1. Select ***I agree*** on the form after reviewing the information and reading the terms.
2. *Enter your PIP Password* to electronically sign the form.
3. Click the ***Sign*** button to submit the form.



1. Click the ***Download EFT Form*** link to save and print the electronically signed EFT Form.
   NOTE: After you leave this page, you will no longer be able to view or save the form.

You have completed the EFT request process. Next steps are DOF review and bank validation.

2. Click the ***Next*** button if you see a need to update the EFT request on the same business day as submitted, or click ***Logout***.

Next Steps: You will receive an email from DOF (VendorEFT@Finance.nyc.gov) confirming the EFT enrollment form receipt. DOF reviews your EFT information to approve or reject it. You will receive a second email from DOF when the review is completed. If the EFT form is rejected, the explanation is included, and you can login to PIP again to submit correct information in the EFT Enrollment page, or contact DOF directly at VendorEFT@Finance.nyc.gov.

NOTE: You can see your submitted bank information (View Pending EFT Changes) until DOF completes their review, but can ONLY update the bank information on the same business day it was submitted.

1. From the **EFT Enrollment** page, click the **View Pending Changes** button to view or update information.



On the **View Pending EFT Changes** page, you will see the entries you submitted.

2. Click the ***Update EFT Pending Changes*** button to make changes and re-submit.
   NOTE: the *Update EFT Pending Changes* button is disabled the day after you submit your EFT request.
3. If no changes are needed, go **Back** or ***Logout***.

BANK VALIDATION: When DOF approves your application, it is routed to your bank for validation, which can take up to 10 business days. You can check the progress in the PIP Account Summary page, or EFT Enrollment page, *Current EFT Information* section, ***EFT Status*** as follows:

- *Prenote Pending* – Vendor EFT Enrollment information is awaiting bank account validation.
- *Prenote Rejected* – The bank rejected your Vendor EFT enrollment application.
- *Eligible for EFT* – Payments will be made via EFT.
- *Not Eligible for EFT* – The bank rejected a City of New York payment to your bank account. You can check with your bank to see why it was rejected.
- *EFT Hold* – The City of New York placed a hold on your EFT enrollment.

If you have any questions about your EFT account, contact DOF directly at VendorEFT@Finance.nyc.gov.

NO TEXT ON THIS PAGE

NEW YORK CITY
ENVIRONMENTAL PROTECTION

INVITATION FOR BIDS

FOR FURNISHING ALL
LABOR AND MATERIAL NECESSARY
AND REQUIRED FOR:

KENS-EAST-3

KEC BUILDINGS

Volume 1 of 3: BID BOOKLET

(with additional volumes of Contract Terms, Specifications and Drawings)

AUGUST 2026