



Environmental Facilities Corporation | Department of Health

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# Guidance for Mandatory State Revolving Fund Terms and Conditions

**For Contracts Funded with the NYS Clean Water State Revolving Fund  
or Drinking Water State Revolving Fund**

Effective October 1, 2025

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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.

This Guidance on Mandatory SRF Terms and Conditions provides a brief description of New York State and federal program requirements for Contracts and Subcontracts funded in whole or part by the New York State Clean Water and Drinking Water SRFs 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 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 se. and 48 CFR Park 36 Subpart 36.6;
- Participation of Minority- and Women-Owned Business Enterprises (“MWBE”) and Equal Employment Opportunities (“EEO”) pursuant to New York State Executive Law, Article 15-A and New York Code of Rules and Regulations, Title 5 (5 NYCRR) Parts 140-145 (Regulations of the Commissioner of Economic Development);
- 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;
- Encouragement of participation of Service-Disabled Veteran-Owned Business Enterprises (“SDVOB”) in accordance with New York State Veterans’ Service Law, Article 3, and 9 NYCRR Part 252, and/or any other related regulations promulgated thereto;
- 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;
- Applicable State and/or local prevailing wage requirements;
- Requirements regarding suspension and debarment pursuant to 2 CFR Part 180, 2 CFR Part 1532, 29 CFR § 5.12, State Labor Law § 220-b, and State Executive Law § 316; and,
- Restrictions on Lobbying pursuant to 40 CFR Part 34.

EFC or its authorized representatives, and other governmental entities as applicable, reserve the right to conduct occasional site inspections to 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](http://www.efc.ny.gov) for the latest version of the Mandatory State Revolving Fund Terms and Conditions (SRF 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.

**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 href="#">A/E Procurement Section 1</a>	<a href="#">MWBE Section 2</a>	<a href="#">EEO<sup>1</sup> Section 2</a>	<a href="#">Title VII Section 2</a>	<a href="#">AIS Section 4</a>	<a href="#">Davis Bacon Section 5</a>	<a href="#">FAAR<sup>2</sup> Section 2</a>	<a href="#">Suspension &amp; Debarment Section 7</a>	<a href="#">Restrictions on Lobbying Section 8</a>
<b>Construction: Treatment Works &amp; Drinking Water Projects</b>									
All			X	X	X			X	
If greater than:									
\$2,000			X	X	X	X		X	
\$10,000			X	X	X	X	X	X	
\$100,000		X	X	X	X	X	X	X	X
<b>Construction: Non-Treatment Works</b>									
All			X	X				X	
If greater than:									
\$10,000			X	X			X	X	
\$100,000		X	X	X			X	X	X
<b>Non-Construction Provider</b>									
All	X <sup>3</sup>		X		X				
If greater than:									
\$25,000		X	X		X				
\$100,000		X	X		X				X

<sup>1</sup> 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.

<sup>2</sup> For purposes of this table, "FAAR" means the Federal Affirmative Action Regulations.

<sup>3</sup> 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 execute 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. These documents must be kept for the term of the EFC financing plus 6 years

consistent with the other records required to be kept pursuant to the Project Financing Agreement for the project.

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.

**SECTION 2 GUIDANCE FOR THE REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR FEDERAL DISADVANTAGED BUSINESS ENTERPRISES AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN -OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITY GROUP MEMBERS**

**I. Equal Employment Opportunities (EEO)**

A. EEO Poster

*Applicable to all construction Contracts*

[Attachment 6](#), 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](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. Business Participation Opportunities for MWBEs**

*Applicable to Contracts Meeting Article 15-A Thresholds*

A. Contract Goals

The goals provided in the Terms & Conditions Section 2(III)(A) are effective as of October 1, 2022. MWBE participation goals for a contract will be based on the goals in place at the time of the execution date of each respective contract, unless otherwise specified. Please contact the MBO if you have any questions about the applicable MWBE participation goals for your contract.

B. Good Faith Efforts

The Contractor must make good faith efforts to develop an adequate MWBE Utilization Plan and must continue such good faith efforts to meet applicable MWBE participation goals. The Contractor shall maintain documentation of good faith efforts to solicit participation of MWBE firms for SRF-funded projects. If a Contractor is unable to meet

contract MWBE participation goals, and submits a Request for Waiver, documentation of such good faith efforts must accompany the request. See Terms & Conditions, Section 2(III)(C). The Contractor should also continue good faith efforts to seek opportunities for MWBE participation during the life of the contract even if proposed goals have been achieved.

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

- Information on the scope of work related to the contract, such as a copy of the schedule of values from the bid submission, and specific steps taken to reasonably structure the scope of work to break out tasks or equipment needs for the purpose of providing opportunities for subcontracting with, or obtaining supplies or services from, MBEs or WBEs.
- Printed screenshots of the directory of Certified Minority- and Women- Owned Business Enterprises (“MWBE directory”) on Empire State Development’s (ESD) website for certified MWBEs that provide the services or equipment necessary for the contract. Contact the MBO for assistance in performing a proper search including identifying a sufficient number of solicitations to show that good faith effort was made.
- Copies of timely solicitations and documentation (e.g., emails) that the Contractor offered relevant plans, specifications, or other related materials to MBE and WBE firms on ESD’s MWBE directory to participate in the work, with the responses.
- A log prepared by the Contractor in a sortable spreadsheet documenting the Contractor’s solicitation of MBEs and WBEs for participation as Subcontractors or suppliers pursuant to a contract. The log should consist of the list of MBE and WBE firms solicited, their contact information, the type of work they were solicited to perform (or equipment to provide), how the solicitation was made (fax, phone, email) and the contact information, the contact’s name and the outcome. If a bid was received, the bid price should also be included in the log.  
See a sample log at [www.efc.ny.gov/mwbe-forms](http://www.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). Any winning bids received from non-MWBE firms for the same areas MWBEs were solicited should also be tracked on the log.
- Copies of any advertisements of sufficient duration to effectively seek participation of certified MBE and WBEs timely published in appropriate general circulation, trade and MWBE oriented publications, together with listing and dates of publication of such advertisements. EFC recommends the use of the NYS Contract Reporter that is free to all Contractors - <https://www.nyscr.ny.gov> .
- Documents demonstrating that insufficient MBEs or WBEs are reasonably available to perform the work.
- A written demonstration that the Contractor offered to make up any inability to meet the project MWBE participation goals in other Contracts and/or agreements performed by the Contractor on another SRF funded project.
- The date of pre-bid, pre-award, or other public meetings scheduled by the Recipient, if any, and the contact information of any MBEs and WBEs who attended and are capable of performing work on the project.
- Any other information or documentation that demonstrates the Contractor conducted good faith efforts to provide opportunities for MWBE participation in their work. For instance, Prime Contractors and MBOs should develop a list of MWBE firms that have expressed interest in working on SRF-funded projects.

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

C. Review of the MWBE Utilization Plan

The MBO will evaluate a completed MWBE Utilization Plan. If the MBO finds the Utilization Plan sufficient, including necessary supporting documentation, it will be forwarded to EFC for review. If the MBO finds the Utilization Plan insufficient, the MBO will work with the Contractor to address deficiencies before submitting to EFC for review. A written notice of acceptance or deficiency will be issued by EFC within 20 business days of receipt of the completed Utilization Plan. Upon receipt of a notice of deficiency from either the MBO or

EFC, the Contractor shall respond with a written remedy to such notice within seven (7) business days of receipt.

D. Eligibility for MWBE Participation Credit

1. To receive MWBE participation credit, Contractors or Subcontractors performing work that have been identified in an approved MWBE Utilization Plan must be certified as an MBE or WBE by ESD.
  - a. A Contractor, who is a certified MBE or WBE, will be credited for up to 100% of the category of their certification. However, good faith efforts to seek participation in the other category are also required.
2. Prime Contractors may include second or lower tier Subcontractors (Subcontractors hired by Subcontractors) on their MWBE Utilization Plan.
3. Commercially Useful Function  
Credit for MWBE participation shall be granted only for MWBE firms performing a commercially useful business function according to custom and practice in the industry. An MWBE does not perform a commercially useful function if its role adds no substantive value and is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of participation.
  - a. "Commercially useful functions" normally include:
    - i. Providing technical assistance to a purchaser prior to a purchase, during installation, and after the supplies or equipment are placed in service;
    - ii. Manufacturing or being the first tier below the Manufacturer of supplies or equipment;
    - iii. Providing functions other than merely accepting and referring requests for supplies or equipment to another party for direct shipment to a Contractor; or,
    - iv. Being responsible for ordering, negotiating price, and determining quality and quantity of materials and supplies.
  - b. For construction Contracts or Subcontracts, the following rules apply when calculating MWBE utilization:
    - i. The portion of a Contract or Subcontract with an MWBE serving as a Manufacturer that shall be deemed to represent the commercially useful function performed by the MWBE shall be 100% of the total value of the Contract or Subcontract.
    - ii. the portion of a Contract or Subcontract with an MWBE serving as a supplier (as denoted by a NAICS code beginning with 423 or 424, or a NIGP code that does not begin with the number 9), and so designated in ESD's Directory, that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the Contract or Subcontract.
    - iii. the portion of a Contract or Subcontract with an MWBE serving as a Broker (as denoted by NAICS code 425120) that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.
  - c. For Non-Construction Provider Contracts or Subcontracts, the following rules apply when calculating MWBE utilization:
    - i. the portion of a Contract or Subcontract with an MWBE serving as a Broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract. Any firms that are listed as Brokers or Manufacturers' representatives (NAICS code 425120) and not specifically as Suppliers fall in this category.
  - d. No credit will be granted for MWBEs that do not perform a commercially useful function.

E. Requests for Waiver

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

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

Example:

\$2,000,000 - \$500,000 = \$1,500,000  
Total Contract Value - Specialty equipment/service = MWBE Eligible Amount  
The MWBE goal is applied to the MWBE Eligible Amount.

A request for a specialty equipment/service deduction can be indicated by completing a Request for Waiver form and submitting it to the MBO. The request must include a copy of the page from the contract where the equipment/service is described, an ESD search result for the Manufacturer or Manufacturer's representative, an email or screenshot of the Manufacturer's website showing the Manufacturer's representatives (if manufactured item), and documentation of the cost of each item. For Construction Contracts, the schedule of values or bid tabulation sheet should also be submitted. Additional documentation may be requested by the MBO or EFC.

**III. Subcontractor's Responsibilities**

A. Subcontractors should:

1. Maintain their MWBE certifications and notify the Contractor and MBO of any change in their certification status.
2. Notify the Contractor of any MWBE Subcontractors they hire so they may be included on the Contractor's Utilization Plan.
3. Respond promptly to solicitation requests by completing and submitting bid information in a timely manner.
4. Maintain business records that should include, but not be limited to, Contracts/agreements, records of receipts, correspondence, purchase orders, and canceled checks.
5. Ensure that required EFC Terms & Conditions are included in each Subcontract.

6. Notify the MBO when contract problems arise, such as non-payment for services or when the Subcontractor is not employed as described in the MWBE Utilization Plan.

#### IV. Summary of EEO and MWBE forms

- A. Forms to be Submitted Prior to Contract Execution  
*Applicable to Contracts Meeting Article 15-A Thresholds*
  1. **MWBE Utilization Plan**  
To be submitted by the Contractor to the MBO after the bid opening, but in no case more than ten (10) business days after the Contractor receives notice from the Recipient that the Contractor has submitted a low bid. For Contracts that are not bid, it is to be submitted prior to the Contract execution date. This form is attached hereto as [Attachment 1](#). See **Terms & Conditions, Section 2(III)(B)**.
- B. Forms to be Submitted During the Term of the Contract  
*Applicable to Contracts Meeting Article 15-A Thresholds*
  1. **Request for Partial or Total MWBE Waiver**  
If applicable, to be submitted by the Contractor to the MBO at any time during the term of the Contract, but prior to the submission of a request for final payment on the Contract. This form can be downloaded from <https://efc.ny.gov/mwbe-forms>. See **Terms & Conditions, Section 2(III)(C)**.
  2. **Monthly MWBE Contractor Compliance Report (“Monthly MWBE Report”)**  
To be submitted by the Contractor to the MBO by the third business day following the end of each month over the term of the Contract. This form can be downloaded from <https://efc.ny.gov/mwbe-forms>. See **Terms & Conditions, Section 2(III)(D)**.
  3. **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/eo1/signin> and the instruction booklet can be obtained from this website: <https://eeocdata.org/EEO1/home/index>. See **Terms & Conditions Section 2(II)(D)**.

#### V. Protests/Complaints

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

#### VI. Waste, Fraud and Abuse

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

- A. Waste, Fraud and Abuse Poster  
*Applicable to all Construction Contracts*

[Attachment 9](#), *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](https://www.epa.gov/system/files/documents/2022-08/2022_HOTLINEPOSTER_crc_85x11_aug2022.pdf)

### **SECTION 3      GUIDANCE FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESS ENTERPRISES (“SDVOB”) PARTICIPATION OPPORTUNITIES**

The Contractor may contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the Contract. The directory of New York State Certified SDVOBs can be viewed at: <https://sdves.ogs.ny.gov/business-search>.

Please contact EFC if you have any questions about utilizing SDVOBs on the Contract.

### **SECTION 4      GUIDANCE FOR AMERICAN IRON AND STEEL (AIS) REQUIREMENT**

*Applicable to all contracts for DWSRF or CWSRF Treatment Works projects. Note that if the project has other federal funding, Build America, Buy America (BABA) requirements may apply in lieu of AIS.*

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 Compliance and De Minimis Worksheet is available for use on EFC's website under Forms & Guidance: <https://efc.ny.gov/american-iron-and-steel-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 5 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<sup>4</sup> either

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<sup>4</sup> When the cost of construction exceeds either \$2,500,000 or 20% of total project costs.

- (i) not within the scope of the work, or
- (ii) when 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 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 7](#)) at <https://nysefc.app.box.com/s/d6sys8owtgzv4ndqjvqvpwr0htp2019s>.
  - 2. Make your employees available for wage interviews. Wage interviews must be conducted confidentially and using Labor Standard Interview Form (SF-1445), included in [Attachment 8](#).
  - 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 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 or reference to [DBRA Requirements for Contractors and Subcontractors under EPA Grants](#), 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 certifications to the Recipient for their records. Note payroll forms must be provided to both NYDOL and Recipient.
  - 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 inclusive of interest from the date of underpayment.

## SECTION 6 GUIDANCE FOR STATE AND/OR LOCAL PREVAILING WAGE REQUIREMENTS

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

## **SECTION 7      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](http://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 8      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 2](#) 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 9      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](http://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 10 SUMMARY OF CONTRACTOR REQUIREMENTS FOR SRF-FUNDED PROJECTS

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

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

### To be submitted with this bid:

- [Lobbying Certification](#)
- [AIS Contractor's Certification](#)

### Guidance Section

[Section 7](#)  
[Section 4](#)

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

- Executed Contracts, Subcontracts, agreements, and purchase orders
- MWBE [Utilization Plan](#) and/or [Waiver Request](#)

[Section 2](#)

### Tasks for Construction start:

- Ensure that all Subcontracts contain correct Required EFC Terms & Conditions
- [Display EEO Poster](#)
- [Display Waste, Fraud and Abuse Poster](#)
- Ensure Construction Sign is Posted
- Pay the higher of prevailing federal, state, or local wages including benefits
- Display [Davis Bacon Wage Poster](#) AND Wage Rates
- Use [Federal Payroll Form \(WH-347\)](#) or equivalent
- Obtain apprentice certifications
- Obtain [AIS Manufacturer's Certifications](#) for all iron & steel products

[Section 2](#)

[Section 2](#)

[Section 9](#)

[Section 5](#)

[Section 5](#)

[Section 5](#)

[Section 5](#)

[Section 4](#)

### Ongoing documentation & tasks:

- Submit EEO-1 Report, online
- Submit [Monthly MWBE Reports](#) to MBO
- Maintain weekly certified payrolls for all Prime & Subcontractors
- Maintain proof of payments for MWBE Subcontractors
- Maintain AIS Manufacturer's Certifications

[Section 2](#)

[Section 2](#)

[Section 5](#)

[Section 2](#)

[Section 4](#)

# **ATTACHMENTS (Required Forms)**

## Attachment 1 – EFC MWBE Utilization Plan



Environmental Facilities Corporation | Department of Health

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

**Instructions for Contractors & Service Providers:**

Contractors and Service Providers must complete Sections 2 and 3. Submit the completed (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 found on EFC's website.

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

MWBE firms must be certified by the NYS Empire State Development Corporation (ESD) in order to be counted towards satisfaction of MWBE participation goals. The utilization of certified MWBEs for non-commercially useful functions may not be counted towards utilization of certified MWBEs in the Utilization Plan. Please note whether a firm is serving as a broker or supplier on the contract. A broker is denoted by NAICS code 425120 and is designated as a broker in [ESD's MWBE Directory](#). A supplier is denoted by a NAICS code beginning with 423 or 424, or a NIGP code that does not begin with the number 9 and is designated as a supplier in ESD's MWBE Directory. If a firm is serving as a broker, please additionally provide the percentage of the broker's commission on the contract.

See the [Mandatory 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 (electronic signature box checked and dated) 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.

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

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

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

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

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

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

SECTION 3: M/WBE SUBCONTRACTOR INFORMATION continued			
<b>Business Name:</b>	<b>Fed. Employer ID#:</b>		
<b>Address:</b>	<b>Phone #:</b>		
<b>Scope of Work:</b>	<b>Email:</b>		
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>		
<b>Select Only One:</b> <input type="checkbox"/> Broker % ___ <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>		
<b>Full Contract Amount: \$</b>			
<b>Business Name:</b>	<b>Fed. Employer ID#:</b>		
<b>Address:</b>	<b>Phone #:</b>		
<b>Scope of Work:</b>	<b>Email:</b>		
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>		
<b>Select Only One:</b> <input type="checkbox"/> Broker % ___ <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>		
<b>Full Contract Amount: \$</b>			
<b>Business Name:</b>	<b>Fed. Employer ID#:</b>		
<b>Address:</b>	<b>Phone #:</b>		
<b>Scope of Work:</b>	<b>Email:</b>		
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>		
<b>Select Only One:</b> <input type="checkbox"/> Broker % ___ <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>		
<b>Full Contract Amount: \$</b>			
<b>Business Name:</b>	<b>Fed. Employer ID#:</b>		
<b>Address:</b>	<b>Phone #:</b>		
<b>Scope of Work:</b>	<b>Email:</b>		
Select Only One: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> Other:	<b>Start Date:</b>		
<b>Select Only One:</b> <input type="checkbox"/> Broker % ___ <input type="checkbox"/> Supplier <input type="checkbox"/> N/A	<b>Completion Date:</b>		
<b>Full Contract Amount: \$</b>			
<b>SIGNATURE</b>			
<b>Electronic Signature of Contractor:</b> <input type="checkbox"/> I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all MWBE subcontractors will perform a commercially useful function.			<b>Date:</b>
<b>Name (Please Type):</b>			

## **Attachment 2 – 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 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 – AIS 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 (XXXXXXXXXXXX)*

*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. Xxx*

*2. Xxx*

*3. Xxx*

*Such process took place at the following location: \_\_\_\_\_*

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

*[Signed by company representative]*

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 (XXXXXXXXXXXX)*

*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 5 – Federal Payroll Form (WH-347)**

# Davis-Bacon and Related Acts Weekly Certified Payroll Form

(For Contractor's Optional Use; See Instructions at [www.dol.gov/whd/forms/wh347instr.htm](http://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.

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) REGISTERED APPRENTICE	LABOR CLASSIFICATION	ST = STRAIGHT TIME OT = OVERTIME	(TOP) DAYS OF WORK WEEK (BOTTOM) DATES					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	
								HOURS WORKED EACH DAY											TAX WITH-HOLDINGS	FICA	OTHER (MUST SPECIFY, SEE INSTRUCTIONS)		TOTAL DEDUCTIONS
							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)



## Attachment 6 – 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 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 Organizations are Covered?

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

## 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](http://www.eeoc.gov/field-office))

**E-Mail** [info@eeoc.gov](mailto:info@eeoc.gov)

Additional information about the EEOC, including information about filing a charge of discrimination, is available at [www.eeoc.gov](http://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.

**Attachment 7 – 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](http://www.dol.gov/whd)



**Attachment 8 – Wage Interview Form (SF-1445)**

## LABOR STANDARDS INTERVIEW

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

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

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

THE ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE

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

### INTERVIEWER'S COMMENTS

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

### FOR USE BY PAYROLL CHECKER

IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?

YES       NO

COMMENTS

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

## **Attachment 9 – 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](http://epaoig.gov/epa-oig-hotline-information)

THEFT AND MISUSE OF GOVERNMENT PROPERTY

MISMANAGEMENT AND WASTE OF FUNDS

## REPORT **FRAUD WASTE & ABUSE**

PROGRAM FRAUD

HOTLINE COMPLAINT FORM



U.S. EPA OIG  
**HOTLINE**  
888.546.8740

LABORATORY FRAUD

CONFLICT OF INTEREST

COMPUTER CRIMES

EMPLOYEE MISCONDUCT

ABUSE OF AUTHORITY

CONTRACT, PROCUREMENT, AND GRANT FRAUD

Visit [epaoig.gov](http://epaoig.gov) for anonymity guidelines and whistleblower information.