

Permit Guide for CWSRF and DWSRF Projects—Equivalency



SC Department of Environmental Services

This guide provides information to assist project sponsors in preparing a permit application package for projects funded through the Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF) with equivalency requirements. CWSRF projects should be submitted through ePermitting and a copy of all documents should be sent directly to the SRF project manager.

Attached to this cover page are [Appendix A – Equivalency](#) (**Mandatory Supplemental Conditions**), [Appendix B](#) (*Optional Format Contract Documents*), and [Appendix C](#) (*DES 3588, Schedule for Construction*).

SRF Permit Application Package: In addition to the requirements outlined in Section R.61-67.300 of the *Standards for Wastewater Facilities Construction*, or Section R.61-58.1C of the *State Primary Drinking Water Regulations*, the permit application must include the following:

1. *Plans:* Submit 1 hard copy and 1 electronic copy of the detailed plans, including location maps.
2. *Specifications:* Submit 1 hard copy and 1 electronic copy of the Project Manual, including contract documents and technical specifications.
3. *Mandatory Supplemental Conditions:* Contract documents must include the mandatory documents exactly as presented in Appendix A – Equivalency.
4. *Optional Format Contract Documents:* Contract documents must include, at a minimum, the documents listed in Appendix B. However, document formats may be a reasonable approximation of those appearing in Appendix B.
5. *Final Cost Estimate:* Detailed estimates of the planning and design costs, construction costs based on final design drawings, construction engineering/inspection costs, etc. must be submitted.
6. *Proposed Schedule for Construction:* The proposed *Schedule for Construction* (DES 3588) in Appendix C must be completed and submitted.

Review Process: DES will review the plans and specifications for compliance with State Regulation 61-67 (*Standards for Wastewater Facilities Construction*) or Section R.61-58.1.C of the *State Primary Drinking Water Regulations* and all SRF-specific requirements and conduct an SRF funding-eligibility review. Any work ineligible for SRF participation must be separated out in the bid items and noted on the plans and specifications.

Operation and Maintenance (O&M) Manuals: An O&M manual must be prepared for all treatment facilities and made available for review, by DES staff, at the time of final inspection.

More information? Contact your DES SRF project manager.



SC DEPARTMENT of
**ENVIRONMENTAL
SERVICES**

June 2024

APPENDIX A — EQUIVALENCY

Mandatory Supplemental Conditions For The South Carolina State Revolving Fund Program June 2024

Following is the standard language that must be incorporated into all solicitations for offers and bids for (1) construction contracts, (2) subcontracts, (3) equipment, and (4) material to be funded by the Federally assisted State Revolving Fund Program.

The requirements in these Supplemental Conditions shall not relieve the participants in this project of responsibility to meet any requirements of other portions of this contract or of other agencies, whether any other requirements are more or less stringent. The requirements in these Supplemental Conditions must be satisfied in order for work to be funded in the State Revolving Fund Program.

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| EPA Form 5700-52A | MBE/WBE Utilization Under Federal Grants and Cooperative Agreements |
| EPA Form 6100-2 | DBE Subcontractor Utilization Form |
| EPA Form 6100-3 | DBE Subcontractor Utilization Form |
| EPA Form 6100-4 | DBE Subcontractor Utilization Form |
| DES 2323 | EEO Documentation Form |
| DES 2556 | Bidder's "American Iron and Steel" Certification |
| DES 3590 | Certification Regarding Debarment, Suspension and Other Responsibility Matters |
| DES 3591 | Prime Contractor's Subagreement Certification |
| DES 3592 | Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity |
| DES 4360 | Bidder's "Build America, Buy America" Certification |

EPA 6100 forms are suspended as of 3/2016

GENERAL INSTRUCTIONS

Submittal and Approval of DBE and EEO Documentation

It is the policy of the State Revolving Loan Fund (SRF) to assure that:

- (a) Disadvantaged business enterprises (DBEs) have the opportunity to participate in a fair share of the funds awarded for contracts and subcontracts for supplies, construction, equipment or services; and
- (b) Discrimination in employment practices on the basis of age race, color, national origin, religion, gender, or disability (referred to as Equal Employment Opportunity) is prohibited.

Compliance with these provisions IS REQUIRED in order for project costs to be eligible for SRF funding. Failure on the part of the tentatively selected bidder to submit required information may be grounds for rejecting the bid.

The Contractor must submit the following items to the Project Sponsor (Owner):

1. **DBE Compliance Documentation** listed on page 9 to include a “Bidder’s List” showing all bidders for any subcontracting opportunities. Documentation of DBE solicitation and results of such efforts must be submitted along with the following forms (See Attachment B) as part of the DBE package:

- **Prime Contractor’s Subagreement Certification (DES 3591)** - This form provides a list of all proposed subcontractors, both DBE firms and non-DBE firms. Each prime contractor must submit this form.
- ~~**DBE Program Subcontractor Utilization Form (EPA Form 6100-4)**~~ - This form captures the prime contractor’s intended use of an identified DBE subcontractor, and the estimated percentage of the subcontract.
- ~~**DBE Subcontractor Performance Form (EPA Form 6100-3)**~~ - Each DBE subcontractor must submit this form which captures an intended DBE subcontractor’s description of the work to be performed for the prime contractor and the price of the work submitted to the prime contractor.

EPA 6100 forms are
suspended as of 3/2016

The South Carolina Department of Environmental Services (DES) cannot authorize the Project Sponsor (Owner) to award the construction contract(s) until the project's "good faith efforts" (See page 7) are approved.

2. **EEO Documentation Form (DES 2323)** and all required attachments (See Attachment B). Each prime contractor and any subcontractor whose contract amount exceeds \$10,000 must submit this information. *DES cannot authorize the Project Sponsor to award the construction contract(s) until the EEO documentation is approved.*
3. **Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity (DES 3592)** (See Attachment B). Each prime contractor and any subcontractor whose contract amount is expected to exceed \$10,000 must submit this form.
4. **Certification Regarding Debarment, Suspension and Other Responsibility Matters (DES 3590)** (See Attachment B). Each prime contractor and any subcontractor whose contract amount is expected to equal or exceed \$25,000 must submit this form.

The tentatively selected bidder is required to submit the above information in duplicate to the Project Sponsor after bid opening. As part of the bid package, the Project Sponsor must forward one copy of the information to DES at the address listed below.

During Construction, the Prime Contractor must submit the following items:

1. **A copy of each DBE subcontract.**
2. **MBE/WBE Utilization under Federal Grants and Cooperative Agreements (EPA Form 5700-52A)** (See Attachment B). This report must be submitted annually by October 15th until the final draw has been processed for the project.
3. **Weekly Certified Payrolls** for each prime contractor and all subcontractors. **Payrolls should be submitted weekly with little lag time to the Project Sponsor.** Project Sponsors must retain payroll records for three years from the completion of the project.
4. Notice of **changes, substitutions or additions to the approved list of subcontractors. Any changes must be reported immediately to DES's SRF Division and a revised DES 3591, and EPA 6100-4** must be submitted to the project's SRF Project Manager as soon as practical. (See also "Reporting Requirements During Construction" on page 10.) **Use of any unapproved subcontractor on the project may delay**

payment or result in costs associated with that subcontract declared ineligible for SRF assistance.

The Project Sponsor must forward one copy of the above items **(except for item number 3, payroll records)** to the project's SRF Project Manager:

**[Project Manager Name Here], SRF Project Manager
State Revolving Fund Division
South Carolina Department of Environmental Services
2600 Bull Street
Columbia, South Carolina 29201**

THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM IN THE STATE REVOLVING FUND PROGRAM

Objective

The objective of the State Revolving Fund (SRF) Program’s DBE program is to ensure Project Sponsors and their prime contractors utilize certified DBEs as subcontractors to the fullest extent possible. Compliance with these provisions is required in order for the project costs to be eligible for SRF funding. Failure on the part of the prime contractor to submit required documentation and obtain DBE approval may be grounds for rejecting the bid or result in subcontractor costs declared ineligible for SRF assistance.

Policy

It is SRF policy to require the Project Sponsor to implement procedures to ensure DBE firms are given opportunities for meaningful participation if subcontracts are awarded.

DBE Definitions

A Disadvantaged Business Enterprise (DBE) is defined as a business that meets the criteria cited below:

Owned by socially disadvantaged individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities;

Owned by economically disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business who are not socially disadvantaged. An individual claiming disadvantaged status must have an initial and continued personal net worth of less than \$750,000.

For purposes of this definition, disadvantaged individuals include the following:

| | |
|-----------------------|----------------------------------------------|
| Black Americans | Asian Americans |
| Women | Hispanic Americans |
| Disabled Americans | Native Americans |
| Minority Institutions | Historically Black Colleges and Universities |

To qualify as a DBE firm, at least 51 percent of an independent business must be owned and controlled by a socially and economically disadvantaged individual whose personal net

worth is less than \$750,000. The minority or woman owner's interest must be real, substantial and continuing. The control determination will revolve around the minority or woman owner's involvement in the day-to-day management of the business enterprise.

DBE Certification

DES does not determine the DBE status of businesses. Instead, the SRF Program accepts certification of DBE status from other sources already established to make this determination, such as:

- ▶ South Carolina Division of Small & Minority Business Administration
- ▶ South Carolina Commission for Minority Affairs
- ▶ South Carolina Department of Transportation
- ▶ Other sources approved at Project Manager's discretion (DBE definition/criteria must be consistent with agency sources listed above).

Note: See Attachment A for a listing of the addresses, telephone numbers and web addresses for the above referenced agencies.

DBE Requirements – "Six Good Faith Efforts"

Project Sponsors and their prime contractors must comply with the following "Six Good Faith Efforts" before a contract is awarded:

- (1) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. This will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (2) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, **posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.**
- (3) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This will involve dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (4) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

- (5) Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development Agency (MBDA) of the U.S. Department of Commerce.
- (6) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (1) through (5) of this section.

The prime contractor must employ the “Six Good Faith Efforts” for all subcontracts.

Solicitation of DBE Firms

Solicitation should allow adequate time for price analysis; as stated above, whenever possible, **contact should be made not later than 30 days before bid opening**. Efforts taken to comply with these requirements must be documented in detail.

Prime contractors must create and maintain a **Bidders List**. This list must include **all firms that bid or quote subcontracts including both MBE/WBEs and non-MBE/WBEs**. The Bidders List must be kept until the project period has ended. The following information must be obtained from all subcontractors:

Subcontractor’s name with point of contact,

Subcontractor’s mailing address, telephone number and e-mail address;

The procurement (scope of work) on which the subcontractor bid or quoted and when; and

The subcontractor’s status as a certified MBE, WBE, or non-MBE/WBE.

The prime contractor is **required** to use the services of the Minority Business Development Agency (MBDA). MBDA Business Centers are funded by the U.S. Department of Commerce to provide technical, financial and contracting assistance to disadvantaged business enterprises. These Centers are located in a number of regional cities. Use of the services provided by these Centers does not absolve the prime contractors from pursuing additional efforts to comply with this requirement. See Attachment A for a listing of the address, telephone number and web address for the MBDA Business Centers near South Carolina as well as other resource agencies.

DBE Compliance Documentation

If subcontracts are awarded, prime contractors *must submit the following items* as documentation of their good faith efforts:

- (1) A copy of the prime contractor's Bidder's List.
- (2) Evidence of solicitation to *certified* prospective DBE firms, such as copies of solicitation letters/emails listing **specific scope/volume of work**, phone logs, fax confirmation sheets, printouts of online searches with results of said searches, etc. The prime contractor is strongly encouraged to follow-up each written, faxed or emailed solicitation with at least one logged phone call.
- (3) Copies of letters or e-mails asking for assistance from the MBDA Business Center, the South Carolina Governor's Office of Small & Minority Business Assistance, or other agencies or organizations that provide procurement assistance to DBEs.
Note: As outlined in the "Good Faith Effort" Number 5 above, it is mandatory that prime contractors contact the SBA and the MBDA Business Center.
- (4) List by trade the names of *certified* DBE subcontractors solicited but not selected, including name, address, telephone number, contact person, date of contact, and outcome of contact, including dollar amount of quote.
- (5) List any job-specific criteria that disqualified a certified DBE firm that submitted a low bid for a subcontract. Attach a copy of the disqualified bid or quote along with the bid or quote from the selected subcontractor for comparison.
- (6) Proof of **DBE certification** from an acceptable source for each subcontractor listed as a MBE or WBE.
- (7) DES form entitled *Prime Contractor's Subagreement Certification* (DES 3591) listing **all** proposed subcontractors, both DBE firms and non-DBE firms.
- ~~(8) EPA Form 6100-4 DBE Subcontractor Utilization Form list subcontractors.~~
- (9) Require all DBE subcontractors to complete EPA Form 6100-3, *DBE Subcontractor Performance Form* (See Attachment B) This form captures subcontractor's description of work to be performed for the project and the price of the work submitted to the prime contractor.

EPA 6100 forms are suspended as of 3/2016

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Reporting Requirements for Prime Contractors During Construction

- ▶ Forward a copy of each DBE subcontract as soon as possible after contract award.
- ▶ Pay subcontractors for satisfactory performance no more than **30 days** from the prime contractor's receipt of payment.
- ▶ Report any proposed changes/additions from the approved subcontractor list to the Project Sponsor and DES **prior to initiation of the action** along with the following actions:
 - Submit a **revised/updated** *Prime Contractor's Subagreement Certification* (DES 3591) and EPA Form 6100-4 (See Attachment B)
 - Document the reason for the proposed deviation
 - Submit evidence of the prime contractor's continued good faith efforts to secure a DBE firm for the new and/or replacement subcontract work.
 - ~~Provide any new subcontractors with the *DBE Subcontractor Participation Form* (EPA Form 6100-3) (See Attachment B) if working with a~~ **new** DBE firm.
 - Submit a *EEO Documentation Form* (DES 2323) (See Attachment B) from the **new** subcontractor **if** the subcontract amount exceeds \$10,000.
 - Submit a *Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity* (DES 3592) (See Attachment) from the **new** subcontractor **if** the subcontract amount exceeds \$10,000.
 - Submit a *Certification Regarding Debarment, Suspension and Other Responsibility Matters* (DES 3590) (See Attachment B) from the **new** subcontractor **if** the subcontract amount equals or exceeds \$25,000.

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Use of any unapproved subcontractor on the project may delay loan draw requests or result in costs associated with that subcontract declared ineligible for SRF assistance.

- ▶ Submittal of the data for *MBE/WBE Utilization under Federal Grants and Cooperative Agreements* (EPA Form 5700-52A) to the Project Sponsor. The reporting period is annual, with reporting period ending September 30th. Submission of this report is required even if there is no MBE/WBE activity to report; this is called a Negative Report.
- ▶ ~~Provide EPA Form 6100-2, *DBE Subcontractor Participation Form* to all~~ subcontractors. This form gives a DBE subcontractor the c

EPA 6100 forms are suspended as of 3/2016

~~the work the DBE subcontractor received from the prime contractor, how much the DBE subcontractor was paid and other concerns the DBE subcontractor might have. DBE subcontractors may send completed copies of EPA Form 6100-2 directly to: EPA DBE Coordinator, EPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia, 30303.~~

SPECIAL NOTICE TO BIDDERS

Number 1: The State Revolving Fund Program requires the Equal Employment Opportunity (EEO) commitment of the prime contractor and all subcontractors with a contract in excess of \$10,000 to the requirements of Executive Order 11246. EEO Affirmative Action is mandated throughout the duration of the contract.

The tentatively selected bidder is required to submit the EEO documentation as outlined in the “General Instructions” of these Mandatory Supplemental Conditions.

Failure to submit the EEO documentation may subject the contractor to sanctions under Executive Order 11246.

Number 2: By the submission of this bid, each bidder acknowledges that he understands and agrees to be bound by the equal opportunity requirements of EPA regulations (40 CFR Part 8, particularly Section 8.4(b)), which shall be applicable throughout the performance of work under any contract awarded pursuant to this solicitation. Each bidder agrees that if awarded a contract, it will similarly bind contractually each subcontractor. In implementation of the foregoing policies, each bidder further understands and agrees that if awarded a contract, it must engage in affirmative action directed at promoting and ensuring equal employment opportunity in the workforce used under the contract. The bidder understands and agrees that “affirmative action” as used herein shall constitute a good faith effort to achieve and maintain minority employment in each trade in the on-site workforce used on the project.

Number 3: The successful bidder is required to certify that they are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participating in a contract using federal funds. In turn, prime contractors will require subcontractors whose contract amount is expected to equal or exceed \$25,000 to also submit such certification using the *Certification Regarding Debarment, Suspension and Other Responsibility Matters* (DES 3590) (See Attachment B).

Number 4: Bonding requirements are as follows:

- (a) Bid guarantee equivalent to at least five percent of the bid price. The bid guarantee shall be in the form of a certified check or bid bond.
- (b) Performance bond equal to 100 percent of the contract price; and
- (c) Payment bond equal to 100 percent of the contract price.

Bonds must be obtained from companies holding Certificates of Authority as acceptable sureties, issued by the U.S. Treasury.

Number 5: The Project Sponsor and contractors must follow the flood hazard area requirements of the Flood Disaster Protection Act of 1973 contained in 40 CFR Part 30.

Number 6: Fire and Extended Coverage Insurance (Builder's Risk):

- (a) The Contractor shall maintain, as applicable, in an Insurance Company or Insurance Companies acceptable to the Project Sponsor, Fire, Extended Coverage and Vandalism and Malicious Mischief Insurance on buildings and structures, while in the course of construction, including foundations, additions, attachments and all permanent fixtures belonging to and constituting a part of said buildings or structures. The policy or policies shall also cover machinery if the cost of machinery is included in the contract. The amount of insurance must at all times be at least equal to the actual cash value of the insured property. The policy shall be in the name of the Project Sponsor and the Contractor, as their interests may appear, and shall also cover the interests of all subcontractors performing work.
- (b) The Contractor shall provide the Project Sponsor with satisfactory evidence certifying that the foregoing insurance is in force; and such evidence shall include provisions that the insurance shall not be cancelled, allowed to expire or be materially changed without giving the Project Sponsor advance notice by registered mail.
- (c) Cancellation and Re-Insurance: If any insurance should be cancelled or changed by the insurance company or should any insurance expire during the period of this Contract, the Contractor shall be responsible for securing other acceptable insurance to provide the coverage specified in this section to maintain continuous coverage during the life of this Contract.

Number 7: Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment

Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year 2019 ([Pub. L. 115-232](#)) prohibits federal funding, including funds provided by the federally-assisted SRF loan program, to (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical

technology as part of any system.. The provision is effective August 13, 2020. Debarment status can be checked on the System for Award Management (SAM) Website, sam.gov and search for exclusions on "covered telecommunications equipment or services".

Number 8: Domestic Preference

"Build America, Buy America" Act

The Contractor acknowledges to and for the benefit of the Project Sponsor and the State Revolving Fund (SRF) Program that it understands the goods and services under this Agreement are being funded with federal monies and have statutory requirements commonly known as "Build America, Buy America" (BABA) that requires all of the iron and steel, manufactured products, and construction materials used in the project to be produced in the United States ("Build America, Buy America Requirements") including iron and steel, manufactured products, and construction materials provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Project Sponsor and SRF Program:

- (a) the Contractor has reviewed and understands the Build America, Buy America Requirements,
- (b) all of the iron and steel, manufactured products, and construction materials used in the project will be and/or have been produced in the United States in a manner that complies with the Build America, Buy America Requirements, **unless a waiver of the requirements is approved** (see below), 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 Build America, Buy America Requirements, as may be requested by the Project Sponsor or the SRF Program.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Project Sponsor or SRF Program to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Project Sponsor or SRF Program resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the SRF Program or any damages owed to the SRF Program by the Project Sponsor). If the Contractor has no direct contractual privity with the SRF Program, as a lender or awardee to the Project Sponsor for the funding of its project, the Project Sponsor and the Contractor agree that the SRF Program 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 SRF Program.

The proposed prime contractor(s) must certify BABA compliance using a *Bidder's Build America, Buy America Certification* (DES 4360).

BABA Waivers:

When applicable, Project Sponsors may apply for, and be granted, a waiver from the BABA requirements. If a BABA waiver has been granted for this project, a copy of the BABA waiver is included at the end of this section. **In the event a BABA waiver has been granted, the American Iron and Steel provisions will be in effect (see below).** The Contractor must also submit a list of significant manufactured products or construction materials likely subject to the waiver within the scope of the project.

Use of American Iron and Steel (applicable if BABA waiver has been granted and Build America, Buy America Requirements do not apply)

The Contractor acknowledges to and for the benefit of the Project Sponsor and the State Revolving Fund (SRF) Program that it understands the goods and services under this Agreement are being funded with monies made available by the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund that have statutory requirements commonly known as “American Iron and Steel;” that requires all of the iron and steel products used in the project to 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 to and for the benefit of the Project Sponsor and the SRF Program that:

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

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Project Sponsor or the SRF Program to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the Project Sponsor or the SRF Program resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the SRF Program or any damages owed to the SRF Program by the Project Sponsor). While the Contractor has no direct contractual privity with the SRF Program, as a lender to the Project Sponsor for the funding of its project, the Project Sponsor and the Contractor agree that the SRF Program 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 SRF Program.

The proposed prime contractor(s) must certify American Iron and Steel compliance using a Bidder's American Iron and Steel Certification (DES 2556).

**[REPLACE THIS PAGE WITH THE
BABA WAIVER LETTER FOR THE SRF PROJECT, IF GRANTED]**

**If this page remains, a BABA waiver has not been granted for this
project.**

DAVIS-BACON LABOR STANDARDS

1. Program Applicability

- a. Program Name: Clean Water State Revolving Fund and Drinking Water State Revolving Fund
- b. Statute requiring compliance with Davis-Bacon: Section 602(b)(6) of the Clean Water Act and Section 1452(a)(5) of the Safe Drinking Water Act
- c. Activities subject to Davis-Bacon: Treatment works constructed in whole or in part with assistance made available by a state water pollution control revolving fund authorized under Title VI of the Clean Water Act. Any project for construction, alteration, or repair carried out in whole or part with assistance made available by the drinking water state revolving loan fund under Section 1452 of the Safe Drinking Water Act. This applies to all projects whether equivalency or not.
- d. The recipient must work with the appropriate authorities to determine wage classifications for the specific project(s) or activities subject to Davis Bacon under this grant (or cooperative agreement).

2. Davis-Bacon and Related Acts

[Davis-Bacon and Related Acts \(DBRA\)](#) is a collection of labor standards provisions administered by the Department of Labor, that are applicable to grants involving construction. These labor standards include the:

- Davis-Bacon Act, which requires payment of prevailing wage rates for laborers and mechanics on construction contracts of \$2,000 or more
- Copeland “Anti-Kickback” Act, which prohibits a contractor or subcontractor from inducing an employee into giving up any part of the compensation to which he or she is entitled; and
- Contract Work Hours and Safety Standards Act, which requires overtime wages to be paid for over 40 hours of work per week, under contracts in excess of \$100,000

3. Recipient Responsibilities When Entering Into and Managing Contracts:

a. Solicitation and Contract Requirements:

- i. **Include the Correct Wage Determinations in Bid Solicitations and Contracts:** Recipients are responsible for complying with the procedures provided in [29 CFR 1.6](#) when soliciting bids and awarding contracts.
- ii. **Include DBRA Requirements in All Contracts:** Include the following text on all contracts under this grant:

“By accepting this contract, the contractor acknowledges and

agrees to the terms provided in the [DBRA Requirements for Contractors and Subcontractors Under EPA Grants](#).”

b. After Award of Contract:

- i. **Approve and Submit Requests for Additional Wages Rates:** Work with contractors to request additional wage rates if required for contracts under this grant, as provided in [29 CFR 5.5\(a\)\(1\)\(iii\)](#).
- ii. **Provide Oversight of Contractors to Ensure Compliance with DBRA Provisions:** Ensure contractor compliance with the terms of the contract, as required by [29 CFR 5.6](#).

4. Recipient Responsibilities When Establishing and Managing Additional Subawards:

a. Include DBRA Requirements in All Subawards (including Loans):

Include the following text on all subawards under this grant:

“By accepting this award, the EPA subrecipient acknowledges and agrees to the terms and conditions provided in the [DBRA Requirements for EPA Subrecipients](#).”

b. Provide Oversight to Ensure Compliance with DBRA Provisions:

Recipients are responsible for oversight of subrecipients and must ensure subrecipients comply with the requirements in [29 CFR 5.6](#).

The contract clauses set forth in this Term & Condition, along with the correct wage determinations, will be considered to be a part of every prime contract covered by Davis-Bacon and Related Acts (see [29 CFR 5.1](#)), and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Department of Labor grants a variance, tolerance, or exemption. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

**[REPLACE THIS PAGE WITH THE APPLICABLE
WAGE DETERMINATION FOR THE SRF PROJECT]**

**Wage Rates are county specific
and can be found at:**

sam.gov

- **Heavy construction is the most commonly used wage determination for water or wastewater infrastructure projects, but under certain circumstances another category or multiple categories of construction may apply. Consult with the assigned SRF project manager as needed to decide which wage determination(s) is/are needed.
- Monitor sam.gov for any wage determination changes before bid opening. Except under special circumstance, if a determination is revised more than 10 days before bid opening, the modified determination must be used in bidding the project.
- If a job classification needed for the project does not appear on the applicable wage determination, the prime contractor is required to submit a conformance request (through DES to DOL) after the contract has been signed for the project.
- A wage decision is “locked-in” for the project if the contract is awarded within 90 days after bid opening, otherwise modifications to the wage determination must be incorporated into the contract, unless an extension is granted by DOL.
- Please contact the assigned SRF project manager with questions on the above Davis-Bacon items or other Davis-Bacon compliance issues.

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE
EQUAL EMPLOYMENT OPPORTUNITY**
(EXECUTIVE ORDER 11246)

EEO Notice

Following is the standard language which must be incorporated into all solicitations for offers and bids on all Federal and Federally-assisted construction contracts or subcontracts in excess of \$10,000 to be performed in designated geographical areas:

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

1. The Offerer's or Bidder's attention is called to the "Equal Opportunity Clause" which is included in the Nondiscrimination Provision and Labor Standards, and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

| Timetables | Goals for minority participation for each trade | Goals for female participation in each trade |
|------------|-------------------------------------------------|----------------------------------------------|
| | See below for county list | 6.9% |

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minority and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

Minority Goals by Economic Areas for Standard Metropolitan Statistical Area (SMSA) or Non-SMSA

029 Charlotte, NC:

SMSA Counties:

1520 Charlotte – Gastonia, NC _____ 18.5%
 NC Gaston; NC Mecklenburg; NC Union.

Non-SMSA Counties _____ 15.7%

NC Alexander; NC Anson; NC Burke; NC Cabarrus; NC Caldwell; NC Catawba;
 NC Cleveland; NC Iredell; NC Lincoln; NC Rowan; NC Rutherford; NC Stanley;
 SC Chester; SC Lancaster; SC York.

031 Greenville – Spartanburg, SC:

SMSA Counties:

3160 Greenville –Spartanburg, SC _____ 16.0%
 SC Greenville; SC Pickens; SC Spartanburg.

Non-SMSA Counties _____ 17.8%

NC Polk; SC Abbeville; SC Anderson; SC Cherokee; SC Greenwood; SC Laurens;
 SC Oconee; SC Union.

032 Columbia, SC

SMSA Counties:

1760 Columbia, SC _____ 23.4%
 SC Lexington; SC Richland.

Non-SMSA Counties _____ 32.0%

SC Calhoun; SC Clarendon; SC Fairfield; SC Kershaw; SC Lee; SC Newberry; SC
 Orangeburg; SC Saluda; SC Sumter

033 Florence, SC

Non-SMSA Counties _____ 33.0%

SC Chesterfield; SC Darlington; SC Dillon; SC Florence; SC Georgetown;
 SC Horry; SC Marion; SC Marlboro; SC Williamsburg.

034 Charleston - North Charleston, SC

SMSA Counties

1440 Charleston - North Charleston, SC _____ 30.0%
 SC Berkeley; SC Charleston; SC Dorchester.

Non-SMSA Counties _____ 30.7%

SC Colleton

035 Augusta, GA:

SMSA Counties:

0600 Augusta, GA – SC _____ 27.2%
 GA Columbia; GA Richmond; SC Aiken

Non-SMSA Counties _____ 32.8%

GA Burke; GA Emanuel; GA Glascock; GA Jefferson; GA Jenkins; GA Lincoln;
GA McDuffie; GA Taliaferro; GA Warren; GA Wilkes; SC Allendale,
SC Bamberg; SC Barnwell; SC Edgefield; SC McCormick

039 Savannah, GA:

SMSA Counties:

7520 Savannah, GA _____ 30.6%
GA Bryan; GA Chatham; GA Effingham

Non-SMSA Counties _____ 29.8%

GA Appling; GA Atkinson; GA Bacon; GA Bullock; GA Candler; GA Coffee;
GA Evans; GA Jeff Davis; GA Liberty; GA Long; GA McIntosh; GA Montgomery;
GA Screven; GA Tattinall; GA Toombs; GA Wayne; SC Beaufort; SC Hampton;
SC Jasper.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246)**

EEO Specifications

Following is the standard language which must be incorporated into all solicitations for offers and bids on all Federal and Federally-assisted construction contracts or subcontracts in excess of \$10,000 to be performed in designated geographical areas:

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d. "Minority" includes:
 1. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 2. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 3. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 4. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable

tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications and Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their

training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women,

including upgrading programs and apprenticeship and training programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, lay-off, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foreman, etc., prior to the initiation of construction work on any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer

and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of

actions taken on behalf of the Contractor. The obligation to comply; however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246, as amended.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the "Equal Opportunity Clause", including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof, as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee

identification number when assigned, Social Security Number, race, sex, status (e.g. mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be constructed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

ATTACHMENT A — CONTACTS FOR PROCUREMENT OF DBES

South Carolina Division of Small & Minority Business Contracting and Certification

246 Stoneridge Dr., Ste. 250

Columbia, SC 29210

Telephone: (803) 734-5044 or (803) 734-5010

Website: smbcc.sc.gov

South Carolina Commission on Minority Affairs

293 Greystone Blvd

Columbia, SC 29210

Telephone: (803) 333-9621

Website: cma.sc.gov

South Carolina Department of Transportation

Office of Business Development

Post Office Box 191

Columbia, SC 29202

Telephone: (803) 737-1372

Website: www.scdot.org/business/bus-development-overview.aspx

U.S. Small Business Administration

Website: www.sba.gov

Columbia - Main office
1835 Assembly St., Suite 1425
Columbia, SC 29201
Phone: [\(803\) 765-5377](tel:(803)765-5377)

Charleston
3294 Ashley Phosphate Rd.
North Charleston, SC 29420
Phone: [\(843\) 225-7430](tel:(843)225-7430)

Spartanburg
1875 E. Main St.
Duncan, SC 29334
Phone: [\(803\) 253-3123](tel:(803)253-3123)

Minority Business Development Agency (MBDA)

United States Department of Commerce

Website: <https://www.mbda.gov>

SC MBDA Business Center
400 Percival Rd.
Columbia, SC 29206

Telephone: (803) 743-1152
Website:
scmbdacenter.com

GA MBDA Business Center
926 Dalney Street NW
Atlanta, GA 30332-0415

Telephone: (404) 385-6466
Website:
georgiambdabusinesscenter.org

NC MBDA Business Center
600 Park Offices Dr., Suite LL-50

Research Triangle, NC 27709
Telephone: (919) 294-3740
Website:
www.doa.nc.gov/divisions/historically-underutilized-businesses-hub/ncmbda

ATTACHMENT B — FORMSForms are located at des.sc.gov/SRFforms

| Form Number | Form Title | BABA Waiver Granted | No BABA Waiver |
|------------------------------|------------------------------------------------------------------------------------------------|---------------------|----------------|
| EPA 5700-52A | MBE/WBE Utilization Under Federal Grants and Cooperative Agreements | X | X |
| EPA 6100-2 | Subcontractor Participation Form | X | X |
| EPA 6100-3 | Subcontractor Participation Form | X | X |
| EPA 6100-4 | DBE Prime Contractor Subcontractor Utilization Form | X | X |
| D-2323 | Equal Employment Opportunity (EEO) Documentation Form | X | X |
| D-2556 | Bidder's American Iron and Steel Certification | X | |
| D-3590 | Certification Regarding Debarment, Suspension, and Other Responsibility Matters | X | X |
| D-3591 | Prime Contractor's Subagreement Certification | X | X |
| D-3592 | Equal Employment Opportunity (EEO) Certification by Proposed Prime Contractor or Subcontractor | X | X |
| D-4360 | Bidder's "Build America, Buy America" Certification | | X |

EPA 6100 forms are suspended as of 3/2016