

Guide to Federal Requirements for Recycle Projects

There are a number of federal laws, executive orders and government-wide policies that apply to projects and activities receiving federal financial assistance, regardless of whether the statute authorizing the assistance makes them applicable. Since federal capitalization grant money was used to seed the State Revolving Fund (SRF) program, any money received through the SRF program is subject to certain cross-cutting federal authorities. As an example, the environmental evaluation section, covered in the Preliminary Engineering Report (PER) guide, stems from environmental authorities, such as, the Endangered Species Act and Wild and Scenic Rivers Act. In addition, there are social policy and economic authorities that must be complied with in order to receive funding through the SRF program. These authorities include:

- ◆ Debarment and Suspension, Executive Order 12549
- ◆ Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- ◆ “American Iron and Steel” Provisions
- ◆ Davis-Bacon and Related Acts

This guide explains the actions required of the Project Sponsor based on the federal requirements, in order to obtain funding from the SRF program. All forms referred to in the text below are found in Attachment A, and on the SRF Forms webpage, <http://www.scdhec.gov/srfforms>.

PARTIES EXCLUDED FROM FEDERAL PROCUREMENT AND NONPROCUREMENT PROGRAMS

- ◆ Debarment and Suspension, Executive Order 12549
- ◆ Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans,

Under the federal authorities listed above funds provided by the federally assisted SRF loan program may not go to individuals or entities that are prohibited from doing business with the federal government. Sponsors and prime contractors must submit a *Certification Regarding, Debarment, Suspension and Other Responsibility* (DHEC Form 3590) certifying that they are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participating in a contract using federal funds.

“AMERICAN IRON AND STEEL” PROVISIONS

- ▶ Sec. 436 of the Consolidated Appropriations Act, 2014 - “Use of American Iron and Steel”

Project Sponsors, on any project funded through the Clean Water SRF and Drinking Water SRF that initiates construction after January 17, 2014, and prior to October 1, 2014 are required to follow the “American Iron and Steel” provisions of Sec. 436 of the Consolidated Appropriations Act, 2014 and certify that all iron and steel products used in the project are produced in the United States, unless a waiver is granted by the U. S. Environmental Protection Agency. However, any project with complete plans and specifications that were approved by January 17, 2014 is exempt from the requirement.

“Iron and steel” products means the following 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 and construction materials. Additional information may be found in Guidance posted to the EPA Website, http://water.epa.gov/grants_funding/aisrequirement.cfm.

Project Sponsors must require the prime contractor to follow the American Iron and Steel provisions and certify compliance using DHEC Form 2556, “Bidders ‘American Iron and Steel’ Certification”, which must be submitted as part of the bid package.

Any direct equipment or material purchases made by the Project Sponsor must be certified as meeting American Iron and Steel requirements using DHEC Form 2558, “Project Sponsor’s ‘American Iron and Steel’ Certification for Direct Equipment Purchase.”

To certify a Sponsor’s compliance with American Iron and Steel, the “Project Sponsor’s ‘American Iron and Steel’ Compliance Form,” DHEC Form 0962, must accompany all draw requests.

DAVIS-BACON AND RELATED ACTS

- ▶ Public Law 107-217 [The Davis-Bacon Act, as amended, 2002].
- ▶ Related Acts – the many laws that authorize federal assistance for construction, which include provisions requiring that Davis-Bacon labor standards apply to most federally assisted construction.

Wage Rate Requirements - All contracts and subcontracts for the construction of treatment works carried out in whole or in part with assistance made available by SC SRF shall insert in full in any contract in excess of \$2,000 the contract clauses “Wage Rate Requirements under the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6)” an excerpt of which is included below, which can be found in its entirety in Appendix A for Recycle Projects (contained in Guide to Permit Application for ... Projects Using Recycled Funds).

Project Sponsors *must require the prime contractor(s)* to: follow the Davis-Bacon provisions; include a copy of the wage rate requirements in all subcontracts over \$2,000; and provide all required documentation. To certify a Sponsor’s compliance with Davis-Bacon and Related Acts, DHEC Form 2557, the “Project Sponsor’s Davis-Bacon Certification,” must accompany all draw requests.

Wage Rate Requirements under the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6) [and Applicable Antecedent Acts from FY09 – FY12]

Preamble

With respect to the Clean Water and Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each State which in turn provides subgrants or loans to eligible entities within the State. Typically, the subrecipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring subrecipients’ compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the subrecipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, ~~below~~ [available upon request], shall apply. Although EPA and the State remain responsible for ensuring subrecipients’ compliance with the wage rate requirements set forth herein, those subrecipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), ~~below~~ and for compliance as described in Section II-5.

I. Requirements under the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6) [and Applicable Antecedent Acts from FY09 – FY12] For Subrecipients That Are Governmental Entities:

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under the FY 2013 Continuing Resolution [and applicable antecedent Acts from FY09 – FY12] with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient. If a State recipient needs guidance, the recipient may contact Cynthia Y. Edwards at Edwards.Cynthiay@epa.gov or at 404-562-9340 of EPA, Region 4 Grants and SRF

Management Section, for guidance. The recipient or subrecipient may also obtain additional guidance from DOL's web site at <http://www.dol.gov/whd/>

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the FY 2013 Continuing Resolution [and applicable antecedent Acts from FY09 – FY12], 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 and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Subrecipients shall 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. These wage determinations shall 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 subrecipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The subrecipients shall 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 subrecipients 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 subrecipient.

(ii) If the subrecipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the subrecipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The subrecipient shall monitor www.wdol.gov 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 subrecipient 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 subrecipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Subrecipients shall 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.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient 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 subrecipient shall 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 subrecipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract Provisions

See Appendix A – Recycle Funds (found in permit guidance) “Davis-Bacon and Related Acts: Labor Standards Provisions for Federal and Federally Assisted Contracts: 3. Contract and Subcontract Provisions”.

4. Contract Provision for Contracts in Excess of \$100,000

See Appendix A – Recycle Funds (found in permit guidance) “Davis-Bacon and Related Acts: Labor Standards Provisions for Federal and Federally Assisted Contracts: 4. Contract Provision for Contracts in Excess of \$100,000.

5. Compliance Verification

(a) The subrecipient shall 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. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall 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. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c) The subrecipient shall 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 subrecipient shall 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, if practicable, the subrecipient should 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. Subrecipients 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 subrecipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees 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, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients 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 <http://www.dol.gov/contacts/whd/america2.htm>.

ATTACHMENT A

FORMS

DHEC 0962	Project Sponsor's American Iron and Steel Certification
DHEC 2556	Bidders American Iron and Steel Certification
DHEC 2557	Project Sponsor's Davis-Bacon Certification
DHEC 2558	Project Sponsor's American Iron and Steel Certification for Direct Equipment Purchase
DHEC 3590	Certification Regarding Debarment, Suspension and Other Responsibility Matters



Bureau of Water – State Revolving Fund Program

Project Sponsor’s “American Iron And Steel” Certification

SRF Project Number: _____

Project Name: _____

Project Sponsor: _____

Period From: _____ To: _____

I certify, to the best of my knowledge and belief, that the above referenced project complies with American Iron and Steel Requirements of Section 436 of the Consolidated Appropriations Act, 2014, and that all of the iron and steel placed and/or stored during the above referenced period were produced in the United States, unless a waiver* was granted by the U. S. Environmental Protection Agency.

I understand that a false statement on this certification may be grounds for termination of the loan agreement.

Signature of the Project Sponsor’s Representative

Name and Title of Project Sponsor’s Representative

**A copy of any waiver used by the project must be provided to DHEC SRF with the first draw after the waiver is employed on the project.*

INSTRUCTIONS FOR COMPLETING PROJECT SPONSOR'S "AMERICAN IRON AND STEEL" CERTIFICATION

PURPOSE: The purpose of the *Project Sponsor's American Iron and Steel Certification* is to certify that, as required by Section 436 of the Consolidated Appropriations Act, 2014, all of the iron and steel products used in the referenced State Revolving Fund (SRF) project are produced in the United States unless a waiver is granted by the U. S. Environmental Protection Agency. All Sponsors of SRF projects funded after January 17, 2014 and before October 1, 2014 must complete this form, unless the project had approved plans and specs or an assistance agreement in place before January 17, 2014.

GENERAL INFORMATION: "Iron and steel" products means the following 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 concrete and construction materials. Additional information, including any published waivers, is posted on the EPA Website, http://water.epa.gov/grants_funding/aisrequirement.cfm.

All firms bidding on SRF projects funded after January 17, 2014 and prior to October 1, 2014 must complete this form, unless complete plans and specifications were approved by January 17, 2014.

INSTRUCTIONS: The Project Sponsor's representative must complete and submit this form with each draw request.

Provide the project name, SRF project number, project sponsor name (utility, town, etc), and covered period (time covered by the draw request).

Sign the form to certify that the identified SRF project complies with the American Iron and Steel provision. Include the name and title of the Project Sponsor's representative.

DHEC REVIEW AND FILING: The Bureau of Water will use the above referenced form to document compliance with EPA/SRF appropriations law. The form will be kept in the Draw Request file of the project name listed on the form. Under retention schedule 15795 the *Project Sponsor's "American Iron and Steel" Certification* will be retained on file with the Bureau of Water for three years following the final disbursement to the project.



Bureau of Water – State Revolving Fund Program

Bidder's "American Iron And Steel" Certification

SRF Project Number: _____

Project Name: _____

Project Sponsor: _____

With respect to the "American Iron and Steel" (AIS) provisions of the Consolidated Appropriations Act, 2014 under Section 436, I understand the AIS Requirement and that this requirement applies to any and all portions of the project, including subcontracted portions; and I certify to the best of my knowledge and belief that:

1. Identification of American Iron and Steel: Consistent with the terms of the Project Sponsor's bid solicitation and the AIS provisions, the bidder certifies that this bid reflects the bidder's best, good faith effort to identify domestic sources of iron and steel for every covered product contained in the bid solicitation where such American-made components are available on the schedule and consistent with the deadlines prescribed in or required by the bid solicitation.
2. Verification of U.S. Production: The bidder certifies that all covered products contained in the bid solicitation that are American-made have been so identified, and if this bid is accepted, the bidder agrees that it will provide reasonable, sufficient, and timely verification to the Project Sponsor of the U.S. production of each component so identified.
3. Documentation Regarding Non-American Iron and Steel: The bidder certifies that for any product or products that are not American-made and are so identified in this bid, the bidder has included in or attached to this certification one or both of the following, as applicable:
 - a. Identification of and citation to a categorical waiver published by the U.S. Environmental Protection Agency in the Federal Register that is applicable to such product or products, and an analysis that supports its applicability to the product or products;
 - b. Verifiable documentation sufficient to the Project Sponsor, as required in the bid solicitation or otherwise, that the bidder has sought to secure American-made products but has determined that such products are not available on the schedule and consistent with the deadlines prescribed in the bid solicitation, with assurance adequate for the bidder under the applicable conditions stated in the bid solicitation or otherwise.
4. Information and Detailed Justification Regarding Non-American-made Iron and Steel: The bidder certifies that for any such product or products that are not so available, the bidder has also provided in or attached to this certification, including but not limited to the verifiable documentation and a full description of the bidder's efforts to secure any such American-made product or products, that the bidder believes are sufficient to provide and as far as possible constitute the detailed justification required for an AIS waiver with respect to such product or products. The bidder further agrees that, if this bid is accepted, it will assist the Project Sponsor in amending, supplementing, or further supporting such information as required by the Project Sponsor to request and, as applicable, implement the terms of a waiver with respect to any such product or products.

I understand that a false statement on this certification may be grounds for rejection or termination of any award.

Signature of Bidder Date

Typed Name and Title of Bidder

Name of Bidder's company

Bidder's Address

Bidder's Telephone Number

**INSTRUCTIONS FOR COMPLETING
BIDDER'S "AMERICAN IRON AND STEEL" CERTIFICATION**

PURPOSE: The purpose of the *Bidder's "American Iron and Steel" Certification* is to certify that, as required by Section 436 of the Consolidated Appropriations Act, 2014, all of the iron and steel products used in the referenced State Revolving Fund (SRF) project are produced in the United States unless a waiver is granted by the U.S. Environmental Protection Agency.

GENERAL INFORMATION: "Iron and steel" products means the following 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 precise concrete and construction materials. Additional information, including any published waivers, is posted on the EPA Website, http://water.epa.gov/grants_funding/aisrequirement.cfm.

All firms bidding on SRF projects funded after January 17, 2014 and prior to October 1, 2014 must complete this form, unless complete plans and specifications were approved by January 17, 2014.

INSTRUCTIONS: Provide the project name, SRF project number, and project sponsor name (utility, town, etc).

Certify compliance with "American Iron and Steel" Provisions by signing the form. Include the date, typed name and title of the bidder, name of bidder's company, bidder's address and bidder's telephone number.

DHEC REVIEW AND FILING: The Bureau of Water will use the above referenced form to document bidder compliance with AIS. The form will be kept in the SRF Bidding file of the project name listed on the form. Under retention schedule 15795 the *Bidder's "American Iron and Steel" Certification* will be retained on file with the Bureau of Water for three years following project completion.



Project Sponsor: _____
Project Name: _____
Project Number: _____
Period From: _____ **To:** _____

**STATE OF SOUTH CAROLINA STATE REVOLVING FUND (SRF) SECTION
PROJECT SPONSOR'S DAVIS-BACON CERTIFICATION**

I certify, to the best of my knowledge and belief, that the above referenced project *complies* with Davis-Bacon and Related Acts, and that all laborers and mechanics employed by contractors and subcontractors during the above referenced period were paid wages at rates not less than those listed on the prevailing wage rate contained in the contract documents and that all applicable provisions of the Davis-Bacon and Related Acts have been met.

I understand that a false statement on this certification may be grounds for termination of the loan agreement.

Signature of the Project Sponsor's Representative

Name and Title of Project Sponsor's Representative

DHEC 2557 (11/2010)

**INSTRUCTIONS FOR COMPLETING
PROJECT SPONSOR'S DAVIS-BACON CERTIFICATION
DHEC FORM 2557**

The purpose of the Project Sponsor's Davis-Bacon Certification is to certify the identified SRF project complies with Davis-Bacon and Related Acts for the period identified on the form. This certification form must accompany all draw requests.

The Project Sponsor's representative must complete this form.

Please provide the name of the Project Sponsor, project name, SRF project number and covered period.

Please certify that the identified SRF project complies with Davis Bacon and Related Acts by signing the form and including the printed or typed name and title of the Project Sponsor's representative.

DHEC Review and Filing. The Bureau of Water will use the above referenced form to document compliance with EPA/SRF appropriations law. The form will be kept in the Draw Request file of the project name listed on the form. The Project Sponsor's Davis-Bacon Certification will be retained on file with the Bureau of Water for three years following the final disbursement to the project from the SC Budget and Control Board.



Bureau of Water – State Revolving Fund Program

**Project Sponsor’s “American Iron And Steel” Certification
for Direct Equipment/Material Purchases**

SRF Project Number: _____

Project Name: _____

Project Sponsor: _____

With respect to the “American Iron and Steel” provisions of the Consolidated Appropriations Act, 2014 under Section 436, I certify to the best of my knowledge and belief that:

1. Identification of American-made Iron and Steel: Consistent with the provision of the Appropriations Act Section 436, the Project Sponsor certifies that the direct purchase of _____(identify purchased equipment or material) reflects the Project Sponsor’s best, good faith effort to identify domestic sources of iron and steel products for every product contained in the direct purchase solicitation where such American-made components are available on the schedule and consistent with the deadlines prescribed in or required by the direct purchase solicitation.
2. Verification of U. S. Production: The Project Sponsor certifies that all covered products contained in the direct purchase solicitation that are American-made have been so identified.
3. Documentation Regarding Non-American made Iron and Steel: The Project Sponsor certifies that for any product or products that are not American-made and are so identified in this direct purchase, the Project Sponsor has included in or attached to this certification one or both of the following, as applicable:
 - a. Identification of and citation to a categorical waiver published by the U. S. Environmental Protection Agency in the Federal Register that is applicable to such product or products, and an analysis that supports its applicability to the product or products;
 - b. Verifiable documentation that the Project Sponsor has sought to secure American-made components but has determined that such products are not available on the schedule and consistent with the deadlines prescribed in the direct purchase solicitation.
4. Information and Detailed Justification Regarding Non-American-made Iron and Steel: The Project Sponsor certifies that for any such product or products that are not so available, the Project Sponsor has also provided or attached to this certification information, including but not limited to the verifiable documentation and a full description of the Project Sponsor’s efforts to secure any such American-made product or products, that the Project Sponsor believes are sufficient to provide and as far as possible constitute the detailed justification required for a waiver under “American Iron and Steel” provisions with respect to such product or products. The Project Sponsor further agrees to request and, as applicable, implement the terms of a waiver with respect to any such product or products.

**INSTRUCTIONS FOR COMPLETING
PROJECT SPONSOR'S "AMERICAN IRON AND STEEL" CERTIFICATION
FOR DIRECT EQUIPMENT/MATERIAL PURCHASES**

PURPOSE: The purpose of the *Project Sponsor's "American Iron and Steel" Certification for Direct Equipment/Material Purchases* is to certify that, as required by Section 436 of the Consolidated Appropriations Act, 2014, all of the iron and steel products used in the referenced State Revolving Fund (SRF) project are produced in the United States unless a waiver is granted by the U.S. Environmental Protection Agency.

GENERAL INFORMATION: "Iron and steel" products means the following 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 precise concrete and construction materials. Additional information, including any published waivers, is posted on the EPA Website, http://water.epa.gov/grants_funding/aisrequirement.cfm.

Sponsors of an SRF projects funded after January 17, 2014 and prior to October 1, 2014 that make a direct purchase of any equipment or materials as part of the project must complete this form, unless complete plans and specifications were approved by January 17, 2014.

INSTRUCTIONS: Provide the project name, SRF project number, and project sponsor name (utility, town, etc).

Certify compliance with the "American Iron and Steel" Requirements by signing the form and including the date, typed name and title of the Project Sponsor's representative, name of Project Sponsor, Project Sponsor's address and Project Sponsor's telephone number.

DHEC REVIEW AND FILING: The Bureau of Water will use the above referenced form to document Project Sponsor's compliance with American Iron and Steel Provision for direct equipment/material purchases. The form will be kept in the SRF Procurement file of the project name listed on the form. Under retention schedule 15795 the Project Sponsor's "American Iron and Steel" Certification for Direct *Equipment/Material Purchases* will be retained in the SRF project record for three years following the final disbursement to the project.



Sponsor: _____

Project Name: _____

SRF Project No.: _____

**STATE OF SOUTH CAROLINA STATE REVOLVING FUND (SRF) PROGRAM
CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND
OTHER RESPONSIBILITY MATTERS**

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 U.S.C. Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Name of Prospective Participant (Town, Utility, Contractor, Subcontractor, Supplier etc.)

Printed Name and Title of Authorized Official

Signature of Authorized Official

Date

_____ I am unable to certify to the above statements. Attached is my explanation.

Submit to:

SCDHEC, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201

**INSTRUCTIONS FOR COMPLETING
CERTIFICATION REGARDING DEBARMENT
SUSPENSION AND OTHER RESPONSIBILITY MATTERS
DHEC FORM 3590**

The purpose of the Certification Regarding Debarment, Suspension And Other Responsibility Matters form is to certify that potential participants are not debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 “Debarment and Suspension.”

- This form is to be filled out by prospective participants in the State Revolving Loan fund program, including towns, public utilities, contractors, and subcontractors.
- Fill in the project sponsor’s name, project name and SRF project number.
- Fill in the potential participants name and name of authorized official for the participant. Sign and date the form to certify that the potential participant is not debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 “Debarment and Suspension,” or, provide an explanation why the potential participant cannot.
- Where/when to submit:
 - A prospective loan recipient (Sponsor) must return the signed certification, or explanation, with the preliminary engineering report to *SCDHEC, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201*.
 - A prospective prime contractor must submit a completed certification, or explanation, to the entity awarding the contract (Sponsor).
 - A prospective subcontractor must submit a completed certification, or explanation, to the (prospective) prime contractor for the project.
 - See also, SRF guidance documents.

DHEC Review and Filing: The Bureau of Water will use this form to document compliance with Executive Order 12549. The form will be retained in the SRF project record for three years following the final disbursement to the project from the SC Budget and Control Board.



Federal Requirements for the SRF Program

There are a number of Federal laws, executive orders and government-wide policies that apply to projects and activities receiving Federal financial assistance, regardless of whether the statute authorizing the assistance makes them applicable. Since Federal capitalization grant money was used to seed the State Revolving Fund (SRF) program, any money received through the SRF program is subject to Federal Authorities. As an example, the environmental evaluation section, covered in the Preliminary Engineering Report (PER) guide, stems from environmental authorities, such as, the Endangered Species Act and Wild and Scenic Rivers Act. In addition, there are social policy and economic authorities that must be complied with in order to receive funding through the SRF program. These authorities include:

- ▶ Age Discrimination Act of 1975, Pub. L. 94-135
- ▶ Title VI of the Civil Rights Act of 1964, Pub. L. 88-352
- ▶ Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (Clean Water Act)
- ▶ Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250)
- ▶ Uniform Relocation and Real Property Acquisition Act, Pub. L. 91-646, as amended
- ▶ Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432
- ▶ Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590
- ▶ Equal Employment Opportunity, Executive Order 11246
- ▶ Debarment and Suspension, Executive Order 12549
- ▶ Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans

This guide discusses, in more detail, the requirements of these authorities and explains the actions required of the Project Sponsor, in order to obtain funding from the SRF program. Please review each section and complete any associated documents.



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NONDISCRIMINATION IN THE SRF PROGRAM

The SRF program is bound by the following civil rights laws which prohibit discrimination in providing services or benefits on the basis of race, color, religion, national origin, sex, handicap or age:

- ▶ The Age Discrimination Act of 1975
- ▶ Title VI of the Civil Rights Act of 1964
- ▶ Section 13 of the Federal Water Pollution Control Act Amendments of 1972
- ▶ Section 504 of the Rehabilitation Act of 1973

These laws were amended in 1988 to make clear that their anti-discrimination powers are intended to apply to the entire operations of a project sponsor, not just the specific program, project, or activity that involves federal assistance.

To document compliance with these provisions, Project Sponsors must submit a “Preaward Compliance Review Report for All Applicants Requesting Federal Financial Assistance” (EPA Form 4700-4) (See Attachment B - Forms). Once reviewed by South Carolina Department of Health and Environmental Control (DHEC), this form will be forwarded to EPA, Region 4, for their approval.

EPA approval is required prior to execution of the SRF loan agreement. This approval process may take one to two months to complete. To provide enough time for EPA approval, DHEC recommends that this form be completed as soon as possible.

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

The project sponsor is required to certify in writing that it has complied with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act), **regardless of eligibility for loan participation**. This certification requirement applies to all land whether already owned, leased, purchased or used without payment. Fee simple title, long-term lease, permanent easement, and use without payment are all acceptable acquisition methods. Compliance with the Uniform Act can be waived for pre-owned land or previously acquired easements, but a request for waiver stating the date of possession of such waived land or easements must be submitted. Please note, however, that **the cost of any land acquired earlier than one year prior to the date of the complete loan application is not eligible for loan participation**.

Any land acquisition involved in the project must be accomplished in accordance with the Uniform Act **whether or not the land acquired is eligible for loan assistance**. The cost of land cannot exceed fair market value and must be documented by a certified appraisal to be eligible for loan participation.

- ▶ Under the Clean Water State Revolving Fund Program (CWSRF), land is eligible only if it is an integral part of the treatment process, e.g., land application.
- ▶ Under the Drinking Water State Revolving Fund Program (DWSRF), land is eligible if it is needed to locate eligible treatment or distribution projects and is purchased from a willing seller. **Any land requiring condemnation action is not eligible for funding**.

The project sponsor must complete all land acquisition prior to loan execution. The project sponsor must have fee simple ownership or have taken possession of all land required for construction and operation of the project including all necessary right-of-ways and easements, whether acquired by donation, purchase, condemnation, written authorizations for use (such as Highway Department right-of-ways), or other acceptable means. Project sponsors must submit the certification of compliance prior to loan closing. There is no specific format that must be used. The project sponsor's attorney or the authorized representative should sign the certification statement. (See Appendix B for a sample certification document that may be used. You may vary the format as long as the basic certification requirements are met.)

LAND ACQUISITION

During the process of acquisition, the landowners must be fully informed by the project sponsor, in writing, of the owners' rights under the Uniform Act. After being informed of these rights, landowners may voluntarily waive their right to an appraisal and may donate the land or easements. Such waivers should be in writing and include a statement that the landowner has read and understands his rights under the Act. In cases where the cost of the land or easement being purchased or donated is \$2500 or less, the project sponsor may waive the requirement for an appraisal. **Please note that in order for land costs to be eligible for loan assistance, an appraisal must be performed by a certified/professional appraiser.** If the landowner specifically requests an appraisal, it must be provided. Arrangements for long term lease, permanent easement, and use without payment must be adequate to ensure successful construction and operation for the life of the project; i.e., the arrangements must not be subject to expiration or revocation which would prevent continued operation for the life of the project.

Except as noted above, all land **must** be appraised by a certified/professional appraiser with a determination of fair market value included for fee simple title or less than fee simple title, e.g., lease. Appraisals must be up-to-date. A new appraisal must be obtained if the former appraisal is dated earlier than six months prior to the date the land is acquired. Costs for eligible land acquired, for buildings, structures and improvements, and for expenses incidental to transfer are eligible for SRF participation with DHEC approval, provided expenses are adequately documented.

- ▶ Under the CWSRF, costs for litigation are also eligible for SRF participation with DHEC approval, provided expenses are adequately documented.

DHEC recommends an outside acquisition professional with experience in working with the Uniform Act requirements and eminent domain procedures.

APPRAISERS

The project sponsor must ensure the appraiser has sufficient knowledge and experience in the type of appraisal problem to be solved and is thoroughly familiar with local conditions and property values. There are professional appraiser organizations which sponsor training, publish guidance and information, require proof of attainment of expertise for certification or professional designation in the organization, and monitor work performed by their members. Appraisers who are certified or designated members of these organizations are required to follow the organization's code of ethics and are subject to disciplinary actions and dismissal for failure to perform according to the standards of the organization. A list of appraisers for a given area can be obtained from the headquartered offices of the following appraisal organizations:

Appraisal Institute
875 North Michigan Avenue, Suite 2400
Chicago, Illinois 60611
Telephone: (312) 335-4100

American Society of Appraisers
Post Office Box 17265
Washington, D.C. 20041
Telephone: (800) 272-8258 or (703) 478-2228

American Society of Farm Managers and Real Estate Appraisers
950 South Cherry Street, Suite 508
Denver, Colorado 80246-2664
Telephone: (303) 758-3513

National Association of Independent Fee Appraisers
7501 Murdoch Street
St. Louis, Missouri 63119
Telephone: (314) 781-6688

National Association of Real Estate Appraisers
8383 East Evans Road
Scottsdale, Arizona 85260-3614
Telephone: (602) 948-8000

RELOCATION

The project sponsor must contact the Federal Highway Administration (FHA) for technical assistance if acquisition of real property results in the displacement of any person, business, or farm operation. **Relocation costs are not eligible under the SRF Program.** DHEC will request FHA confirmation of the project sponsor's certification of compliance. **If no relocation was involved in the land acquisition, it must be so stated in the project sponsor's written certification to DHEC.**

CERTIFICATION

Subsequent to land acquisition, but prior to loan execution, the project sponsor must certify to DHEC in writing that:

- The property was acquired by negotiation, if at all possible, rather than by litigation;
- The real property was appraised prior to initiation of negotiation;
- It has informed the property owner, in writing by certified mail, of his rights under the law, of acquisition policies, of requirements, and of payments which apply to the project. Specifically:
 - The property owner or his designated representative was given an opportunity to accompany the appraiser during his inspection of the property;
 - The owner was paid no less than the fair market value as established by the appraisal;
 - The seller was furnished a written statement of, and summary of the basis for, the amount established by the project sponsor as just compensation;
 - The property owner was reimbursed for necessary expenses;
 - If the acquisition of any part of the property left the owner with an uneconomic remnant, an offer was made to include that remnant in the acquisition;
 - The owner was not required to surrender possession of real property until the project sponsor paid the agreed purchase price or deposited with the court, for benefit of the owner, an amount not less the appraised fair market value of the property or the amount of award of compensation in condemnation proceedings for the property;
 - No person was required to move from his dwelling, or move his business or farm without at least 90 days written notice of the date by which the move was required;
 - No action was taken that was coercive in nature to compel an agreement on the price to be paid for the property;
 - If an owner or tenant was permitted by the project sponsor to occupy the real property on a rental basis, the amount of rent did not exceed the fair rental value of the property;
 - The owner/tenant was paid just compensation for any building, structure, or improvement required to be acquired or removed from the real property;
 - The owner was reimbursed fair and reasonable expenses incurred for:
 - ▶ recording fees, transfer fees, and expenses incidental to conveying real property;
 - ▶ penalty costs for prepayment of any pre-existing mortgage;

- ▶ the pro rata portion of real property tax paid which were allocable to a period subsequent to the date of vesting title or the effective date of possession of the property, whichever is earlier;
- ▶ litigation expenses to acquire property by condemnation, if the court:
 - rendered judgment or settlement for the owner; or
 - judges that the project sponsor cannot acquire the property by condemnation; or
 - the proceedings were abandoned by the project sponsor.

DISADVANTAGED BUSINESS ENTERPRISE COMPLIANCE

Project sponsors are required to ensure, to the fullest extent possible, that *disadvantaged businesses* have the opportunity to participate in a fair share of the contracts and subcontracts awarded in a SRF-funded project. This is required by the following executive orders and acts which EPA has determined apply to the SRF loan program:

- ▶ Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432
- ▶ Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988 DHEC administers this federal requirement.

DBE DEFINITION

A Disadvantaged Business Enterprise (DBE) is defined as a business which 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; and
- ▶ Owned by economically disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished opportunities to obtain capital and credit 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

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

- ▶ South Carolina Minority Business Enterprise Center (MBEC)
- ▶ South Carolina Governor's Office of Small & Minority Business Assistance
- ▶ South Carolina Chamber of Commerce
- ▶ South Carolina Department of Transportation
- ▶ Other agencies or organizations that provide procurement assistance to DBEs if their definition of a DBE matches the criteria established above.

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

DBE REQUIREMENTS

Project sponsors must assure that DBE firms have the opportunity to participate in a fair share of the funds awarded for contracts and subcontracts for supplies, construction, equipment or services. The DBE "fair share" goal is a reasonable amount of funds proportionate to the project's construction costs and is currently established as a participation rate of 3.6% for minority business enterprises (MBE) and 2.4% for women owned business enterprises (WBE). Minority and women's business enterprises are separate business groups; therefore, separate goals for each group are stated. The MBE participation goal cannot be satisfied by the use of a WBE firm.

The project sponsor is required to include the fair share goals in their bid documents and to ensure all of their prime contractors include the fair share goals in their bid documents for subcontracts. The fair share goal is subject to change each fiscal year. Therefore, it is the sponsor's responsibility to check with the SRF Procurement Manager for the current fair share percentage to be included in bid documents.

“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 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 and the Minority Business Development Agency of the U.S. Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the steps identified in paragraphs 1 through 5 of this section.

IMPLEMENTATION OF DBE REQUIREMENTS

The following is recommended for accomplishing the “Six Good Faith Efforts” of the DBE program:

Project Design Phase

The process for achieving the DBE goals begins during the design phase of the project. The Permit Application Guide contains a section called *Appendix A – Mandatory Supplemental General Conditions for the South Carolina State Revolving Program*. This section contains information on the DBE requirements for the project and clearly states the project's MBE and WBE goals. **It is mandatory for this section to be included verbatim in the project specifications.**

A unit price bid schedule is recommended over a lump sum bid schedule. Dividing work requirements into smaller segments will encourage participation by disadvantaged businesses. Some examples include masonry, plumbing, electrical, excavation, clearing and grubbing, sodding and seeding, landscaping, roofing, mechanical, sheet metal, curb and gutter, paving, hauling, fencing, tile, painting, steel erection, pipe installation, line work, heating, ventilation and air conditioning, building supplies, architect and engineering services and consultant work.

Bidding Phase

The obvious key toward successfully meeting the DBE requirements is the solicitation of minority and women's business enterprises. The following strategies will aid in this effort and **note that item number 4 is mandatory**:

1. Strategic placement of the Invitation for Bid (IFB) advertisement in local newspapers of general circulation, MBE/WBE publications, statewide or regional newspapers of general circulation, or the South Carolina Business Opportunities (SCBO) will help the Project Sponsor assure that disadvantaged businesses are actually solicited for participation in the project. **The project should be advertised for a minimum of thirty (30) days in advance of bid opening.**

Under the SRF loan program, one of the requirements for construction contract approval is that the prime contractor must document to DHEC that he has made good faith efforts to meet the project's DBE requirements. The most effective way for the Project Sponsor to assure compliance is to inform all prospective bidders of the DBE requirements in the IFB. Therefore, it is recommended that the following information be included in the IFB:

- A statement that prospective bidders must implement procedures that ensure that DBE firms are given opportunities for meaningful participation if subcontracts are awarded; and
- A statement informing the prospective bidders of the project's DBE goals.

2. Send a copy of the IFB to the South Carolina Minority Business Enterprise Center (see Attachment A), retaining a copy of the transmittal letter for documentation purposes. The MBEC assists minority businesses in securing procurement contracts and provides technical assistance and bid and/or proposal preparation. Announcements of any prebid conferences should also be sent to the MBEC for distribution.

3. Developing a DBE listing for the use of potential contractors is highly recommended. Providing the potential contractors with a list of qualified, bona fide disadvantaged business enterprises will help the Project Sponsor meet the DBE requirements. This can be accomplished by including the project's DBE listing in the Invitation for Bid Documents. Each potential bidder will have easy access to identified disadvantaged businesses from which to solicit subcontract proposals.

Attachment A lists state and federal agencies that can help in developing a DBE procurement list. These agencies maintain listings of disadvantaged businesses which can form the basis for a project-specific DBE listing. Any DBE firm that directly expresses interest in your project can be added to this list. This will provide a pool of DBE firms for proposal solicitation. Direct mailing of the IFB advertisement to all the firms on your DBE listing is also suggested.

4. It is **mandatory** that Project Sponsors create and maintain a **Bidders List**. This list must include **all firms that bid or quote on prime contracts, or bid or quote on subcontracts, including both MBE/WBEs and non-MBE/WBEs**. The purpose of the Bidders List is to provide as accurate of a database as possible about the universe of MBE/WBE and non-MBE/WBE prime contractors and subcontractors. The Bidders List must be kept until the project period for the loan has ended. The following information must be obtained from all bidders:

Bidder's name with point of contact

Bidder's mailing address, telephone number and e-mail address

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

The bidder's status as an MBE, WBE or non-MBE/WBE

Preconstruction Phase

The Project Sponsor should take two more steps to meet the DBE requirements. The first is establishing delivery schedules, work requirements permitting, which will encourage participation by disadvantaged businesses. This can be done by:

- ▶ Assisting the prime contractor(s) in developing realistic delivery schedules,
- ▶ Encouraging the prime contractor(s) to consider lead times and scheduling requirements needed by disadvantaged business firms for participation, and
- ▶ Helping the prime contractor(s) maintain as much flexibility as possible, without jeopardizing the work, to facilitate DBE participation.

Second, the Project Sponsor *must*, in accordance with good faith effort number 6, *require that the prime contractor take the same six good faith efforts* if the prime contractor intends to award subcontracts. However, the prime contractor(s) cannot be forced to subcontract any work.

DBE DOCUMENTATION

The tentatively selected bidder is required to submit DBE documentation in duplicate to the Project Sponsor after bid opening. The Project Sponsor must forward one copy of the information to DHEC. Since the project's plans and specifications serve as documentation of the **Project Sponsor's** prebid efforts to provide opportunities for DBE participation, the DBE documentation submitted will primarily show the **prime contractor's** efforts to achieve the project's DBE goals.

Please note that the prime contractor(s) cannot be forced to subcontract any work. If the prime contractor elects to perform the work using only his own work force, the only documentation needed is an executed "Prime Contractor's Subagreement Certification" form (DHEC 3591) (see Attachment B) indicating the contractor has elected not to let subcontracts. However, please be aware that subcontractor utilization is monitored during construction. The Project Sponsor's inspector is required to list all subcontractors on the job site in the Monthly Construction Inspection Reports provided to DHEC. Use of any unapproved subcontractor on the project may delay loan draw requests or result in costs associated with that subagreement declared ineligible for SRF assistance.

Prime Contractor's Good Faith Efforts

If subcontracts are awarded, the prime contractor must submit the following items as documentation of its good faith efforts, **even if the prime contractor has achieved its fair share objectives**:

- ▶ 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. Whenever possible, **contact should be made not later than 30 days before bid opening** to allow DBE firms sufficient time to develop quotes or proposals. Letters of a general nature which do not request quotes or proposals for **specific scope/volume of work** will not be acceptable as good faith efforts. The prime contractor is strongly encouraged to follow-up each written, faxed or emailed solicitation with at least one logged phone call.
- ▶ Copies of letters asking assistance from the South Carolina Minority Business Enterprise 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 South Carolina Minority Business Enterprise Center.**
- ▶ 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.
- ▶ 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.
- ▶ Proof of DBE certification from an acceptable source for each subcontractor listed as a MBE or WBE.
- ▶ DHEC form entitled “Prime Contractor’s Subagreement Certification” (DHEC 3591) (See Attachment B - Forms) listing **all** proposed subcontractors, both DBE firms and non-DBE firms.
- ▶ Require all DBE subcontractors to complete EPA Form 6100-3, “DBE Subcontractor Performance Form” (See Attachment B - Forms). This form captures an intended DBE subcontractor’s description of work to be performed for the prime contractor and the price of the work submitted to the prime contractor.

Upon submittal of the DBE package, DHEC will determine if deficiencies exist. If any such deficiencies are correctable, the Project Sponsor will be informed as to what actions must be taken. The proposed construction contract award will not be approved until the corrective action has been taken. Failure by the contractor to take the required corrective action or to explain to DHEC's satisfaction why the action cannot be taken may result in a finding by the Project Sponsor that the prime contractor is nonresponsive. This may be grounds for rejecting the bid.

Please note that DHEC cannot authorize the Project Sponsor to award the construction contract(s) until the project's good faith efforts are approved.

REPORTING REQUIREMENTS

The DBE approval is contingent upon the prime contractor's commitment to use the services of the DBE firm(s) reported. After the SRF Project Sponsor awards the construction contract(s), the Project Sponsor must comply with the following:

- ▶ Require prime contractors to forward a copy of each DBE subcontract as soon as possible.
- ▶ Require prime contractors to pay subcontractors for satisfactory performance no more than **30 days** from the prime contractor’s receipt of payment.
- ▶ Submit “Monthly Construction Inspection Reports” to DHEC. The Project Sponsor’s project inspector is required to list **all** subcontractors working on the job site in the reports. **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.

- ▶ Submit the “MBE/WBE Utilization under Federal Grants, Cooperative Agreements, and Interagency Agreements” (EPA Form 5700-52A) to DHEC. The reporting period is semiannual, with reporting periods ending March 31st and September 30th. Submission of this report is required even if there is no MBE/WBE activity to report; this is called a Negative Report. **Failure to meet this requirement may result in loan draw requests being held pending receipt of the MBE/WBE Utilization Reports.**
- ▶ Provide EPA Form 6100-2, “DBE Subcontractor Participation Form”, to all DBE subcontractors. This form gives a DBE subcontractor the opportunity to describe 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.
- ▶ Require the prime contractor to report any proposed changes/additions from the approved subcontractor list to the Project Sponsor **prior to initiation of the action** along with the following items:
 - A **revised/updated** “Prime Contractor’s Subagreement Certification” (DHEC Form 3591) (See Attachment B – Forms).
 - Reason for the proposed deviation.
 - Evidence of the prime contractor’s continued good faith efforts to secure a DBE firm for the new and/or replacement subcontract work.
 - A “DBE Subcontractor Performance Form” (EPA Form 6100-3) (See Attachment B – Forms) **if** work is subcontracted to a **new** DBE firm.
 - A “EEO Documentation Form” (DHEC Form 2323) (See Attachment B – Forms) from the **new** subcontractor **if** the subcontract amount exceeds \$10,000.
 - A “Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity” (DHEC 3592) (See Attachment B – Forms) from the **new** subcontractor **if** the subcontract amount exceeds \$10,000.
 - A “Certification Regarding Debarment, Suspension and Other Responsibility Matters” (DHEC 3590) (See Attachment B – Forms) from the **new** subcontractor **if** the subcontract amount equals or exceeds \$25,000.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

Discrimination in employment practices on the basis of race, color, religion, national origin, sex, age or handicap is prohibited. The affirmative action program is designed to enhance hiring, training and promotion opportunities for minorities and women and is governed by the federal authority:

- ▶ Equal Employment Opportunity (EEO), Executive Order 11246.

These provisions, applicable to SRF projects, commit the contractor and subcontractor to maintain a policy of nondiscrimination in the treatment of employees, to make this policy known to employees, and to recruit, hire and train employees without regard to race, color, sex, age, handicap, religion or national origin.

By submission of a bid, each bidder acknowledges that he understands and agrees to be bound to the EEO requirements and to also contractually bind each subcontractor, if applicable.

EEO DOCUMENTATION

The standard SRF plans and specifications package contains a section called Appendix A – Mandatory Supplemental General Conditions for the South Carolina State Revolving Fund Program. This section contains information on the EEO requirements for the project. **It is mandatory for this section to be included verbatim in the project specifications. Also, prime contractors must include these provisions in any subcontracts over \$2,000.**

All prime contractors and any subcontractors whose contract amount exceeds \$10,000, must submit the “EEO Documentation Form” (DHEC 2323) (See Attachment B – Forms) to supply the EEO information required by Special Notice #1 of Executive Order 11246, as amended. Special Notice #1 requires documentation of the following:

- Project number.
- Project location.
- Type of construction.
- Copy of the “Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity” (DHEC Form 3592) (See Attachment B - Forms).
- Copy of the Employer Information Report EEO-1 (also known as Standard Form 100) if the contractor meets the criteria outlined on page 4 of the “EEO Documentation Form” (DHEC 2323) (See Attachment B – Forms).
- Copy of the Affirmative Action Plan of the contractor. Indicate company official responsible for EEO.
- List of current construction contracts, with dollar amount. List contracting federal agency, if applicable.
- Statistically detail the sex and race/ethnic composition of the company’s workforce, temporary and permanent, by job category. List any handicapped employees.
- List of employment sources for the project in question. If union sources are used, indicate percentage of minority membership within the union crafts.
- Anticipated employment needs for this project, by sex, race, and trade, with estimate of minority participation in specific trades.
- List of subcontractors (name, address and telephone) with dollar amount and duration of subcontract. (The “Prime Contractor’s Subagreement Certification” (DHEC 3591) (See Attachment B - Forms) must be used to provide this information.) *Note: Subcontractors whose contract amount exceeds \$10,000 must submit the above eight items.*

- List of any subcontract work yet to be committed with estimate of dollar amount and duration of contract. (The “Prime Contractor’s Subagreement Certification” (DHEC 3591) (See Attachment B - Forms) must be used to provide this information.)
- Contract Price.
- Duration of prime contract.
- MBE Documents - See special instructions regarding use of Minority Owned, Women Owned and Small Businesses.

REPORTING REQUIREMENTS

The tentatively selected bidder is required to submit the above EEO documentation in duplicate to the Project Sponsor after bid opening. The Project Sponsor must forward one copy of the information to DHEC as part of their bid package.

Failure to comply with the EEO requirements may be grounds for rejecting the bid. DHEC cannot authorize the Project Sponsor to award the construction contract(s) until this requirement is met.

PARTIES EXCLUDED FROM FEDERAL PROCUREMENT AND NONPROCUREMENT PROGRAMS

Under the federal authorities:

- ▶ Debarment and Suspension, Executive Order 12549
- ▶ Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans,

prime contractors must submit a “Debar Certification” (DHEC 3590) (See Attachment B – Forms) certifying 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 a “Debarred Certification” (DHEC 3590) (See Attachment B - Forms).

ATTACHMENT A

Contacts for Procurement of DBEs

South Carolina Minority Business Enterprise Center
1515 Richland Street
Columbia, SC 29201
Office: (803) 779-5905
Fax: (803) 779-5915
E-Mail: busdev@scmbec.com

Office of Small & Minority Business Assistance
South Carolina Office of the Governor
1205 Pendleton Street, Suite 418
Columbia, SC 29201
Telephone: (803) 734-0657
Website: www.govoep.state.sc.us/osmba

South Carolina Chamber of Commerce
1201 Main Street, Suite 1700
Columbia, SC 29201
Telephone: (803) 799-4601
Website: www.scmminoritybusiness.net

South Carolina Department of Transportation
Office of DBE & Special Projects
Post Office Box 191
Columbia, SC 29202
Telephone: (803) 737-1372
Website: www.scdot.org

ATTACHMENT B

FORMS

United States Environmental Protection Agency
Washington, DC 20460

**Preaward Compliance Review Report for
All Applicants and Recipients Requesting EPA Financial Assistance**

Note: Read instructions on other side before completing form.

I. Applicant/Recipient (Name, Address, State, Zip Code).	EPA Project No.
II. Is the applicant currently receiving EPA assistance? (See * instructions on reverse side)	
III. List all civil rights lawsuits and administrative complaints pending against the applicant/recipient that allege discrimination based on race, color, national origin, sex, age, or disability. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7. See instructions on reverse side.)	
IV. List all civil rights lawsuits and administrative complaints decided against the applicant/recipient within the last year that allege discrimination based on race, color, national origin, sex, age, or disability and enclose a copy of all decisions. Please describe all corrective action taken. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7. See instructions on reverse side.)	
V. List all civil rights compliance reviews of the applicant/recipient conducted by any agency within the last two years and enclose a copy of the review and any decisions, orders, or agreements based on the review. Please describe any corrective action taken. (40 C.F.R. § 7.80(c)(3))	
VI.* Does the applicant/recipient provide initial and continuing notice that it does not discriminate on the basis of race, color, national origin, sex, age, or disability in its programs or activities? (40 C.F.R. § 5.140 and § 7.95) <input type="checkbox"/> Yes <input type="checkbox"/> No a. Do the methods of notice accommodate those with impaired vision or hearing? <input type="checkbox"/> Yes <input type="checkbox"/> No b. Is the notice posted in a prominent place in the applicant's offices or facilities or, for education programs and activities, in appropriate periodicals and other written communications? <input type="checkbox"/> Yes <input type="checkbox"/> No c. Does the notice identify a designated civil rights coordinator? <input type="checkbox"/> Yes <input type="checkbox"/> No	
VII.* Does the applicant/recipient maintain demographic data on the race, color, national origin, sex, age, or handicap of the population it serves? (40 C.F.R. § 7.85(a))	
VIII.* Does the applicant/recipient have a policy/procedure for providing access to services for persons with limited English proficiency? (40 C.F.R. Part 7, E.O. 13166)	
IX.* If the applicant/recipient is an education program or activity, or has 15 or more employees, has it designated an employee to coordinate its compliance with 40 C.F.R. Parts 5 and 7? Provide the name, title, position, mailing address, e-mail address, fax number, and telephone number of the designated coordinator.	
X* If the applicant/recipient is an education program or activity, or has 15 or more employees, has it adopted grievance procedures that assure the prompt and fair resolution of complaints that allege a violation of 40 C.F.R. Parts 5 and 7? Provide a legal citation or Internet address for, or a copy of, the procedures.	
XI. Will all new facilities or alterations to existing facilities be designed and constructed to be readily accessible to and usable by persons with disabilities? <input type="checkbox"/> Yes. If no, explain how a regulatory exception (40 C.F.R. § 7.70) applies. <input type="checkbox"/> No	
For the Applicant/Recipient	
I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law. I assure that I will fully comply with all applicable civil rights statutes and EPA regulations.	
A. Signature of Authorized Official	B. Title of Authorized Official
C. Date	
For the U.S. Environmental Protection Agency	
I have reviewed the information provided by the applicant/recipient and hereby certify that the applicant/recipient has submitted all information required by 40 C.F.R. Parts 5 and 7; that based on the information submitted, this application satisfies 40 C.F.R. Parts 5 and 7; and that the applicant has given assurance that it will fully comply with all applicable civil rights statutes and EPA regulations.	
A. Signature of Authorized EPA Official	B. Title of Authorized EPA Official
C. Date	

Instructions for EPA FORM 4700-4 (Rev. 03/2008)

General

Recipients of Federal financial assistance from the U.S. Environmental Protection Agency must comply with the following statutes and regulations.

Title VI of the Civil Rights Acts of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Act goes on to explain that the statute shall not be construed to authorize action with respect to any employment practice of any employer, employment agency, or labor organization (except where the primary objective of the Federal financial assistance is to provide employment).

Section 13 of the 1972 Amendments to the Federal Water Pollution Control Act provides that no person in the United States shall on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the Federal Water Pollution Control Act, as amended. Employment discrimination on the basis of sex is prohibited in all such programs or activities.

Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified individual with a disability in the United States shall solely by reason of disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Employment discrimination on the basis of disability is prohibited in all such programs or activities.

The Age Discrimination Act of 1975 provides that no person on the basis of age shall be excluded from participation under any program or activity receiving Federal financial assistance. Employment discrimination is not covered. Age discrimination in employment is prohibited by the Age Discrimination in Employment Act administered by the Equal Employment Opportunity Commission.

Title IX of the Education Amendments of 1972 provides that no person in the United States on the basis of sex shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Employment discrimination on the basis of sex is prohibited in all such education programs or activities. Note: an education program or activity is not limited to only those conducted by a formal institution.

40 C.F.R. Part 5 implements Title IX of the Education Amendments of 1972.

40 C.F.R. Part 7 implements Title VI of the Civil Rights Act of 1964, Section 13 of the 1972 Amendments to the Federal Water Pollution Control Act, and Section 504 of The Rehabilitation Act of 1973.

The Executive Order 13166 (E.O. 13166) entitled; "Improving Access to Services for Persons with Limited English Proficiency" requires Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

Items

"Applicant" means any entity that files an application or unsolicited proposal or otherwise requests EPA assistance. 40 C.F.R. §§ 5.105, 7.25.

"Recipient" means any entity, other than applicant, which will actually receive EPA assistance. 40 C.F.R. §§ 5.105, 7.25.

"Civil rights lawsuits and administrative complaints" means any lawsuit or administrative complaint alleging discrimination on the basis of race, color, national origin, sex, age, or disability pending or decided against the applicant and/or entity which actually benefits from the grant, but excluding employment complaints not covered by 40 C.F.R. Parts 5 and 7. For example, if a city is the named applicant but the grant will actually benefit the Department of Sewage, civil rights lawsuits involving both the city and the Department of Sewage should be listed.

"Civil rights compliance review" means any review assessing the applicant's and/or recipient's compliance with laws prohibiting discrimination on the basis of race, color, national origin, sex, age, or disability.

Submit this form with the original and required copies of applications, requests for extensions, requests for increase of funds, etc. Updates of information are all that are required after the initial application submission.

If any item is not relevant to the project for which assistance is requested, write "NA" for "Not Applicable."

In the event applicant is uncertain about how to answer any questions, EPA program officials should be contacted for clarification.

* For applicants who are not current recipients of EPA assistance, questions VI - X are for informational purposes only, and will not affect applicant grant status. However, if an applicant is currently receiving EPA assistance, questions VI - X must be answered. (40 C.F.R. Parts 5 and 7).

"Burden Disclosure Statement"

EPA estimates public reporting burden for the preparation of this form to average 30 minutes per response. This estimate includes the time for reviewing instructions, gathering and maintaining the data needed and completing and reviewing the form. Send comments regarding the burden estimate, including suggestions for reducing this burden, to U.S. EPA, Attn: Collection Strategies Division (MC 2822T), Office of Information Collection, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

The information on this form is required to enable the U.S. Environmental Protection Agency to determine whether applicants and prospective recipients are developing projects, programs and activities on a nondiscriminatory basis as required by the above statutes and regulations.

**U.S. ENVIRONMENTAL PROTECTION AGENCY
 MBE/WBE UTILIZATION UNDER FEDERAL GRANTS, COOPERATIVE
 AGREEMENTS, AND INTERAGENCY AGREEMENTS**

PART 1. (Reports are required even if no procurements are made during the reporting period.)

1A. FEDERAL FISCAL YEAR 200_____	1B. REPORTING PERIOD (Check ALL appropriate boxes) <input type="checkbox"/> 1 st (Oct-Dec) <input type="checkbox"/> 2 nd (Jan-Mar) <input type="checkbox"/> 3 rd (Apr-Jun) <input type="checkbox"/> 4 th (Jul-Sep) <input type="checkbox"/> Annual <input type="checkbox"/> Check if this is the last report for the project (Project completed).				
1C. REVISION OF A PRIOR REPORT? Y or N Year: _____ Quarter: _____	BRIEFLY DESCRIBE THE REVISIONS YOU ARE MAKING:				
2A. EPA FINANCIAL ASSISTANCE OFFICE ADDRESS (ATTN: DBE Coordinator)		3A. RECIPIENT NAME AND ADDRESS			
2B. EPA DBE COORDINATOR Name: E-mail:	2C. PHONE: Fax:	3B. RECIPIENT REPORTING CONTACT: Name: E-mail:	3C. PHONE: Fax:		
4A. FINANCIAL ASSISTANCE AGREEMENT ID NUMBER (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.)		4B. FEDERAL FINANCIAL ASSISTANCE PROGRAM TITLE or CFDA NUMBER:			
5A. TOTAL ASSISTANCE AGREEMENT AMOUNT (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.) EPA Share: \$ _____ Recipient Share: \$ _____	5B. If NO procurement and NO accomplishments were made this reporting period, check and skip to Block No. 7. (Procurements are all expenditures through contract, order, purchase, lease or barter of supplies, equipment, construction, or services needed to complete Federal assistance programs. Accomplishments, in this context, are procurements made with MBEs and/or WBEs. <input type="checkbox"/>				
5C. Total Procurement and MBE/WBE Accomplishments This Reporting Period (Only include amount not reported in any prior reporting period)					
Were sub-awards issued under this assistance agreement? Yes ___ No ___ Were contracts issued under this assistance agreement ? Yes ___ No ___					
Total Procurement Amount \$ _____ (Include total dollar values awarded by recipient, sub-recipients and SRF loan recipients.)					
Actual MBE/WBE Procurement Accomplished: (Include total dollar values awarded by recipient, sub-recipients, SRF loan recipients and Prime Contractors.)					
	<u>Construction</u>	<u>Equipment</u>	<u>Services</u>	<u>Supplies</u>	<u>Total</u>
\$MBE:	_____	_____	_____	_____	_____
\$WBE:	_____	_____	_____	_____	_____
6. COMMENTS: (If no MBE/WBE procurements were accomplished during the reporting period, please explain what steps you are taking to achieve the MBE/WBE Program requirements specified in the terms and conditions of the Assistance Agreement.)					
7. NAME OF RECIPIENT'S AUTHORIZED REPRESENTATIVE			TITLE		
8. SIGNATURE OF RECIPIENT'S AUTHORIZED REPRESENTATIVE			DATE		

Instructions:

A. General Instructions:

MBE/WBE utilization is based on Executive Orders 11625, 12138, 12432, P.L. 102-389 and EPA Regulations Part 30 and 31. EPA Form 5700-52A must be completed by recipients of Federal grants, cooperative agreements, or other Federal financial assistance which involve procurement of supplies, equipment, construction or services to accomplish Federal assistance programs.

Recipients are required to report 30 days after the end of each federal fiscal quarter or annually, per the terms and conditions of the financial assistance agreement. Submission dates are January 30, April 30, July 30, and October 30. The submission date for annual reports is October 30. MBE/WBE program requirements, including reporting, are material terms and conditions of the financial assistance agreement.

B. Definitions:

Procurement is the acquisition through contract, order, purchase, lease or barter of supplies, equipment, construction or services needed to accomplish Federal assistance programs.

A *contract* is a written agreement between an EPA recipient and another party (also considered "prime contracts") and any lower tier agreement (also considered "subcontracts") for equipment, services, supplies, or construction necessary to complete the project. This definition excludes written agreements with another public agency. This definition includes personal and professional services, agreements with consultants, and purchase orders.

A *minority business enterprise* (MBE) is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners.

U.S. citizenship is required. Recipients shall presume that minority individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other groups whose members are found to be disadvantaged by the Small Business Act or by the Secretary of Commerce under section 5 of Executive order 11625. The reporting contact at EPA can provide additional information.

A *woman business enterprise* (WBE) is a business concern that is, (1) at least 51 percent owned by one or

more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women and (2) whose daily business operations are managed and directed by one or more of the women owners.

Business firms which are 51 percent owned by minorities or women, but are in fact managed and operated by non-minority individuals do not qualify for meeting MBE/WBE procurement goals. U.S. Citizenship is required.

The following affirmative steps for utilizing MBEs and WBEs must be documented. Such documentation is subject to EPA review upon request:

1. Include of MBEs/WBEs on solicitation lists.
2. Assure that MBEs/WBEs are solicited once they are identified.
3. Divide total requirements into smaller tasks to permit maximum MBE/WBE participation, where feasible.
4. Establish delivery schedules which will encourage MBE/WBE participation, where feasible.
5. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify MBEs/WBEs.
6. Require that each party to a subgrant, subagreement, or contract award take the affirmative steps outlined here.

C. Instructions for Part I:

- 1a. Specify Federal fiscal year this report covers. The Federal fiscal year runs from October 1st through September 30th (**e.g. November 29, 2005 falls within Federal fiscal year 2006**)
- 1b. Check applicable reporting box, quarterly or annually. Also indicate if this is the last report for the project.
- 1c. Indicate if this is a revision to a previous year or quarter, and provide a brief description of the revision you are making.
- 2a-c. Please refer to your financial assistance agreement for the mailing address of the EPA financial assistance office for your agreement.

The "EPA DBE Reporting Contact" is the DBE Coordinator for the EPA Region from which your financial assistance agreement was originated. For a list of DBE Coordinators please refer to the EPA OSDBU website at www.epa.gov/osdbu. Click on "Regional Contacts" for the name of your coordinator.

- 3a-c. Identify the agency, state authority, university or other organization which is the recipient of the Federal financial assistance and the person to contact concerning this report.
- 4a. Provide the Assistance Agreement or Interagency Agreement number assigned by EPA. A separate report must be submitted for each Assistance Agreement or Interagency Agreement.
- *For SRF recipients:** In box 4a list numbers for ALL open Assistance Agreements. SRF recipients will report activity for all Agreements on one form.
- 4b. Refer back to Assistance Agreement document for this information.
- 5a. Provide the total amount of the Assistance Agreement which includes Federal funds plus recipient matching funds and funds from other sources.
- *For SRF recipients only:** SRF recipients will not enter an amount in 5a. Please leave 5a blank.
- 5b. Self-explanatory.
- 5c. State whether or not sub-awards and/or subcontracts have been issued under the assistance agreement by indicating "yes" or "no".

Provide the total dollar amount of all contracts/procurements awarded this reporting period by the recipient and all sub-recipients, and SRF loan recipients. For example: Actual dollars for procurement from the procuring office; actual contracts let from the contracts office; actual goods, services, supplies, etc., from other sources including the central purchasing/procurement centers).

Where requested, also provide the total dollar amount of all MBE/WBE procurement awarded during this reporting period by the recipient, sub-recipients, SRF loan recipients, and prime contractors in the categories of construction, equipment, services and supplies. These amounts include the Federal, State and local shares in the procurement awards.

***For SRF recipients only:** In 5c please enter the total procurement amount for the quarter under all of your SRF Assistance Agreements. The figure reported in this section is **not** directly tied to an individual Assistance Agreement identification number. **(SRF state recipients report state procurements in this section)**

6. If there were no MBE/WBE accomplishments this reporting period, please briefly explain what steps you are taking in furtherance of the MBE/WBE requirements specified in the terms and conditions of the Assistance Agreement.
7. Name and title of official administrator or designated reporting official.
8. Signature and month, day, year report submitted.

D. Instructions for Part II:

For each MBE/WBE procurement made under this assistance agreement during the reporting period, provide the following information:

1. Check whether this procurement was made by the recipient, sub-recipient/SRF loan recipient, or the prime contractor.
2. Check either the MBE or WBE column. If a firm is both an MBE and WBE, the recipient may choose to count the entire procurement towards EITHER its MBE or WBE accomplishments. The recipient may also divide the total amount of the procurement (using any ratio it so chooses) and count those divided amounts toward its MBE and WBE accomplishments. If the recipient chooses to divide the procurement amount and count portions toward its MBE and WBE accomplishments, please state the appropriate amounts under the MBE and WBE columns on the form. **The combined MBE and WBE amounts for that MBE/WBE contractor must not exceed the "Value of the Procurement" reported in column #3**
3. Dollar value of procurement.
4. Date of award, shown as month, day, year. Date of award is defined as the date the contract or procurement was awarded, **not** the date the contractor received payment under the awarded contract or procurement, unless payment occurred on the date of award. **(Where direct purchasing is the procurement method, the date of award is the date the purchase was made)**

5. Using codes at the bottom of the form, identify type of product or service acquired through this procurement (eg., enter 1 if construction, 2 if supplies, etc).
6. Name, address, and telephone number of MBE/WBE firm.

**This data is requested to comply with provisions mandated by: statute or regulations (40 CFR Part 30 and 31); OMB Circulars; or added by EPA to ensure sound and effective assistance management. Accurate, complete data are required to obtain funding, while no pledge of confidentiality is provided.

The public reporting and recording burden for this collection of information is estimated to average 1 hour per response annually. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclosure or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB Control number in any correspondence. Do not send the completed form to this address.



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

**Disadvantaged Business Enterprise Program
DBE Subcontractor Participation Form**

NAME OF SUBCONTRACTOR¹	PROJECT NAME
ADDRESS	CONTRACT NO.
TELEPHONE NO.	EMAIL ADDRESS
PRIME CONTRACTOR NAME	

Please use the space below to report any concerns regarding the above EPA-funded project (e.g., reason for termination by prime contractor, late payment, etc.).

CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR	AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR

_____	_____
Subcontractor Signature	Title/Date

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

Disadvantaged Business Enterprise Program DBE Subcontractor Participation Form

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Participation Form to this address.



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

**Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form**

NAME OF SUBCONTRACTOR ¹		PROJECT NAME
ADDRESS		BID/PROPOSAL NO.
TELEPHONE NO.		E-MAIL ADDRESS
PRIME CONTRACTOR NAME		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
<p>Currently certified as an MBE or WBE under EPA's DBE Program? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Signature of Prime Contractor Date _____ Print Name Title _____</p> <p>Signature of Subcontractor Date _____ Print Name Title _____</p>		

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



Environmental
Protection Agency

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

Disadvantaged Business Enterprise Program DBE Subcontractor Performance Form

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Performance Form to this address.



Project Sponsor: _____
 Project Name: _____
 SRF Project Number: _____

**STATE OF SOUTH CAROLINA STATE REVOLVING FUND (SRF) PROGRAM
EEO DOCUMENTATION FORM**

1. Proposed Prime Contractor or Subcontractor: _____
 Address: _____
 Telephone Number: _____

2. Fill out and attach "Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity" (DHEC Form 3592).

3. Attach a copy of the Employer Information Report EEO-1 (also known as Standard Form 100) if the firm meets the criteria outlined on page 4 of this form. N/A _____ (Check N/A if the firm does not meet the EEO-1 Report criteria.)

4. a. Name of company official responsible for EEO: _____
 b. Attach a copy of the contractor's Affirmative Action Plan.

5. a. List current construction contracts, with dollar amount:

_____	\$	_____	\$
_____	\$	_____	\$
_____	\$	_____	\$

b. List contracting federal agencies, if applicable:

6. Detail the sex and race/ethnic composition of the company's workforce, temporary and permanent, by job category. List statistics by percent or number.

Job Category	Male	Female	African American	Asian	Hispanic	Native American	White
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____

Number of Disabled: _____

7. Check applicable employment sources:

Newspaper Advertisement _____	Trade Schools _____
Job Service _____	Trade Associations _____
Walk-In Applications _____	Other: _____
Employee Referrals _____	

8. List anticipated employment needs for this project, indicating percentage or number of female/minority participation in each trade:

<u>Trade</u>	<u>Female</u>	<u>African American</u>	<u>Asian</u>	<u>Hispanic</u>	<u>Native American</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

OR Check Yes _____ if you plan to only use your existing workforce.

9. **Prime Contractors Only:** Fill out and attach “Prime Contractor’s Subagreement Certification” (DHEC Form 3591).

10. Contract Price: \$_____.

11. Duration of Contract:_____.

12. **All Prime Contractors and Any Subcontractors** whose subcontract equals or exceeds \$25,000: Fill out and attach “Certification Regarding Debarment, Suspension and Other Responsibility Matters” (DHEC Form 3590).

Signature of Authorized Official

Print Name and Title of Authorized Official Date

Submit to:
SCDHEC, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201

**INSTRUCTIONS FOR COMPLETING THE EEO DOCUMENTATION FORM
DHEC 2323**

The purpose of the EEO Documentation Form is to document compliance with the Equal Employment Opportunity (EEO) requirements which prohibit discrimination in employment practices on the basis of race, color, religion, national origin, sex, age or handicap. The affirmative action program is designed to enhance hiring, training, and promotion opportunities for minorities and women and is governed by Executive Order 11246.

This form must be completed by each prime contractor and any subcontractor whose contract amount exceeds \$10,000.

Please provide the name of the Project Sponsor, project name and State Revolving Fund (SRF) project number. Please answer each question and submit the requested attachments with this form.

DHEC Review and Filing. The Bureau of Water will use the above referenced form to document each prime contractor and subcontractor's compliance with the EEO requirements. The form will be kept in the SRF DBE/EEO file of the project name listed on the form. The EEO Designation Form will be retained on file with the Bureau of Water for twenty years.

Employer Information Report EEO-1

Under the direction of the U. S. Equal Employment Opportunity Commission, the Joint Reporting Committee (JRC) is responsible for the full-length, multi-phase processing of employment statistics collected on the Employer Information Report EEO-1. This report, also known as Standard Form 100, details the sex and race/ethnic composition of an employer's work force by job category.

The Employer Information EEO-1 survey is conducted annually under the authority of Public Law 88-352, Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. All employers with 15 or more employees are covered by Public Law 88-352 and are required to keep employment records as specified by Commission regulations. Based on the number of employees and federal contract activities, certain large employers are required to file an EEO-1 Report on an annual basis.

The EEO-1 Report must be filed by:

- (A) All private employers who are: (1) subject to Title VII of the Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972) with 100 or more employees EXCLUDING State and local governments, primary and secondary school systems, institutions of higher education, Indian tribes and tax-exempt private membership clubs other than labor organizations; OR (2) subject to Title VII who have fewer than 100 employees if the company is owned or affiliated with another company, or there is centralized ownership, control or management (such as central control of personnel policies and labor relations) so that the group legally constitutes a single enterprise and the entire enterprise employs a total of 100 or more employees.

- (B) **All federal contractors (private employers)** who: (1) are not exempt as provided for by 41 CFR 60-1.5; (2) have 50 or more employees, **and** (a) are prime contractors or first-tier subcontractors, and have a contract, subcontract, or purchase order amounting to \$50,000 or more; or (b) serve as depository of Government funds in any amount; or (c) is a financial institution which is an issuing and paying agent for U. S. Savings Bonds and Notes.

When filing for the EEO-1 Report for the first time, go to the web site at: <http://www.eeoc.gov/eeo1survey> and select "Filing for the first time" from the information box. Fill out the electronic questionnaire to enter your company into the JRC system. Once you have completed the registration process, you will be contacted on how to proceed with the EEO-1 Report. **If you have previously registered with the JRC**, follow their instructions to update your information.



Project No.: _____
Sponsor: _____

STATE OF SOUTH CAROLINA STATE REVOLVING FUND (SRF) PROGRAM
CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND
OTHER RESPONSIBILITY MATTERS

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 U.S.C. Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Name of Firm Submitting Bid

Signature and Title of Authorized Official

Date

I am unable to certify to the above statements. Attached is my explanation.

Prime or Subcontractor's Name: _____

Telephone Number: _____

Submit to:

SCDHEC, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201



Project Name: _____

Project No.: _____

Contractor's Name: _____

Contractor's Telephone No.: _____

Contractor's Address: _____

**STATE OF SOUTH CAROLINA STATE REVOLVING FUND (SRF) PROGRAM
PRIME CONTRACTOR'S SUBAGREEMENT CERTIFICATION**

SECTION I – INSTRUCTIONS

All prime contractors are required to certify whether or not they plan to utilize subcontractors for any portion of work throughout the life of their contract.

SECTION II – CERTIFICATION

I, as the authorized representative of the above named contracting firm, certify that we:

- Plan to subcontract a portion of this project and will submit to SCDHEC evidence of the positive steps taken to utilize minority and women's businesses as required by Executive Order 11246 prior to entering into any subagreement. We agree to submit MBE/WBE quarterly utilization reports (U.S. EPA Form 5700-52A). (Please list each tentative subcontractor on the back of this form).

- Do not elect to subcontract any portion of this project. We understand that should we elect, at a later date, to subcontract a portion of this project, we will be required to provide evidence of the positive steps taken to utilize minority and women-owned businesses as required by Executive Order 11246 prior to entering into any subagreement. Failure to do so may result in costs associated with that subagreement declared ineligible for SRF assistance.

Name and Title

Signature

Date

Please list all tentative subcontractors you plan to use for this project, identifying whether or not they are minority business enterprise (MBE) or a women-owned business enterprise (WBE). If more space is needed, please attach additional sheets using the same format as below.

- 1) Type of Work: _____
Subcontractor's Name and Address: _____

Contact Person: _____
Telephone Number: _____
Subcontract Amount: _____
Duration of Subcontract: _____
MBE or WBE? _____

- 2) Type of Work: _____
Subcontractor's Name and Address: _____

Contact Person: _____
Telephone Number: _____
Subcontract Amount: _____
Duration of Subcontract: _____
MBE or WBE? _____

- 3) Type of Work: _____
Subcontractor's Name and Address: _____

Contact Person: _____
Telephone Number: _____
Subcontract Amount: _____
Duration of Subcontract: _____
MBE or WBE? _____

- 4) Type of Work: _____
Subcontractor's Name and Address: _____

Contact Person: _____
Telephone Number: _____
Subcontract Amount: _____
Duration of Subcontract: _____
MBE or WBE? _____

List of subcontract work yet to be committed with approximate price and duration of subcontract

- 1) _____
- 2) _____
- 3) _____

Submit to: SCDHEC, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201



Name of Prime Contractor: _____
Project No.: _____

**STATE OF SOUTH CAROLINA STATE REVOLVING FUND (SRF) PROGRAM
CERTIFICATION BY PROPOSED PRIME OR SUBCONTRACTOR
REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

INSTRUCTIONS

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

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

CONTRACTOR’S CERTIFICATION

Contractor’s Name: _____

Address: _____

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause. Yes_____ No_____
2. Compliance Reports were required to be filed in connection with such contract or subcontract. Yes_____ No_____
3. Bidder has filed all compliance reports due under applicable instructions, including SF-100. Yes_____ No_____
4. If answer to item 3 is NO, please explain in detail on reverse side of this certification.

Certification – The information above is true and complete to the best of my knowledge and belief. (A willfully false statement is punishable by law – U.S. Code, Title 18, Section 1001).

Name and Title of Signer (Please Type)

Signature Date

Submit to:
SCDHEC, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201