

APPENDIX A — EQUIVALENCY

**Mandatory Supplemental Conditions
For The
South Carolina State Revolving Fund Program**

February 2023

Following is the standard language that must be incorporated into all solicitations for offers

GENERAL INSTRUCTIONS

Submittal and Approval of DBE and EEO Documentation

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

- (a) Disadvantaged business enterprises (DBEs) have the opportunity to participate in a fair share of the funds awarded for contracts and subcontracts for supplies, construction, equipment or services; and
- (b)

good faith efforts

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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

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

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

Solicitation of DBE Firms

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

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

DBE Compliance Documentation

Reporting Requirements for Prime Contractors During Construction

Forward a copy of each DBE subcontract as soon as possible after contract award.

Pay subcontractors for satisfactory performance no more than **30 days** from the prime contractor's receipt of payment.

Report any proposed changes/additions from the approved subcontractor list to the Project Sponsor and DHEC **prior to initiation of the action** along with the following actions:

Submit a **revised/updated**
(DHEC Form 3591) ~~and EPA Form 6100-4 (See Attachment B).~~

Document the reason for the proposed deviation

Submit evidence of the prime contractor's continued good faith efforts to secure a DBE firm for the new and/or replacement subcontract work.

~~Provide any new subcontractors with the _____
_____(EPA Form 6100-3) (See Attachment B) if work is subcontracted to a
new DBE firm.~~

Submit a _____ (DHEC Form 2323) (See Attachment B)
from the **new** subcontractor **if** the subcontract amount exceeds \$10,000.

Submit a _____ (DHEC 3592) (See Attachment) from the **new**
subcontractor **if** the subcontract amount exceeds \$10,000.

Submit a _____ (DHEC 3590) (See Attachment B) from the **new**
subcontractor **if** the subcontract amount equals or exceeds \$25,000.

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

Submittal of the data for

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

SPECIAL NOTICE TO BIDDERS

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

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

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

Number 2: By the submission of this bid, each bidder acknowledges that he understands and agrees to be bound by the equal opportunity requirements of EPA regulations (40 CFR Part 8, partum.2 (a)5 (l)5 (6(ti)4 (c)0.5 (qfti)4 (c)0.55 (6(am.2 (a)5)-2.1 (e)0.5 (l)5 ()0(6(ti)4 ()6..5 (l)5 ()

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

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

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

- (a) The Contractor shall maintain, as applicable, in an Insurance Company or Insurance Companies acceptable to the Project Sponsor, Fire, Extended Coverage and Vandalism and Malicious Mischief Insurance on buildings and structures, while in the course of construction, including foundations,

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

Number 8: Domestic Preference

"Build America, Buy America" Act

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

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

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Project Sponsor or SRF Program to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Project Sponsor or SRF Program resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the SRF Program or any damages owed to the SRF Program by the J0 Tc 0 Tw 14.45).

BABA Waivers:

When applicable, Project Sponsors may apply for, and be granted, a waiver from the BABA requirements. If a BABA waiver has been granted for this project, a copy of the BABA waiver is included at the end of this section

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The proposed prime contractor(s) must certify American Iron and Steel compliance using DHEC Form 2556.



October 10, 2022

Darlington County Water and Sewer Authority

Attn: Frank Hough, General Manager – fhough@sc.twcbc.com (*Sent by email only*)

Sincerely,

DAVIS-BACON AND RELATED ACTS

WAGE RATE REQUIREMENTS FOR FEDERAL AND FEDERALLY ASSISTED CONTRACTS

Wage Rate Requirements

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

the sub recipient must discuss the situation with the recipient State before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub recipients 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 sub recipient shall monitor <https://sam.gov/> weekly to ensure that the wage determination contained in the solicitation remains current. The sub recipients 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 sub recipients 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 sub recipient.

(ii) If the sub recipient 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 sub recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub recipient shall monitor <https://sam.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 sub recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub recipient shall (a) obtain the appropriate DOL wage determination (to)

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the sub recipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of

the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the sub recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a

(4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of

the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The sub recipient 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)(ca(sCa(asdf.5 (e)111.9 (o)9 ((-11 (o)1us)4.7(. A]TJ

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) Sub recipients must immediately report potential violations of the DB prevailing wage

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

EEO Notice

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

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

1. The Offerer's or Bidder's attention is called to the "Equal Opportunity Clause" which is included in the Nondiscrimination Provision and Labor Standards, and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables

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

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

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The

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

- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, lay-off, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foreman, etc., prior to the initiation of construction work on any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

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

- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority

