

SECTION 00445 - BID CONDITIONS – OEPA ASSISTED CONSTRUCTION PROJECTS

ARTICLE 1 GENERAL

1.01 This project is funded in part by the Water Supply Revolving Loan Account (WSRLA) and/or the Water Pollution Control Loan Fund (WPCLF) administered by the Ohio Environmental Protection Agency. As such, specific provisions apply to bidding procedures and construction of the proposed project. Each Contractor will be required to comply in all aspects to the bidding and construction provisions of said WSLRA and/or WPCLF programs.

ARTICLE 2 EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

2.01 Bidders are required to complete, and submit with their Bid, the **Contractor Equal Employment Opportunity Certification** to document their compliance with the provisions of Executive Order No. 11246. The required form has been provided within the Project Manual.

2.02 Bid submittals not including a fully executed copy of the Contractor Equal Employment Opportunity Certification may be deemed non-responsive.

ARTICLE 3 CERTIFICATION REGARDING DEBARMENT

3.01 Bidders are required to complete, and submit with their Bid, the **Certification Regarding Debarment, Suspension, and Other Responsibility Matters** to document their position on these matters. The required form has been provided within the Project Manual.

3.02 Bid submittals not including a fully executed copy of the **Certification Regarding Debarment, Suspension, and Other Responsibility Matters** may be deemed non-responsive.

3.03 Bidder shall solicit and retain on file fully executed copies of the Certification Regarding Debarment, Suspension, and Other Responsibility Matters from prospective Subcontractors and/or suppliers whose sub-agreements are anticipated to total \$25,000 or more. This documentation shall be made available to the Owner upon request.

ARTICLE 4 DISADVANTAGED BUSINESS ENTERPRISES (DBE) UTILIZATION

4.01 USEPA has a program to encourage the participation of disadvantaged businesses in the construction activities funded by the Clean Water and Drinking Water SRF's. "DBE" is an all inclusive term that includes Minority Business Enterprises (MBE), Women Business Enterprises (WBE), Small Business Enterprises (SBE), Small Business in Rural Areas (SBRA), HUBZone Small Business, Labor Surplus Area Firms (LSAF), and other entities defined as socially and/or economically disadvantaged. While the WPCLF and WSRLA strongly encourage participation by all disadvantaged groups, specific participation goals are negotiated with USEPA only for Minority Business Enterprises and Women's Business Enterprises.

4.02 As a condition of receiving capitalization grants from U.S. EPA for the Water Pollution Control Loan Fund (WPCLF) and the Water Supply Revolving Loan Account (WSRLA), the Ohio EPA negotiates “fair share” Disadvantaged Business Enterprises (DBE) objectives with U.S. EPA. The current negotiated goals for construction related activities are 1.3% of all contracts to MBEs and 1.0% of all contracts to WBEs.

ARTICLE 5 DISADVANTAGED BUSINESS ENTERPRISE (DBE) QUALIFICATIONS

5.01 Under the DBE program, qualified DBE’s are those that have been certified as an MBE or WBE. Certifications can be obtained from a federal agency such as the Small Business Administration or the Department of Transportation or by an approved State agency. The Unified Certification Program (UCP) administered by the Ohio Department of Transportation (ODOT) can provide the necessary DBE certifications. Information on the UCP can be found at www.ohioucp.org as well as the ODOT website www.dot.state.oh.us/divisions/equalopportunity/pages/dbe.aspx.

5.02 Applications for certification by EPA can be found on EPA’s Small Business Programs website at www.epa.gov/osbp under the Disadvantaged Business Enterprise Program link. If you have questions regarding EPA’s certification process you may contact Teree Henderson of EPA at 202-566-2222.

5.03 To qualify for MBE certification, businesses must be 51 percent owned and controlled by a U.S. citizen and Ohio resident belonging to an African-American, Native American, Hispanic, or Asian American ethnic group. In addition, the business must be in operation for at least one year prior to submitting an application.

5.04 For DBE status, a business must be at least 51 percent owned by a socially and economically disadvantaged person who participates in the daily operations of the business. This person must be a woman or of African-American, Hispanic, Native American, Asian-American ethnicity.

ARTICLE 6 DBE UTILIZATION GOOD FAITH EFFORTS

6.01 Prime Contractors who award subcontracts must follow, document, and maintain documentation of their good faith efforts as listed below to ensure that Disadvantaged Business Enterprises (DBEs) have the opportunity to participate in the project by increasing DBE awareness of procurement efforts and outreach.

A. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities; including DBEs on solicitation lists and soliciting them whenever they are potential sources.

B. 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 solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

C. Consider in the contracting process whether firms competing for large contracts could be subcontracted with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit participation by DBEs in the competitive process.

D. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

E. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce.

ARTICLE 7 DBE PROGRAM REPORTING REQUIREMENTS

7.01 In order to comply with the provisions of the DBE the Bidder and their Subcontractors shall:

A. Provide **Form 6100-4 – DBE Subcontractor Utilization Summary** as part of the Bidder's submittal. This form summarizes the Prime Contractor's intended use of identified DBE(s) and the estimated dollar amount of each subcontract. Only one Form 6100-4 form is required from each Prime Contractor. Bid submittals not including a fully executed copy of Form 6100-4 - DBE Subcontractor Utilization Summary may be deemed non-responsive.

B. Provide **Form 6100-3 - DBE Program Subcontractor Proposed Performance Form** as part of the Bidder's submittal. This form gives the DBE subcontractor the opportunity to report the scope and cost of the subcontract and it should be forwarded to the Prime Contractor along with the DBE's quote. Each subcontractor completes one Form 6100-3. Bid submittals not including executed copies of Form 6100-3 - DBE Program Subcontractor Proposed Performance Form for each individual DBE Program subcontractor identified on Form 6100-4 – DBE Subcontractor Utilization Summary may be deemed non-responsive.

C. Provide **Form 6100-2 - DBE Subcontractor Actual Participation Form** to all of its Disadvantaged Business Enterprise subcontractors. This form gives the DBE subcontractor the opportunity to describe the work the DBE received from the Bidder, the actual amount the DBE was paid and any other concerns the DBE might have. After the work has been completed, DBE subcontractors shall submit the completed Form 6100-2 directly to the Region 5 DBE Coordinator listed below.

Adrianne M. Callahan, Region 5 MBE/WBE Coordinator
USEPA, Acquisition and Assistance Branch
77 West Jackson Boulevard (MC-10J)
Chicago, IL 60604

D. During construction, provide the data necessary for the Owner to report MBE/WBE accomplishments on **Form 5700-52A** annually (within 15 days after each October 1st).

ARTICLE 8 AMERICAN IRON AND STEEL REQUIREMENTS

8.01 All treatment works projects funded by a WPCLF assistance agreement and all public water system projects funded by a WSRLA assistance agreement are required to comply with American Iron and Steel (AIS) requirements.

8.02 Bidders are required to complete, and submit with their Bid, the **American Iron and Steel Acknowledgement** to document their awareness of these requirements. The required form has been provided within the Project Manual.

8.03 Bid submittals not including a fully executed copy of the **American Iron and Steel Acknowledgement** may be deemed non-responsive.

8.04 Bidder shall refer to the AIS guidance document and questions and answers document incorporated following this section for additional information on these requirements.

END OF SECTION