



Environmental Facilities Corporation

NYS Environmental Facilities Corporation Disadvantaged Business Enterprise (DBE) Utilization Plan

Instructions for Contractors & Service Providers:

Contractors and Service Providers must complete Sections 2 and 3. **Submit the completed, signed (electronic signature box checked and dated) form to the Recipient's Minority Business Officer (MBO) no later than the date of contract execution.** Incomplete forms will be found deficient. If more than 10 subcontractors are used, additional pages for Section 3 can be obtained from EFC.

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

DBEs on this form may include disadvantaged firms certified by the [New York State Unified Certification Program \(NYSUCP\)](#), and disadvantaged firms certified by the Small Business Administration. In addition, the participation of DBEs will be credited according to the following requirements:

- Contractors cannot count the participation of a DBE who acts as a broker or passive conduit of funds without performing, managing, or supervising the work of its contract or subcontract in a manner consistent with normal business practices. If 50% or more of the total dollar amount of a DBE's prime contract or subcontract is subcontracted to a non-DBE, the DBE prime contractor or subcontractor will be presumed to be a broker.
- Contractors may count the participation of a DBE trucker/hauler only if the trucker/hauler is performing a "commercially useful function," according to the following factors:
 - The DBE must be responsible for the management and supervision of the entire trucking/hauling operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE objectives.
 - The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

See the [Mandatory Equivalency Terms and Conditions](#) or consult your designated MBO for further guidance.

Instructions for Minority Business Officers (MBO):

The MBO must complete Section 1. Email the completed, signed (electronic signature box checked and dated) form to your EFC Program Compliance Specialist.

The subject heading of the email to the EFC Program Compliance Specialist should follow the format "UP, Project Number, Contractor." EFC will review the Utilization Plan and email the MBO an acceptance or denial.

If the Utilization Plan will not meet or exceed the DBE fair share objective, then the good faith effort documentation noted in Section 4 must be submitted with this form.

**NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan**

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

| SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION | | | | |
|---|-------------|------------------|--|----------------------------|
| Firm Name: | | | Contract Type: <input type="checkbox"/> Construction <input type="checkbox"/> Other Services | |
| Is the Prime Firm certified as a DBE? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please include Prime information in Section 3. | | | | |
| Address: | | Phone #: | Fed. Employer ID #: | |
| Description of Work: | | | Email: | |
| Award Date: | Start Date: | Completion Date: | DBE Fair Share Objective | PROPOSED DBE Participation |
| Total Contract Amount: \$ DBE Eligible Contract Amount: \$ (DBE Fair Share Objectives are applied to this amount and includes all change orders, amendments, & specialty waivers) | | | Total: 20% \$ | Total: % \$ |
| <i>If fair share objectives are not met, documentation must be attached:</i> <input type="checkbox"/> No Participation <input type="checkbox"/> Short of the DBE Fair Share Objective | | | | |
| <input type="checkbox"/> Specialty Equipment/Services: must be of SIGNIFICANT cost – attach list of cost and type of equipment and good faith effort documentation | | | | |

**NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan**

| SECTION 3: DBE SUBCONTRACTOR INFORMATION | | | |
|--|---|---|--------------|
| This Submittal is: | | <input type="checkbox"/> The First/Original Utilization Plan <input type="checkbox"/> Revised Utilization Plan #: | |
| DBE Subcontractor Information | | Contract Amount | For EFC Use: |
| Business Name: | Fed. Employer ID#: | | |
| Address: | Phone #: | | |
| Scope of Work: | Email: | | |
| Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____ | Start Date: Completion Date: | | |
| Full Contract Amount \$ | | | |
| Business Name: | Fed. Employer ID#: | | |
| Address: | Phone #: | | |
| Scope of Work: | Email: | | |
| Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____ | Start Date: Completion Date: | | |
| Full Contract Amount \$ | | | |
| Business Name: | Fed. Employer ID#: | | |
| Address: | Phone #: | | |
| Scope of Work: | Email: | | |
| Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____ | Start Date: Completion Date: | | |
| Full Contract Amount \$ | | | |
| Business Name: | Fed. Employer ID#: | | |
| Address: | Phone #: | | |
| Scope of Work: | Email: | | |
| Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____ | Start Date: Completion Date: | | |
| Full Contract Amount \$ | | | |

**NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan**

| SECTION 3: DBE SUBCONTRACTOR INFORMATION continued | | | |
|--|---|--|--|
| Business Name: | Fed. Employer ID#: | | |
| Address: | Phone #: | | |
| Scope of Work: | Email: | | |
| Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____ | Start Date: Completion Date: | | |
| Full Contract Amount \$ | | | |
| Business Name: | Fed. Employer ID#: | | |
| Address: | Phone #: | | |
| Scope of Work: | Email: | | |
| Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____ | Start Date: Completion Date: | | |
| Full Contract Amount \$ | | | |
| Business Name: | Fed. Employer ID#: | | |
| Address: | Phone #: | | |
| Scope of Work: | Email: | | |
| Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____ | Start Date: Completion Date: | | |
| Full Contract Amount \$ | | | |
| Business Name: | Fed. Employer ID#: | | |
| Address: | Phone #: | | |
| Scope of Work: | Email: | | |
| Certifying Entity: <input type="checkbox"/> DOT in State of _____; or <input type="checkbox"/> SBA <input type="checkbox"/> Other (indicate entity): _____ | Start Date: Completion Date: | | |
| Full Contract Amount \$ | | | |

**NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan**

SECTION 4: GOOD FAITH EFFORT DOCUMENTATION

Utilization Plans that do not meet the Fair Share Objective must be accompanied by the documentation requested in numbers 1 – 7, as listed below. Specialty Equipment Exclusion requests must be accompanied by the documentation requested in number 8 – 12, as listed below. Specialty Services Exclusion requests must be accompanied by the documentation requested in number 13, as listed below. Please contact the MBO and/or EFC for assistance or to request sample documentation.

Provide the following:

1. A letter of explanation detailing the scope of work, DBE search results, and results of good faith efforts that were made.
2. A scope of work that shows what subcontracting opportunities are in the contract. This could be an engineering proposal, schedule of values, or other similar documents.
3. Screenshots of search results (using commodity codes) from [DBE Directories](#) of all certified DBEs that were solicited for purposes of complying with your DBE fair share objective. Each search should be saved as an individual file.
4. [A log of solicitation results](#), consisting of the list of DBE firms solicited for the contract and the outcome of the solicitations. The log should be broken out into separate areas for each task that is solicited (e.g., trucking, materials, electricians). The log should show that each firm was contacted twice by two different methods (e.g., email and phone); who was spoken to; what was said; and the final outcome of the solicitation.
5. List of the general circulation, trade association, and DBE oriented publications and dates of publication soliciting for certified DBE participation as a subcontractor/supplier and copies of such solicitations.
6. Description of the negotiations between the contractor and certified DBEs for the purposes of complying with the DBE goals of this contract.
7. Any other information deemed relevant to the request.

EFC and the MBO reserve the right to request additional information and/or documentation.

Documentation for Requests for Specialty Equipment Exclusions:

8. A letter of explanation containing information about the equipment, why the equipment is specialty and why no DBE firms could be utilized to provide the equipment.
9. Copies of the appropriate pages of the technical specification related to the equipment showing the choices for manufacturers or other information that limits the choice of vendor.
10. Letter, email, or screenshot of website from the manufacturer listing their distributors in NYS and the locations.
11. Screenshots of DBE Directory searches for the manufacturer and distributor showing that they are not found in the Directory.
12. An invoice or executed purchase order showing the value of the equipment.

**NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan**

Documentation for Requests for Specialty Service Exclusions:

13. A letter of explanation containing information about the scope of work and why no DBE firms could be subcontracted to provide that service.

SIGNATURE

Electronic Signature of Contractor: I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all DBE subcontractors will participate in subcontracts in accordance with the requirements of 40 CFR Part 33.

Name (Please Type):

Date: