

# NIAGARA FALLS WATER BOARD



## REQUEST FOR PROPOSALS (“RFP”) NO. 2020-01

### GRANT CONSULTANT: GRANT RESEARCH, WRITING, AND MANAGEMENT

**Deadline for Proposal Submissions:  
Wednesday, July 8, 2020 by 2:00 p.m. EST**

One (1) hard copy and one (1) electronic copy via CD or thumb drive of the proposal may be delivered to the authorized Water Board contact at the address designated below **OR** as an accommodation due to COVID-19, complete PDF copies of proposals with all required forms and documents may be emailed to the authorized Water Board contact listed below by the deadline indicated above and these will be kept confidential until the deadline. The Water Board cannot guarantee successful transmission or receipt of PDF files and proposers must limit total email size to under 20 megabytes. You may submit your proposal in multiple parts. If you do, please include a cover email indicating the number of parts you will submit. The Water Board contact will send an acknowledgement email on receipt of a proposal.

The deadline for receipt of written questions submitted to the authorized Water Board contact via email is **Monday, June 29, 2020** at 5:00 p.m. A written response to questions will be issued on or about July 1, 2020, by 5:00 p.m.

#### **AUTHORIZED WATER BOARD CONTACT:**

Proposing firms are advised that the Water Board’s designated contact person for all matters concerning this Request for Proposals is:

Sean W. Costello, General Counsel  
Niagara Falls Water Board  
5815 Buffalo Avenue  
Niagara Falls, New York 14304  
(716) 283-9770 x 2110  
[scostello@NFWB.org](mailto:scostello@NFWB.org)

**To receive updates regarding this RFP, email the authorized Water Board contact to ask to be placed on the distribution list for RFP No. 2020-01.**

## 1. Introduction

The Niagara Falls Water Board (“Water Board”) is issuing this request for proposals (“RFP”) seeking a grant consultant to assist with securing funding to improve its drinking water and wastewater treatment and collection systems and its efficiency in operating those systems. This RFP seeks a consultant with relevant experience and measurable success that will enhance the Water Board’s ability to secure grant funding to make improvements at a rate that would not be possible relying solely on the rates and fees it charges for water and wastewater services. The Water Board encourages creative proposals that will add value for Water Board ratepayers.

## 2. Timetable

The timetable for proposal submission and for submission of written questions is set forth on the cover page for this RFP. No in-person pre-proposal meeting currently is scheduled. The names of proposers whose electronic or sealed proposals were received by the deadline will be read aloud on a publicly-accessible conference call line immediately after the deadline for proposal submission. To listen live, dial (425) 436-6316 and enter access code 702193 on the date and time indicated as the deadline for proposal submissions. A list of proposers also will be posted to the Water Board’s website at <https://nfwb.org/reports/procurements/>.

It is anticipated that evaluation of proposals will be completed in July 2020, and that submission of a recommendation to award to the Board of Directors will be at the Water Board’s July 27, 2020 meeting. Proposing firms should be prepared to offer a brief presentation to the Board of Directors at their July 20, 2020 work session. The Water Board reserves the right to change any dates and deadlines at its sole discretion.

## 3. RFP Updates

The Water Board may, in its sole discretion, withdraw or modify this RFP in whole or in part, and may issue addenda in writing. The Water Board will use its best efforts to post updates to: <https://nfwb.org/reports/procurements/>. However, **to be certain to receive timely updates regarding this RFP, you must email the authorized Water Board contact to ask to be placed on the distribution list for RFP No. 2020-01.**

## 4. Background

The Water Board is a public benefit corporation created in 2002 by a special act of the New York State Legislature. Its mission is to provide safe and reliable water and wastewater management services to our community in an economical and efficient manner. In 2003, it acquired the drinking water, wastewater, and stormwater systems previously owned and operated by the City of Niagara Falls, a separate municipal entity.

The Water Board employs approximately 115 individuals in a variety of operational and administrative functions. It owns and operates a water treatment plant, a wastewater treatment plant, a pumping station located in the Niagara Gorge, two elevated water storage tanks, seven lift stations, and more than 500 miles of water and sewer service lines. The Water Board's vehicle fleet includes approximately 30 passenger vehicles, plus dump trucks, excavators, and other motorized equipment consistent with the nature of its operations. The Water Board relies on grants to assist in completing an extensive capital improvement plan. The grant consultant would be expected to assist in pursuing funding for projects necessary to maintain system integrity, such as water main replacements, and to address the replacement of major infrastructure throughout its treatment plants and collection system. One priority for the grant writer will be seeking funds to assist with the conversion of the Water Board's wastewater treatment plant to a biological treatment facilities, a project with an estimated capital cost in excess of \$188 million. The Water Board also would be interested in securing grants for technology upgrades, workforce training, engineering studies, etc.

In the past, the Water Board has pursued grant funding through the Environmental Facilities Corporation, Department of Environmental Conservation, Department of Homeland Security and Emergency Services, FEMA, and other sources. Programs through which the Water Board has sought funding include the Water Infrastructure Improvement Act, Intermunicipal Water Infrastructure Grants Program, Water Quality Improvement Project, Engineering Planning Grant Program, and more. The grant consultant should be fully familiar with these programs and should be prepared to make recommendations for additional grants.

## **5. Goal for this Request for Proposals**

The Water Board's primary objective for this RFP is to select the grant consultant that, for a reasonable fee, will help identify, write, and assist the Water Board with managing the maximum amount of grant funding to support its operations.

## **6. Proposal Scope**

This RFP is for a grant consultant to research, write, and assist with managing grants. The selected consultant will provide the following scope of services:

1. Act as the Water Board's consultant to seek and secure funding that will advance the Water Board's mission to provide safe and reliable water and wastewater management services to our community in an economical and efficient manner.
2. Gain an understanding of the Water Board's needs, through review of its capital improvement plan, communications with staff, and other appropriate means.
3. Research, seek, identify, and write Federal, State, private, and other grant proposals that are applicable to the Water Board.

4. Provide advice, based on experience and judgment, to the Water Board regarding which grant opportunities to pursue and which opportunities are not worthwhile (because of the size of the potential yield, not enough time to draft a quality proposal, etc.).
5. Develop strategies and provide and meet schedules for each identified grant, providing sufficient time for review of each application by Water Board staff prior to its submission.
6. Coordinate with Water Board staff or third parties as required to gather information required for applications.
7. Where appropriate, identify opportunities and collaborate on grant applications with other public and private entities in the region in order to obtain benefits for all participants.
8. Prepare well-written grant applications that are tailored to the opportunity (not generic cut-and-paste efforts), complete, and that meet all of the grantor's proposal requirements.
9. Assist the Water Board in identifying resources to help cover required local-share funds for grant programs, including, but not limited to, subsidized loan programs, matching support from other agencies, etc.
10. Provide technical assistance to Water Board staff regarding grant requirements.
11. Manage the process of submitting required post-award reports to funder(s) and assist the Water Board in meeting ongoing compliance requirements.
12. File required quarterly or other reports, or where more appropriate, monitor reporting deadlines and provide Water Board staff with the guidance required to file those reports.
13. Assist Water Board staff in preparing reimbursement requests that are in compliance with funder rules.
14. Disclose to the Water Board if the grant consultant is submitting a competing grant proposal for another client, in which case the Water Board shall have the right to make alternate arrangements for its own application.
15. Treat certain information learned during the engagement as confidential, for reasons that may include including preventing third parties from gaining unfair competitive advantages by learning details of Water Board plans or projects prior to their public release.

## **7. Included Services**

All proposers shall include the following services without additional charge:

1. Up to four hours for an initial meeting with Water Board staff for a needs and opportunities assessment and facilities tour.
2. Quarterly meetings (up to two hours) with Water Board executive staff to keep abreast of changing needs, initiatives, and plans, and to provide recommendations to staff regarding opportunities. Scheduling of quarterly meetings shall be initiated by the selected consultant and may be conducted via teleconference, at the discretion of the Executive Director.
3. The selected consultant must be prepared to deliver in-person reports on grant applications, success rates, and opportunities to the Board of Directors at up to two meetings per year.

## **8. Approach**

Proposals should describe consultant's approach to securing maximum grant funding. The proposal should make clear why the Water Board should select the consultant instead of one of its competitors. Highlight unique qualifications, experience, approach, background, added services, technologies, innovations, or other characteristics of your firm that make it the best choice.

## **9. Qualifications**

**As a mandatory minimum qualification, proposers must have been actively engaged in the business of providing grant researching, writing, and management services for at least the past two years.** Proposers are to provide a statement of qualifications meeting the requirements set forth in Appendix A. Proposers also must include in the statement of qualifications:

1. A description of their experience with grants for water or wastewater infrastructure, including a description of the specific grants for which proposer applied and the outcome of the applications;
2. The number of grants for which proposer applied in the past five years, and the percentage of those grants that were awarded;
3. A writing sample from a government grant application that was awarded. The sample should be five or fewer pages, and should not contain any sensitive, confidential, or proprietary information; and

4. At least four references, three of which must have knowledge of proposer's grant consultation work with a public entity.

If proposer intends to use subcontractors or sub-consultants to perform more than 10% of the work that is the subject of this RFP, proposer must include details regarding the sub-consultant or subcontractor's qualifications. At a minimum, the proposal must include information regarding the sub-consultant or subcontractor's business structure, experience, and resumes or other materials detailing the qualifications of key personnel.

#### **10. Opportunities for Minority and Women-Owned Business Enterprises (MWBE) and Service-Disabled Veteran-Owned Businesses (SDVOB)**

The Consultant awarded an agreement as a result of this RFP will be required to utilize New York State Minority and Women Owned Business Enterprises at the following percentage based on Niagara Falls Water Board policy: **MWBE – 30%**. Required forms and Water Board MWBE program requirements and procedures are made part of this RFP as Appendix B.

Offering subcontracting opportunities to New York State Certified Service-Disabled Veteran-Owned Businesses (SDVOB) also is highly encouraged. No SDVOB goals are assigned to this procurement because Water Board staff did not identify any SDVOB grant writing firms in a search of the State's database. If proposer will use any SDVOB, please be sure to note the firm's SDVOB status in the proposal.

#### **11. Financial Terms and Project Plans**

##### **1. Hourly fee or monthly retainer.**

The Water Board will entertain proposals for services on an hourly or monthly-retainer basis, the amount of which shall be clearly set forth in the proposal. Proposals may offer both options.

If consultant proposes to provide services on an hourly basis, provide a fee schedule and a proposed annual not-to-exceed figure for the Water Board's approval. Where services will be provided on an hourly basis, no work shall begin on a grant application without prior approval of a project plan by the Water Board's Executive Director. This project plan will outline the grant opportunity, the estimated number of hours to complete the grant application, and the Water Board resources that will be required to complete the grant application. Consultant's services shall be billed monthly.

##### **2. Additional costs.**

Proposals should detail any other costs or fees that will be charged to the Water Board, such as duplication, postage, telephone, research, travel, etc. If proposer

contemplates the use of subcontractors, explain the anticipated use and detail markup to be charged on subcontractor costs. Travel costs associated with attending grantors' application workshops must be pre-approved by the Executive Director in order to be eligible for reimbursement.

## **12. Term**

The Water Board anticipates the initial term of its agreement with consultant will be one year from the date of award. Proposals may include cost proposals for up to three one-year renewal periods. The consultant will be responsible for sending a letter request for renewal 60 days prior to the term's expiration.

## **13. Evaluation Criteria**

All proposals received will be evaluated by a team of Water Board staff. Proposals must contain sufficient information to be evaluated based on the following criteria:

- Responsiveness to the RFP (10 possible points);
- Qualifications of the individuals who will perform the services (10 possible points);
- Experience and references (10 possible points);
- Situational understanding, including familiarity with water and wastewater system grant opportunities (20 possible points);
- The degree of participation by Minority or Women Owned Business Enterprises (10 possible points); and
- Cost competitiveness (10 possible points).

Total Possible Points: 70

RFP DATED: June 17, 2020

## APPENDIX A

### **NFWB REQUEST FOR PROPOSALS (“RFP”) TERMS, CONDITIONS, AND REQUIREMENTS**

Except as otherwise may be agreed to in writing, the following terms, conditions, and requirements shall form a part of any contract between the Niagara Falls Water Board and a proposer that responds to the Request for Proposals (“RFP”):

#### **A. Statement of Qualifications and Key Personnel**

Proposers must submit a statement of qualifications that includes the following:

1. Business structure;
2. Years in business;
3. Any other names under which bidder has done business in the past 10 years;
4. List all subsidiary and parent companies;
5. List proposer’s physical locations and the type of each location (i.e. regional headquarters, primary office, warehouse, etc.);
6. State whether proposer ever has been:
  - Debarred or suspended by any government entity from entering contracts with it;
  - Found not responsible by any government entity;
  - Declared in default or terminated for cause from any contract, or had any contract cancelled for cause; or
  - Required to pay liquidated damages on a contract.
7. State whether proposer has filed for bankruptcy or been the subject of an involuntary bankruptcy proceeding;
8. State whether proposer has been a party to any legal action or government investigation related to proposer’s business practices, or alleging that any of proposer’s agents or employees committed any act of fraud, collusion, bid rigging, price fixing, or bribery. If proposer, any of proposer’s principals, or any of proposer’s agents has pleaded guilty or entered into a consent order with respect allegations of any of these, provide details;
9. Licensing, if relevant to the work required by the contract;
10. Describe proposer’s experience with providing similar services to those required by the contract along with project descriptions (including contact information for references);
11. Description of key personnel for this contract, including the number of accounts/clients served and their principal business location, **noting any key personnel who are not W-2 employees of or partners in the bidding entity**; and
12. Any other pertinent information that will help to demonstrate proposer’s qualifications to perform.

The selected proposer will be required to commit the key personnel named in the statement of qualifications to the Water Board’s project throughout the period of the agreement. No diversion or substitution of key personnel will be allowed without submission of a written request with the qualifications and experience of the proposed replacement, and the Executive Director’s agreement in writing to the substitution.

If the Water Board determines that the legal authority, integrity, experience, ability, prior performance, organization, financial capacity and/or facilities of proposer are not satisfactory, the Water Board may reject the proposal or terminate the contract.



## **B. Insurance**

Proposer shall be required to procure and maintain at its own expense and without expense to the Niagara Falls Water Board, insurance for liability for damages imposed by law, of the kinds and amounts hereinafter provided, from insurance companies authorized to do business in the State of New York covering all operations under any contract that results from this RFP, whether performed by the proposer or its subcontractors. Before proceeding with any work under the contract that may result from this proposal, the successful proposer shall furnish to the Niagara Falls Water Board Certificate of Insurance form(s) and relevant insurance policy declarations and endorsements satisfactory to the Water Board exhibiting compliance with this paragraph and providing that the policies shall not be changed or canceled until thirty (30) days written notice has been given to the Niagara Falls Water Board. The types and limits of insurance shall be as follows:

1. Workers Compensation as required by Law (submit Form C-105.2);
2. Disability Benefits as required by Law (submit Form DB-120.1);
3. Employer's Liability with a minimum limit of \$100,000;
4. Commercial General Liability insurance: Bodily, Personal Injury, and Property Damage Liability limits each of at least \$1,000,000 per occurrence. **Additional standard requirements have been waived for this procurement.**
5. Automobile Liability: \$1,000,000 single limit; and
6. Umbrella/Excess Liability: **Standard requirement waived for this procurement.**
7. Professional Liability/Errors and Omissions: \$2,000,000 (identified as a claim made or an occurrence policy) (required only if professional services are to be performed pursuant to the contract).

Certificates, declarations, and endorsements should be made to the Niagara Falls Water Board, 5815 Buffalo Avenue, Niagara Falls, NY 14304.

The Niagara Falls Water Board, the Niagara Falls Public Water Authority, and the City of Niagara Falls, New York shall be named as an Additional Insureds, for both Ongoing and Completed Operations on a primary and non-contributory basis, on the Liability (General Liability, Auto Liability and Excess Liability ) Policies (except for professional liability) with the following provision: The insurance company or companies issuing the policies shall have no recourse against the Niagara Falls Water Board or the Niagara Falls Public Water Authority for payment of any premiums or for assessments under any form of policy.

In the event that the proposer requires any subcontractor to procure insurance with regard to any of the operations under the contract resulting from this RFP and requires such subcontractor to name the proposer as an additional insured under such insurance, the proposer shall ensure that such policy names the Water Board, Niagara Falls Public Water Authority, and their officers and employees as additional insureds.

### **C. Indemnification and Waiver of Subrogation**

The successful proposer, to the full extent permissible by New York law, must agree to indemnify and hold the Niagara Falls Water Board, its Directors, Officers, and Employees harmless against all loss, cost, or damage, on account of injury to person or damage to property as a result of any action or inaction of the proposer or its representatives or agents or subcontractors in performance of the contract resulting from this RFP and against all fines, penalties any other losses which the Niagara Falls Water Board shall be obliged to pay or incur in connection with the performance of the work under the contract.

The successful proposer also must agree to waive all rights against the Water Board, including its officials and employees, for any damages or losses that are covered under any insurance required by this appendix or in the resulting contract, or any other insurance applicable to the operations of the proposer and/or its subcontractors in the performance of the contract.

### **D. Independent Contractor and Identification of Subcontractors**

The successful proposer and its employees will operate as an independent contractor and are not considered Water Board employees. Proposer must identify its subcontractors, if any, in its proposal, but award of a contract shall not create any relationship between the subcontractors and Water Board, and proposer shall be responsible for the entire contract. The Water Board shall have the right to reject any proposed subcontractors.

### **E. Successors and Assigns**

Any contract resulting from this RFP shall inure to the benefit of and be binding upon the legal representatives and successors of the parties, respectively, but the successful proposer may not assign the contract without the Water Board's written permission.

### **F. Exemption from Sales Tax**

The Water Board is exempt from state and local fees, taxes, franchise taxes, sales taxes, or other excise taxes. Proposals shall not include any such taxes or fees.

### **G. Freedom of Information Law – Claim of Confidential, Proprietary, or Trade Secret Information**

The Water Board is subject to the provisions of the Freedom of Information Law ("FOIL"), N.Y. Public Officers Law, Sections 84 through 90, relating to public access to agency records. The proposer shall specifically identify any portions of the documents submitted with the proposal deemed to be confidential, proprietary information, or trade secrets and provide any justification why such material, upon request, should not be disclosed by the Water Board. The top of each page containing such information must be clearly marked in bold type **"PROPOSER BELIEVES THAT THIS INFORMATION IS PROTECTED FROM DISCLOSURE UNDER THE STATE FREEDOM OF INFORMATION LAW."** Such information deemed by the proposer to be confidential/proprietary shall be easily separable from the non-confidential/non-proprietary sections of the proposal.

The Water Board accepts no responsibility for disclosure of information designated as exempt from disclosure, but the Board does intend to evaluate, on a case-by-case basis, whether exemption from disclosure applies when a FOIL request is made to the Water Board for examination of such a document. Proposers should be aware that any and all terms of their respective proposals may be the subject of discussion at Board of Directors meetings that are open to the public.

#### **H. General Conditions of RFP**

The issuance of this RFP does not commit the Water Board to award a contract or to pay any costs incurred by proposers in the preparation of proposals or for any work performed in connection therewith. In addition, the Water Board reserves the following rights:

1. To postpone or cancel this RFP;
2. Reject any or all proposals received in response to this RFP;
3. Award a contract without any discussion with proposers;
4. Retain a successful proposer for only a portion of the scope of services;
5. Accept a proposal other than the proposal offering the lowest price;
6. Waive or modify any irregularities in proposals received;
7. Consider proposals or modifications received at any time before the award is made, if such is in the best interest of the Board;
8. Request clarification and/or additional information from the proposers during the evaluation process; and
9. Utilize any and all ideas submitted in the proposals received, unless those ideas are covered by legal patent or proprietary rights and the patent or proprietary rights are clearly and specifically set forth in the proposal.

#### **I. Proposal Firm and Irrevocable for 90 Days**

A signed proposal shall be considered a firm offer on the part of the proposer, and the Water Board may insist on the strict performance of all elements of the proposal, unless the Water Board specifically waives a proposal element in writing during negotiations. By submitting a proposal, proposer agrees that its offer is firm for a period of 90 days from the deadline for proposal submissions, as may be amended or extended by way of an addendum to this RFP.

#### **J. Oral Presentations or Interviews**

Prior to award, one or more proposers may, in the sole discretion of the Niagara Falls Water Board, be invited to offer a presentation to Water Board staff and/or to the Board of Directors. The authorized Water Board contact will schedule the time and location of these presentations. Proposer shall bear all of its own costs for any such presentations or interviews.

## **K. Contract Negotiations; Non-Exclusive Right to Perform Services**

Upon selection, the successful proposer may be invited to negotiate a contract with the Water Board, though the Water Board reserves the right to award a contract on the basis of the initial offers received, without discussions. Therefore, each initial offer should contain the proposer's best terms from a technical and cost standpoint.

The Water Board reserves the right to enter into discussions/negotiations with one or more proposers and to request the submission of best and final offers from those proposers, who after the conclusion of such discussions/negotiations, still are under consideration for award. No proposer shall have any rights against the Water Board arising from an invitation to enter into discussions/negotiations or to submit a best and final offer.

Unless otherwise agreed, the contents of the selected proposal and any modifications agreed upon in writing during negotiations, together with the RFP, will be incorporated into and made part of the final contract. The contract will be deemed to include such additional terms and conditions which may be required by law. Should negotiations fail to result in a signed contract within a reasonable period of time as defined by the Water Board, the Water Board reserves the right to terminate negotiations and select another proposer, issue a new RFP, or take any other action consistent with the best interests of the Water Board.

The contract awarded shall be on a non-exclusive basis unless otherwise agreed. The Water Board retains the right to utilize other vendors that provided the same or similar services for particular projects when, in its sole discretion, such use is in the best interests of the Water Board or required as a result of a potential conflict of interest between the interest of the awardee and the Water Board.

## **L. Exceptions to RFP**

The contract to be entered into shall include the requirements of this RFP among its terms and conditions, with such changes to which the Water Board may agree. Submission of a proposal constitutes consent to these terms and conditions. Any exceptions must be explicitly stated in the proposal and separately listed in a separate attachment to the body of the proposal entitled "Exceptions." Failure to list exceptions separately in the "Exceptions" attachment shall be deemed to constitute consent to all such terms and conditions herein and shall constitute a binding waiver by the proposer of all exceptions not listed. A general exception or reservation to the legal or technical terms and conditions shall be deemed a nullity and may also result in the Water Board rejecting the proposal as non-responsive.

## **M. Rely Only Upon Formal Information**

1. The Water Board shall not be bound by any oral or written information released prior to the issuance of the RFP.
2. The Water Board shall not be bound by any oral or written representations, statements, or explanations other than those made herein, in Water Board written responses to proposer inquiries, or in formal written addenda to this RFP.

## **N. Questions Regarding the RFP**

1. All inquiries regarding this RFP shall be emailed to the authorized Water Board contact by the date and time indicated on the cover page of this RFP. The subject line for such inquiries should indicate the RFP name and number.
2. Compiled questions and responses usually will be posted on the Water Board's website at <https://nfwb.org/reports/procurements/> on or after the date indicated on the cover page of the RFP, but to receive these responses as early as possible, you must email the authorized Water Board contact to ask to be placed on the distribution list for this RFP.

## **O. Addenda to the RFP**

3. The Water Board shall issue responses to inquiries related to substantive issues and any other corrections or amendments to the RFP that it deems necessary prior to the proposal due date in the form of written addenda. Such addenda usually will be posted on the Board's website: <https://nfwb.org/reports/procurements/>, and the Water Board will use its best efforts to send copies to those who have asked to be placed on the distribution list for this RFP.
4. It is the proposer's responsibility to assure receipt of all addenda. The proposer should verify with the authorized Water Board contact prior to submitting a proposal that all addenda have been received. Proposers shall acknowledge the number of addenda received as part of their proposals using this Appendix's Form No. 1.

## **P. Proposal Package Submission Requirements**

1. **See special instructions on the cover page of this RFP.**
2. Proposal packages are due on or before the proposal due date and time at the location set forth on the cover page of this RFP.
3. If a sealed proposal is submitted, only one original copy of each of the appendices requiring a signature is required, which may be submitted only as part of the paper original proposal and need not be included in the electronic copy of the proposal.
4. The sealed outer envelope enclosing any materials submitted in response to this RFP shall be addressed to the Water Board contact set forth on the cover page of this RFP. The outer envelope containing the proposal materials must clearly indicate the proposer's name and address, and must clearly be marked with the RFP number and title from the cover page of the RFP.
5. Proposals may be hand delivered. Proposers shall be responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the information required in item "4" above, appears on the outer envelope used by such service.

## **Q. Non-Discrimination and Prohibition Against Sexual Harassment**

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the proposer will not discriminate against any employee or applicant

for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, or marital status. By submitting a proposal, proposer agrees that it shall submit an Equal Employment Opportunity (“EEO”) Policy Statement to the Water Board containing at a minimum the terms therefore as set forth in this Appendix’s Form No. 4.

By submission of this proposal, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that the proposer has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law. The proposal must include the Statement on Sexual Harassment form at this Appendix’s Form No. 5.

#### **R. Iran Divestment Act**

By submitting a proposal in connection with this RFP or by assuming the responsibility of a contract awarded hereunder, proposer certifies in accordance with State Finance Law §165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerors pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>. Proposer further certifies that it will not utilize in connection this contract any subcontractor that is identified on the Prohibited Entities List.

#### **S. International Boycott Prohibition**

In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, that by submitting a proposal or by assuming the responsibility of a contract awarded hereunder, proposer agrees, as a material condition, that neither the proposer nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If proposer, or any of the aforesaid affiliates of proposer, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the proposer’s execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The proposer shall so notify the State Comptroller within five (5) business days of such conviction, determination, or disposition of appeal (2 NYCRR 105.4).

#### **T. MacBride Fair Employment Principles**

In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), by submitting a proposal or by assuming the responsibility of a contract

awarded hereunder the proposer hereby stipulates that the proposer either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

#### **U. Conflicts of Interest and Prohibition on Political and Religious Activity**

By submitting a proposal or by assuming the responsibility of a contract awarded hereunder, proposer stipulates that, upon information and belief, no member of the governing body of the Water Board, or officer or employee of the Water Board, forbidden by Law, is interested in, will derive benefit from, or will be a party to, the contract between proposer and the Water Board. Proposer warrants that no payment, gift, or thing of value has been or will be made, given, or promised any Director, Officer, or Employee of the Water Board, or any member of the immediate family of any Director, Officer, or Employee of the Water Board (spouse, parent, sister, brother, or child) to obtain this or any other agreement between the parties. Proposer agrees that its provision of services under any contract that may result from this RFP shall not include any partisan political activity or any activity to further the election or defeat of any candidate for public, political, or party office, nor shall any of the funds provided under any contract that may result from this RFP be used for such purposes. The proposer further agrees that if awarded an agreement as a result of this RFP, there shall be no religious worship, instruction, or proselytizing as part of or in connection with the proposer's provision of services under that contract, nor shall any of the funds provided under this agreement be used for such purposes.

#### **V. Non-Collusion**

Proposer must submit a signed statement of non-collusion on the form that is this Appendix's Form No. 2.

#### **W. Communication with Water Board and Lobbying Law.**

Proposers are advised that, from the date this RFP is issued until the award of the contract, no contact by proposers or their agents with the Water Board or Water Board personnel related to this RFP is permitted, except as shall be authorized by the authorized Water Board contact indicated on the cover page of this RFP.

Pursuant to State Finance Law Sections 139-j and 139-k, this RFP includes and imposes certain restrictions on communication between respondents and the Water Board during the procurement process. A respondent is restricted from making contacts from the date the RFP is issued through the final contract award by Water Board (the "Restricted Period"). During the Restricted Period, respondents may only contact the designated contact regarding this RFP. The designated contact is identified on the cover page of this RFP. Respondents are responsible for complying with State Finance Law Sections 139-j and 139-k. Directors, officers, and employees of the Water Board are required to record certain information when contacted

during the Restricted Period. A review of whether such contacts were permissible contacts will be considered in connection with any determination of responsibility of the respondent. Failure of any respondent to timely certify or to disclose accurate and complete information or the submission of any intentionally false or intentionally incomplete certification may result in the rejection of the contract award or if such contract has been executed, then the immediate termination of the contract. Violations may result in debarment of the respondent from proposing on or obtaining governmental procurement contracts in the State of New York.

Proposers are required to complete and return with their proposal this Appendix's Form No. 3, New York State Finance Law Sections 139-j and 139-k ("Lobbying Law") — Disclosure Statement.

## **X. Records.**

The proposer shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under the contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the Water Board and its representatives, shall have access to the Records during normal business hours at an office of the proposer within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The Water Board shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the proposer shall timely inform an appropriate Water Board official, in writing, that said Records should not be disclosed; and (ii) said Records shall be sufficiently identified; and (iii) designation of said Records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the Water Board's right to discovery in any pending or future litigation.

## **Y. Compliance with Breach Notification and Data Security Laws**

Proposer shall comply with the provisions of the New York State Information Security Breach and Notification laws, General Business Law §§ 899-aa and 899-bb and State Technology Law § 208.

## **Z. Workforce Reporting**

Per New York Executive Law and Executive Order Number 162, proposer and any of its subcontractors shall submit a quarterly Workforce Employment Utilization Report in the format provided by the Water Board reflecting the entirety of proposer and its subcontractors' workforces performing work on this contract and located within New York State, as well as the salaries of any such employees.

## **AA. Termination**

1. For Cause: For a material breach that remains uncured for more than thirty (30) days or other specified period after written notice to the proposer, the contract may be terminated by the Water Board at the proposer's expense where proposer becomes unable or incapable of performing, or meeting any requirements or qualifications set



forth in the contract, or for nonperformance, or upon a determination that proposer is nonresponsible. Such termination shall be upon written notice to the proposer. In such event, the Water Board may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

2. For Convenience: By written notice, this contract may be terminated at any time by the Water Board for convenience upon thirty (30) days written notice and without penalty or other early termination charges due. Such termination of the contract shall not affect proposer's right to recover for any work performed or materials acquired under the contract prior to the date of such termination, provided that proposer cancels, prior to the effective date of the termination, as many outstanding obligations as possible and agrees not to incur any new obligations after receipt of the notice of termination without approval by the Water Board. If the contract is terminated pursuant to this subdivision, the Water Board shall remain liable for all accrued but unpaid charges incurred through the date of the termination. Proposer shall use due diligence and provide any outstanding deliverables.
3. For Violation of the Sections 139-j and 139-k of the State Finance Law: The Water Board reserves the right to terminate the contract in the event it is found that the certification filed by the proposer in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the Water Board may exercise its termination right by providing written notification to the proposer.

#### **BB. Governing Law and Venue**

These terms and conditions and the contract shall be governed by the laws of the State of New York. Each of the parties to these terms and conditions and the contract submits to the exclusive jurisdiction and venue of the State and Federal courts located in Niagara County, New York, or if the required Federal courts are not located in Niagara County, to the Federal courts located in Erie County, New York.

#### **CC. Service of Process and Notices**

In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), proposer hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon proposer's actual receipt of process or upon the Water Board's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Proposer must promptly notify the Water Board, in writing, of each and every change of address to which service of process can be made. Service by the Water Board to the last known address shall be sufficient. Proposer will have thirty (30) calendar days after service hereunder is complete in which to respond. A copy of all notices to the Water Board shall be provided to: Legal Department, Niagara Fall Water Board, 5815 Buffalo Avenue, Niagara Falls, NY 14304.

#### **DD. No Waiver of Rights**

No failure or delay (in whole or in part) on the part of either party hereto to exercise any right or remedy hereunder shall impair its ability to later exercise any such right or remedy, operate as a waiver thereof, or affect any other rights or remedies that may be available under the law or in equity, except to the extent it causes actual prejudice to the other party. No waiver by either party of any covenant, condition, term or provision of the contract shall be

deemed to have been made by that party unless such waiver is in writing and signed by an authorized representative of the party.

**APPENDIX A, FORM No. 1**

**ACKNOWLEDGEMENT OF ADDENDA**

RFP TITLE: RFP NO. 2020-01 – GRANT CONSULTANT: GRANT RESEARCH,  
WRITING, AND MANAGEMENT

DIRECTIONS: Complete Part I or Part II, whichever is applicable.

PART I: LISTED BELOW ARE THE DATES OF ISSUE FOR EACH  
ADDENDUM RECEIVED IN CONNECTION WITH THIS RFP:

ADDENDUM # 1: DATED \_\_\_\_\_ , 20\_\_

ADDENDUM # 2: DATED \_\_\_\_\_ , 20\_\_

ADDENDUM # 3: DATED \_\_\_\_\_ , 20\_\_

ADDENDUM # 4: DATED \_\_\_\_\_ , 20\_\_

ADDENDUM # 5: DATED \_\_\_\_\_ , 20\_\_

ADDENDUM # 6: DATED \_\_\_\_\_ , 20\_\_

PART II: \_\_\_\_\_ INITIAL HERE IF NO ADDENDUM WAS RECEIVED  
IN CONNECTION WITH THIS RFP INITIAL HERE

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PROPOSER (SIGNATURE): \_\_\_\_\_

PROPOSER (NAME): \_\_\_\_\_

PROPOSER (FIRM): \_\_\_\_\_

Notary Public

## **APPENDIX A, FORM No. 3**

### **NEW YORK STATE FINANCE LAW SECTIONS 139-j AND 139-k (“LOBBYING LAW”) – DISCLOSURE STATEMENT**

RFP NO. 2020-01 – GRANT CONSULTANT: GRANT RESEARCH, WRITING,  
AND MANAGEMENT

#### **General Information**

All procurements by the Niagara Falls Water Board (“NFWB”) in excess of \$15,000 annually, are subject to New York State’s State Finance Law Sections 139-j and 139-k, effective January 1, 2006 (“Lobbying Law”).

Pursuant to the Lobbying Law, all “contacts” (defined as oral, written or electronic communications with the NFWB intended to influence a procurement) during a procurement - from the earliest notice of intent to solicit bids/proposals through final award and approval - must be made with one or more designated Point(s) of Contact only. Exceptions to this rule include written questions during the bid/proposal process, communications with regard to protests, contract negotiations, and RFP conference participation. Nothing in the Lobbying Law inhibits any rights to make an appeal, protest, or complaint under existing administrative or judicial procedures.

Violations of the policy regarding permissible contacts must be reported to the appropriate NFWB officer and investigated accordingly. The first violation may result in a determination of non-responsibility and ineligibility for award to the violator and its subsidiaries, affiliates, and related entities. The penalty for a second violation within four (4) years is ineligibility for bidding/proposing on a procurement and/or ineligibility from being awarded any contract for a period of four (4) years. The NFWB will notify the New York State Office of General Services (“OGS”) of any determinations of non-responsibility or debarments due to violations of the Lobbying Law. Violations found to be “knowing and willful” must be reported to the NFWB Executive Director and OGS.

Moreover, the statutes require the NFWB to obtain certain affirmations and certifications from bidders and proposers. This Disclosure Statement contains the forms with which offerors are required to comply, together with additional information and instructions.

#### **Instructions**

New York State Finance Law §139-k(2) obligates the NFWB to obtain specific information regarding prior non-responsibility determinations. In accordance with New York State Finance Law §139-k, an offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any governmental entity due to: (a) a violation of New York State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a governmental entity.

As part of its responsibility determination, New York State Finance Law §139-k(3) mandates consideration of whether an offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no procurement contract shall be awarded to any offerer that fails to timely disclose accurate or complete information under this section, unless the factual elements of the limited waiver provision can be satisfied on the written record.

**Disclosure of Prior Non-Responsibility Determinations**

**Name of Bidder/Proposer:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Name and Title of Person**

**Submitting this Form:** \_\_\_\_\_

**Has any governmental entity<sup>1</sup> made a finding of non-responsibility regarding the Bidder/Proposer in the previous four years?**

\_\_\_\_\_ **Yes** \_\_\_\_\_ **No**

**If yes: Was the basis for the finding of the Bidder's/Proposer's non-responsibility due to a violation of State Finance Law §139-j?**

\_\_\_\_\_ **Yes** \_\_\_\_\_ **No**

**Was the basis for the finding of Bidder's/Proposer's non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?**

\_\_\_\_\_ **Yes** \_\_\_\_\_ **No**

**If yes to any of the above questions, provide details regarding the finding of non-responsibility below:**

**Governmental Entity:** \_\_\_\_\_

**Year of Finding of Non-responsibility:** \_\_\_\_\_

**Basis of Finding of Non-Responsibility (attach additional pages if necessary):** \_\_\_\_\_

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**Has any governmental entity terminated or withheld a procurement contract with the Bidder/ Proposer due to the intentional provision of false or incomplete information?**

\_\_\_\_\_ **Yes**    \_\_\_\_\_ **No**

If yes, provide details regarding the termination/withholding below:

Governmental Entity: \_\_\_\_\_

Year of Termination/Withholding:\_\_\_\_\_

Basis for Termination/Withholding (attach additional pages if necessary):

[illegible]

## NOTICE OF NFWB'S RIGHT TO TERMINATE

**The NFWB reserves the right to terminate a Contract (including any lease, license, entry permit, or sale documents) in the event it is found that the certification filed by the Proposer, in accordance with New York State Finance Law §139-k, was intentionally false or intentionally incomplete. Upon such finding, the NFWB may exercise its termination right by providing written notification to the Bidder/Proposer in accordance with the written notification terms of the Contract.**

### Proposer's Affirmation and Certification

By signing below, the Proposer:

- a) Affirms that the Proposer understands and agrees to comply with the policy regarding permissible contacts in accordance with New York State Finance Law Sections 139-j and 139-k.
- b) Certifies that all information provided to the NFWB with respect to New York State Finance Law §139-j and §139-k is complete, true, and accurate.

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PROPOSER (SIGNATURE): \_\_\_\_\_

PROPOSER (NAME): \_\_\_\_\_

PROPOSER (FIRM): \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_, as a representative of \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the entity on behalf of which the individual acted executed the instrument.

\_\_\_\_\_  
Notary Public



## **APPENDIX A, FORM No. 4**

### **EQUAL EMPLOYMENT OPPORTUNITY (“EEO”) POLICY STATEMENT AND AGREEMENT**

RFP NO. 2020-01 – GRANT CONSULTANT: GRANT RESEARCH, WRITING,  
AND MANAGEMENT

Proposer hereby agrees to the following EEO policy with respect to its work on any contract awarded in connection with this RFP:

- a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on Niagara Falls Water Board (“Water Board”) contracts.
- b) This organization shall state in all solicitations or advertisements for employees that in the performance of the Water Board contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, disability or marital status.
- c) At the request of the Water Board, this organization shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization’s obligations herein.
- d) This organization shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Proposer and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, pregnancy or pregnancy-related conditions, gender identity, familial status, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
- e) This organization will include the provisions of section (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Water Board contract.

#### **ACCEPTED AND AGREED:**

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PROPOSER (SIGNATURE): \_\_\_\_\_

PROPOSER (NAME): \_\_\_\_\_

PROPOSER (FIRM): \_\_\_\_\_

**STATEMENT ON SEXUAL HARASSMENT  
PURSUANT TO STATE FINANCE LAW § 139-1**

By submission of this proposal, proposer(s) and each person signing on behalf of any proposer certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that the proposer has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

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Notary Public

**APPENDIX A, FORM No. 6**

**REQUEST FOR PROPOSALS  
ACKNOWLEDGEMENT AND CERTIFICATION**

As a duly-authorized representative of the proposer indicated below, I hereby acknowledge that by submitting a proposal in connection with RFP NO. 2020-01 – GRANT CONSULTANT: GRANT RESEARCH, WRITING, AND MANAGEMENT, proposer has made a firm offer and agrees to be bound by its terms. Proposer has carefully read the RFP and all addenda, and in submitting this proposal acknowledges proposer understands and agrees to be bound by the requirements set forth in the RFP, except as explicitly stated on a separate sheet attached to this proposal and entitled “Exceptions.”

I recognize that all information submitted is for the express purpose of inducing the Water Board to enter a contract with the submitting business entity. I affirm, under the penalties of perjury, that to the best of my knowledge the information contained in the proposal is full, complete, and truthful.

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PROPOSER (SIGNATURE): \_\_\_\_\_

PROPOSER (NAME): \_\_\_\_\_

PROPOSER (FIRM): \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for said state, personally appeared \_\_\_\_\_ as a representative of \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the entity on behalf of which the individual acted executed the instrument.

\_\_\_\_\_  
Notary Public

## **Appendix B – MWBE Requirements and Procedures**

### **PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES**

#### **I. General Provisions**

- A. The Niagara Falls Water Board ( NFWB) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”) for all State contracts, as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to NFWB to fully comply and cooperate with NFWB in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State-certified minority and women-owned business enterprises (“MWBEs”). The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state, and local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the assessment of liquidated damages pursuant to Section VII of this Appendix and such other remedies are available to NFWB pursuant to the Contract and applicable law.

#### **II. Contract Goals**

- A. Unless other goals have been set by this Contract, NFWB hereby establishes an overall goal of 30% for MWBE participation, 12% for New York State-certified minority-owned business enterprise (“MBE”) participation and 18% for New York State-certified women-owned business enterprise (“WBE”) participation (collectively, “MWBE Contract Goals”) based on the current availability of MBEs and WBEs.
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of MWBEs at the following internet address:  
<https://ny.newnycontracts.com>.

Additionally, the Contractor is encouraged to contact the Division of Minority and Women’s Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Contract.

## **Appendix B – MWBE Requirements and Procedures**

- C. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the applicable MWBE participation goal. [FOR CONSTRUCTION CONTRACTS – The portion of a contract with an MWBE serving as a supplier that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the contract. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE]. [FOR ALL OTHER CONTRACTS - The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract]
- D. The Contractor must document “good faith efforts,” pursuant to 5 NYCRR § 142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. Such documentation shall include, but not necessarily be limited to:
1. Evidence of outreach to MWBEs;
  2. Any responses by MWBEs to the Contractor’s outreach;
  3. Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
  4. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by NFWB with MWBEs; and,
  5. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE participation.

### **III. Equal Employment Opportunity (“EEO”)**

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.
- B. In performing the Contract, the Contractor shall:
1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

## **Appendix B – MWBE Requirements and Procedures**

2. The Contractor shall submit an EEO policy statement to NFWB within seventy-two (72) hours after the date of the notice by NFWB to award the Contract to the Contractor.
3. If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, NFWB may require the Contractor or subcontractor to adopt a model statement).
4. The Contractor's EEO policy statement shall include the following language:
  - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
  - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
  - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
  - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

### **C. Staffing Plan**

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the staffing plan form and submit it as part of their bid or proposal or within a reasonable time, as directed by NFWB.

### **D. Workforce Utilization Report**

1. The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by NFWB on a MONTHLY basis during the term of the Contract. Due by

## **Appendix B – MWBE Requirements and Procedures**

- the 10<sup>th</sup> day of each month to the Administrative Services Department.
2. Separate forms shall be completed by the Contractor and any subcontractors.
  3. Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.
- E. The Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

### **IV. MWBE Utilization Plan**

- A. The Contractor represents and warrants that the Contractor has submitted an MWBE Utilization Plan, or shall submit an MWBE Utilization Plan at such time as shall be required by NFWB, through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the Contractor may arrange to provide such evidence via a non-electronic method to NFWB, either prior to, or at the time of, the execution of the contract.
- B. The Contractor agrees to adhere to such MWBE Utilization Plan in the performance of the Contract.
- C. The Contractor further agrees that failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, NFWB shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.

### **V. Waivers**

- A. If the Contractor, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Contractor may submit a request for a waiver through the NYSCS, or a non-electronic method provided by NFWB. Such waiver request must be supported by evidence of the Contractor’s good faith efforts to achieve the maximum feasible MWBE participation towards the applicable MWBE Contract Goals. If the documentation included with the waiver request is complete, NFWB shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.
- B. If NFWB upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the Contractor is failing or refusing to comply with the MWBE Contract

## **Appendix B – MWBE Requirements and Procedures**

Goals, and no waiver has been issued in regards to such non-compliance, NFWB may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

### **VI. Quarterly MWBE Contractor Compliance Report**

The Contractor is required to submit a quarterly MWBE Contractor Compliance Report through the NYSCS, provided, however, that the Contractor may arrange to provide such report via a non-electronic method to NFWB by the 10<sup>th</sup> day following the end of each quarter during the term of the Contract.

### **VII. Liquidated Damages - MWBE Participation**

- A. Where NFWB determines that the Contractor is not in compliance with the requirements of this Appendix and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to NFWB liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
  - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
  - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by NFWB, the Contractor shall pay such liquidated damages to NFWB within sixty (60) days after they are assessed. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.



# MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

## M/WBE AND EEO POLICY STATEMENT

I, \_\_\_\_\_, the (awardee/contractor) \_\_\_\_\_ agree to adopt the following policies with respect to the project being developed or services rendered at \_\_\_\_\_

### **M/WBE**

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

### **EEO**

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_

By \_\_\_\_\_

Print: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_ is designated as the Minority Business Enterprise Liaison  
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

**M/WBE Contract Goals**

\_\_\_\_\_% Minority and Women's Business Enterprise Participation

\_\_\_\_\_% Minority Business Enterprise Participation

\_\_\_\_\_% Women's Business Enterprise Participation

\_\_\_\_\_  
(Authorized Representative)

Title: \_\_\_\_\_

Date: \_\_\_\_\_



# MWBE/SDVOB UTILIZATION PLAN

FORM A

Michael C. O' Laughlin  
Municipal Water Plant  
Attention: Rolfe Porter, Executive Director  
5815 Buffalo Ave.  
Niagara Falls, NY 14304

**INSTRUCTIONS:** This form must be submitted with any bid or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award as required in the IFB or RFQ. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (MWBE) and Service Disabled Veteran Owned Business (SDVOB) under the contract. Attach additional sheets if necessary.

Contractor's Name, Address and Telephone No.  Federal Identification No.	<b>Contract No.:</b>  <b>Contract Description</b> (Construction, Construction Consultant, Commodities or Services/Technologies) & Location (Region):	MWBE or SDVOB Goals In Contract
		<div>MBE %</div> <div>WBE %</div> <div>SDVOB %</div>

Certified M/WBE or SDVOB Subcontractors/Suppliers Name, Address, Telephone No, E-mail Address	Federal ID. No.	NYS ESD CERTIFIED		Detailed description of Work (Attach additional sheets if necessary)	Dollar Value of Subcontracts/ supplies/ services and intended performance dates of each component of the contract
		MBE or WBE	SDVOB		
		<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>		
		<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>		
		<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>		

**IF UNABLE TO FULLY MEET THE MBE, WBE AND SDVOB GOALS SET FORTH IN THE CONTRACT, CONTRACTOR MUST SUBMIT GOOD FAITH EFFORTS (GFE) DOCUMENTATION and A REQUEST FOR WAIVER FORM C UPON COMPLETION OF CONTRACT.**

Submission of this form constitutes the contractor's acknowledgement and agreement to comply with the MWBE and SDVOB requirements set forth under NYS Executive Law, Article 15-A and 5 NYCRR Part 142. Failure to submit complete and accurate information may result in a finding of noncompliance or rejection of the bid/proposal and/or suspension or termination of the contract.

Prepared By (Signature)	Email Address	
Name and Title of Preparer (Print or Type)	Telephone No.	Date

**FOR AGENCY USE ONLY**

Reviewed By	Date			
Utilization Plan Approved <input type="checkbox"/> Yes <input type="checkbox"/> No	Date			
Contract No.	Project No. (If applicable)	Contract Award Date	Estimated Completion Date	Contract Amount Obligated

Notice of Deficiency Issued	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Date	Description of Work
Notice of Acceptance Issued	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Date	



# REQUEST FOR WAIVER

FORM B

Niagara Falls Water Board  
 Michael C. O' Laughlin Municipal Water Plant  
 Attention: Rolfe Porter, Executive Director  
 5815 Buffalo Ave.  
 Niagara Falls, NY 14304

<b>INSTRUCTIONS:</b> See page 2 of this attachment for requirements and document submission instructions.				
Contractor's Name, Address and Telephone No.  Federal Identification No.		<b>Contract No.:</b> <b>Contract Description</b> (Construction, Construction Consultant, Commodities or Services/Technologies) & Location (Region):		<b>MWBE/SDVOB Goals In Contract</b>  <div> <div>MBE</div> <div>%</div> </div> <div> <div>WBE</div> <div>%</div> </div> <div> <div>SDOV</div> <div>%</div> </div>
Contractor is requesting a:  <input type="checkbox"/> <b>MBE Waiver</b> – A waiver of the MBE Goal for this procurement is requested. <input type="checkbox"/> <b>Total</b> <input type="checkbox"/> <b>Partial</b>  <input type="checkbox"/> <b>WBE Waiver</b> – A waiver of the WBE Goal for this procurement is requested. <input type="checkbox"/> <b>Total</b> <input type="checkbox"/> <b>Partial</b>  <input type="checkbox"/> <b>SDVOB Waiver</b> – A waiver of the SDVOB Goal for this procurement is requested. <input type="checkbox"/> <b>Total</b> <input type="checkbox"/> <b>Partial</b>				
<b>IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, CONTRACTOR MUST SUBMIT GOOD FAITH EFFORTS (GFE) DOCUMENTATION and A REQUEST FOR WAIVER FORM C UPON COMPLETION OF CONTRACT.</b>				
Submission of this form constitutes the contractor's acknowledgement and agreement to comply with the M/WBE requirements set forth under NYS Executive Law, Article 15-A and 5 NYCRR Part 142. Failure to submit complete and accurate information may result in a finding of noncompliance or rejection of the bid/proposal and/or suspension or termination of the contract.				
Prepared By (Signature)		Email Address		
Name and Title of Preparer (Print or Type)	Telephone No.		Date	
<b>FOR AGENCY USE ONLY</b>				
Reviewed By		Date		
Waiver Granted: <input type="checkbox"/> Yes <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SDOV <input type="checkbox"/> No		Date		
* Comments:				

### REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS

**When completing the Request for Waiver Form, please check all boxes that apply. To be considered, the Request for Waiver Form must be accompanied by documentation for items 1-11, as listed below. If box #3 has been checked above, please see item 11. Copies of the following information and all relevant supporting documentation must be submitted along with the request:**

1. A statement setting forth your basis for requesting a partial or total waiver.
2. The names of general circulation, trade association, and M/WBE/SDVOB-oriented publications in which you solicited certified M/WBE/SDVOBs for the purposes of complying with your participation goals.
3. A list identifying the date(s) that all solicitations for certified M/WBE/SDVOB participation were published in any of the above publications.
4. A list of all certified M/WBE/SDVOBs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE/SDVOB participation levels.
5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all certified M/WBE/SDVOBs.
6. Provide copies of responses made by certified M/WBE/SDVOBs to your solicitations.
7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBE/SDVOBs for purposes of complying with the certified M/WBE/SDVOB participation goals.
8. Provide documentation of any negotiations between you, the Offeror/Contractor, and the M/WBE/SDVOBs undertaken for purposes of complying with the certified M/WBE/SDVOB participation goals.
9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
10. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
11. Copy of notice of application receipt issued by Niagara Falls Water Board (NFWB).

**NOTE: Unless a Total Waiver has been granted, Offeror/Contractor will be required to submit all reports and documents pursuant to the provisions set forth in the Contract, as deemed appropriate by NFWB, to determine M/WBE/SDVOB compliance.**



# STAFFING PLAN

FORM C

Niagara Falls Water Board  
 Michael C. O' Laughlin Municipal Water Plant  
 Attention: Rolfe Porter, Executive Director  
 5815 Buffalo Ave.  
 Niagara Falls, NY 14304

**Submit with Bid or Proposal- Instructions on page 2.**

<b>Solicitation No.</b>  <b>Offeror's Name:</b>	<b>Reporting Entity:</b>	<b>Report includes Contractor's/Subcontractor's:</b> <input type="checkbox"/> Workforce to be utilized on this contract <input type="checkbox"/> Total workforce <input type="checkbox"/> Offeror <input type="checkbox"/> Subcontractor <b>Subcontractor's name</b> _____
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Enter the total number of employees for each classification in each of the EEO-Job Categories identified

EEO-Job Category	Total Work Force	Workforce by Gender		Workforce by Race/Ethnic Identification													
		Male (M)	Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		Disabled (M) (F)		Veteran (M) (F)	
Officials/Administrators																	
Professionals																	
Technicians																	
Sales Workers																	
Office/Clerical																	
Craft Workers																	
Laborers																	
Service Workers																	
Temporary/Apprentices																	
Totals																	

**Prepared By (Signature)**

**Email Address**

**Name and Title of Preparer (Print or Type)**

**Telephone No.**

**Date**

## GENERAL INSTRUCTIONS

**General instructions:** All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (FORM B) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the contract. Where the work force to be utilized in the performance of the contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

### Instructions for completing:

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate work force to be utilized on the contract or the Offeror's total work force.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading "Work force by Gender".
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading "Work force by Race/Ethnic Identification". Contact the Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

### Race /Ethnic Identification

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **White** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **Black** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **Hispanic** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **Asian & Pacific Islander** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **Native Indian** (Native American/Alaskan Native) a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

### Other Categories

- **Disabled Individual** any person who: -has a physical or mental impairment that substantially limits one or more major life activity (ies)  
-has a record of such an impairment; or  
-is regarded as having such an impairment.
- **Vietnam Era Veteran** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **Gender** Male or Female





## WORK FORCE EMPLOYMENT UTILIZATION FORM D

<b>Contract No.:</b>	<b>Reporting Entity:</b> <input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor	<b>Reporting Period:</b> <input type="checkbox"/> January 1, 20__ - March 31, 20__ <input type="checkbox"/> April 1, 20__ - June 30, 20__ <input type="checkbox"/> July 1, 20__ - September 30, 20__ <input type="checkbox"/> October 1, 20__ - December 31, 20__
<b>Contractor's Name:</b>		<b>Report includes:</b> <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Contractor/Subcontractor's total work force
<b>Contractor's Address:</b>		

Enter the total number of employees in each classification in each of the EEO-Job Categories identified.

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification													
		Male (M)	Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		Disabled (M) (F)		Veteran (M) (F)	
Officials/Administrators																	
Professionals																	
Technicians																	
Sales Workers																	
Office/Clerical																	
Craft Workers																	
Laborers																	
Service Workers																	
Temporary /Apprentices																	
Totals																	

<b>PREPARED BY (Signature):</b>	<b>TELEPHONE NO.:</b> <b>EMAIL ADDRESS:</b>	<b>DATE:</b>
<b>NAME AND TITLE OF PREPARER (Print or Type):</b>	<b>Submit completed form to:</b> <b>NYS (add Agency name)</b>	

**General Instructions:** The work force utilization (M/WBE 102) is to be submitted on a quarterly basis during the life of the contract to report the actual work force utilized in the performance of the contract broken down by the specified categories. When the work force utilized in the performance of the contract can be separated out from the contractor's and/or subcontractor's total work force, the contractor and/or subcontractor shall submit a Utilization Report of the work force utilized on the contract. When the work force to be utilized on the contract cannot be separated out from the contractor's and/or subcontractor's total work force, information on the total work force shall be included in the Utilization Report. Utilization reports are to be completed for the quarters ended 3/31, 6/30, 9/30 and 12/31 and submitted to the M/WBE Program Management Unit within 15 days of the end of each quarter. If there are no changes to the work force utilized on the contract during the reporting period, the contractor can submit a copy of the previously submitted report indicating no change with the date and reporting period updated.

**Instructions for completing:**

1. Enter the number of the contract that this report applies to along with the name and address of the Contractor preparing the report.
2. Check off the appropriate box to indicate if the entity completing the report is the contractor or a subcontractor.
3. Check off the box that corresponds to the reporting period for this report.
4. Check off the appropriate box to indicate if the work force being reported is just for the contract or the Contractor's total work force.
5. Enter the total work force by EEO job category.
6. Break down the total work force by gender and enter under the heading 'Work force by Gender'
7. Break down the total work force by race/ethnic background and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the M/WBE Program Management Unit at (518) 474-5513 if you have any questions.
8. Enter information on any disabled or veteran employees included in the work force under the appropriate heading.
9. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

**RACE/ETHNIC IDENTIFICATION**

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this report, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.
- **OTHER CATEGORIES**
- **DISABLED INDIVIDUAL** any person who:
  - has a physical or mental impairment that substantially limits one or more major life activity(ies)
  - has a record of such an impairment; or
  - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female