

REQUEST FOR QUALIFICATIONS (RFQ)

FOR

ENERGY PERFORMANCE CONTRACTING SERVICES

1.0 INTRODUCTION

1.1.1 The Mohawk Valley Water Authority (MVWA) is requesting proposals from interested and qualified energy services companies (ESCO) for the following project:

“MVWA CORE SYSTEM ASSET RENEWAL/REPLACEMENT”

1.1.2 The MVWA plans to select the most qualified ESCO for the purpose of implementing comprehensive energy efficiency improvements.

1.1.3 Response to this RFQ shall be submitted by electronic format to rfp@mvw.us, or available on the consultant’s FTP site, or delivered on a USB utilizing “.pdf” format by **4:00 P.M.** local time on **December 23, 2021**.

1.1.4 Questions regarding this RFQ should be directed to Eric G. Schuler, P.E. via email (eschuler@mvw.us) Questions and responses that affect the scope of services will be in writing and distributed to all recipients.

2.0 BACKGROUND

The MVWA is a public water authority serving 18 Municipalities and a population exceeding 130,000. The water system is comprised of over 700 miles of pipe and approximately 60 major facilities (i.e., pump stations, regulators, tank sites, etc.) feeding 24 different pressure zones. The MVWA has identified the potential for Energy Performance Contracting involving items such as pump/motor replacement, building repair & infiltration improvements, lighting retrofits/replacements, water efficiency improvements, hydroelectric turbine implementation, HVAC improvements, and hydraulic distribution system optimization. This project will look to address these items amongst others identified within Core System Assets.

3.0 PROJECT DETAILS

3.1.1 Purpose

1. The MVWA is interested in receiving statement of qualifications from ESCO's for turn-key professional services including all project development, engineering, construction, commissioning, and operational support required for implementation.

3.1.2 Statement of Intent

1. Multiple phases of the project may be considered. MVWA's intent is to contract with one entity that will provide services to design and implement project components in accordance with NYS Energy Law Article 9: Energy Performance Contracts in Connection with Public Buildings and Facilities. The first goal for a selected ESCO to accomplish will be to come to concurrence with MVWA on a Project Development Agreement (PDA).

3.1.3 Contract Type

1. It is required that if a contract is entered into as a result of this RFQ, it will be a performance-based energy efficiency contract. Negotiations may be undertaken with the ESCO whose understanding, proposal, and experience show them to be qualified, responsible, and capable of performing the work and addressing the needs of the MVWA. The MVWA reserves the right to consider responses or modifications thereof, received at any time before award is made to the selected ESCO, if such action is in the best interest of the MVWA. The MVWA reserves the right to reject any and all responses.

3.1.4 Performance Contracting Defined

1. For the purposes of this document, "performance-based energy services contract," means a contract for energy efficiency services and equipment in which the payment obligation is guaranteed by the person or company under contract to be less than the project benefits attributable to the services or equipment under the contract, for the term of the agreement.

3.1.5 Issuing Office

1. This RFQ is issued for and by the MVWA. The MVWA will coordinate all phases of the project and will provide names of contact persons and other information as required.

4.0 ESCO SELECTION PROCESS

4.1.1 Submission of Responses

1. Interested ESCOs will submit Responses as described within the applicable sections below.

4.1.2 Evaluation

1. Proposals received in response to this RFQ will be reviewed by Senior Level Engineering & Maintenance Staff at MVWA. At this time, interviews are not anticipated but may be requested. The qualifications of the firms will be evaluated based upon the criteria below and subsequently ranked in order of most qualified to least qualified. The firms and rankings will be presented to the Executive Director and Comptroller for discussion and recommendation to the Capital Projects Committee and full twelve (12) Member Board. A resolution by the full Board is necessary to enter a contract with the selected firm. Proposals will be evaluated on the following weighting/criteria:

- a. Experience and Qualifications (maximum 40 points)

Preference will be given to respondents demonstrating strong capabilities, experience, and reputation in undertakings like those described in this RFQ and providing authoritative documentation of the respondent's financial condition and stability. Specifically, the respondents shall list public entities where similar projects have been successfully implemented and monitored. Preference will be given to respondents who have demonstrated excellence with energy efficiency, and previous Water or Wastewater Improvement Projects. Experience can be listed as being with a previous employer if it is applicable to the RFQ.

- b. Technical Approach (maximum 20 points)

Responses should provide a general description of the technical approach to meeting the MVWA's energy efficiency objectives. Responses should also outline the respondent's project development process and how it collaborates with and maximizes financial benefit to the MVWA and minimizes risk. Respondents should include a description of their responsibilities for maintenance and repair of equipment and systems following installation and should demonstrate the ability of the respondent to provide service on both a routine and emergency basis. Respondents should demonstrate their capabilities and methodologies regarding the savings guarantee, measurement and

verification, training, staff support, management and associated programs proposed for the MVWA.

c. Staff Rating (maximum 20 points)

Points will be awarded based on documented technical and project administration skills and experience of the proposed project team. Only those individuals proposed to work directly on the subject project should be included in the Staffing Plan. MVWA/SVDOB Participation shall be included in the Staffing Plan. Requirements are set forth in the appropriate RFQ Appendix.

d. Financial Capability Rating (maximum 20 points)

Points will be awarded based on the demonstrated financial strength of the proposer, which will include the Respondent's bonding/Letter of Credit dollar and time limit, total bonding capacity, and the most recent year ending financial statement.

5.0 RFQ PROCEDURES

5.1.1 Proprietary Information

1. If a submittal includes any proprietary data or information that the respondent does not want disclosed to the public, such data or information must be specifically identified as such on every page on which it is found. Data or information so identified will be used by the MVWA solely for the purposes of evaluating responses and conducting contract negotiations; subject to MVWA obligation to comply with the Freedom of Information Law.

5.1.2 Right to Reject

1. In submitting this response, it is understood by the respondent that the right is reserved by the MVWA to accept any response, to reject any and all responses, and to waive any irregularities or informalities when to do so is in the best interest of the MVWA.

6.0 RESPONSE FORMAT AND CONTENTS

Responses must be submitted in the format outlined in this section, with each of the described forms and sections completed in full (except those sections described as optional). Respondents not utilizing this format will be considered non-responsive. Each response will be reviewed to determine if it is

complete prior to actual evaluation. The MVWA reserves the right to eliminate from further consideration any submittal deemed to be substantially or materially unresponsive to the requests for information contained herein. Each of the forms and sections described below should begin on a separate page, and each page should clearly state the name of the respondent in the upper right corner.

6.1.1 Respondent Background and Qualifications

1. Section A of the proposal should contain the following information about the respondent:
 - a. Information about the respondent (addresses, telephone numbers, and names of contact persons and of the Staffing Team) should be provided on Form I.
 - b. Resumes for each of the individuals listed as lead personnel for the respondent's project team on Form I should be included in the proposal. Identify the project team members who have direct experience with Water or Wastewater System Improvement projects.
 - c. Prior relevant work experience of the respondent should be included in the proposal and should include the following information (if more than five projects are relevant to this RFQ, remaining examples of experience may be briefly summarized): a) customer's name; b) total project cost; c) type of contract (e.g., sales, lease, shared savings, etc.); d) name and telephone number of reference for the project; and e) brief description of the project (including type of facility at which project was implemented).
 - d. Include a list of projects that have included, Water & Wastewater System Improvement Projects completed as Article 9 Projects, and indicate which of those are located in New York State.
 - e. Additional information about the Staffing team, its personnel, financial condition, or qualifications may be included in the proposal as a Section A-3 (optional).

6.1.2 Technical Aspects of the Proposal

1. Section B of the proposal should contain the following information about the respondent's technical approach to meeting The MVWA's energy efficiency objectives:
 - a. Description of the respondent's project development process and typical schedule.
 - b. Information about how the specific measures the respondent proposes will be identified.

- c. A description of the respondent's approach to operations and maintenance (service) of the installed equipment, ensuring project benefits will be achieved.
- d. A description of the method to be used to measure guaranteed project benefits achieved in the MVWA's facilities through the efforts of the respondent
- e. A description of how the respondent intends to train, support, manage and work with the existing staff with regards to servicing and maintaining of the equipment.
- f. A summary of ESCO methodology for meeting NYSEFC CWSRF project requirements. This should also include a summary of experience within the ESCO Project Team for relevant NYSEFC CWSRF-funded projects.
- g. Experience with ESCO grant applications and administration related to Wastewater Projects in NYS shall be included.

6.1.3 Financial Capabilities

- 1. For the last three years identify the largest dollar value for an energy performance contract where your firm was the prime contractor.
- 2. Indicate your firm's bonding/Letter of Credit (LOC) dollar and time limit per project, the firm's bonding capacity, the name of the present bonding agent or bank with contact person and telephone number.
- 3. Provide a copy of the most recent year-ending statements of financial condition, certified by a public accountant, including balance sheet and income statement, dated within twelve months of filing. If the financial statements are not the sole source of credit support for projects, supply pertinent additional information.
- 4. Performance and payment bonds will be required for the Contract once exact scope of improvements is defined. Provide a list of projects in the last 3 years that ESCO provided performance/payment bonds, along with the dollar amounts of those specific bonds.

6.1.4 Insurance Requirements

- 1. General Liability, \$1 million single/ \$2 million aggregate
- 2. Umbrella Policy, \$5 million
- 3. Workers' Compensation and Disability in the statutory amounts (proof to be provided on State mandated forms)
- 4. Professional Liability, \$3 million

5. Auto (if work under the contract extends to maintenance and not just engineering/ design services), \$1 million
 6. The MVWA shall be a named additional insured on a primary, non-contributory basis. Provide documentation from insurer the ESCO ability to comply.
 7. Insurance should be provided by a company licensed in NYS, with an AM Best rating of "A."
- 6.1.5 Additional Information - Any additional information the respondent believes to be relevant to the MVWA's selection efforts may be included in the response.
- 6.1.6 Outline of Submittal Contents - The following is an outline of the requirements for submittal contents described in this section:

Section A: ESCO Background and Qualifications

Form I: See Appendix E

General Information: ESCO

Section A-1: Project Team Resumes
Section A-2: Work Experience
Section A-3: Additional Information (optional)

Section B: Technical Approach

Section B-1: Project Development Process
Section B-2: Survey and Analysis Methodology
Section B-3: Project Management Methodology
Section B-4: Service and Maintenance Procedures
Section B-5: Methodology for Measurement and Verification of Guaranteed Energy Savings
Section B-6: Training and Support Information

Section C: Financial Approach

Section C: Financial Capability
Section C-1: Largest Project Implemented Over Last Three Years
Section C-2: Bonding/LOC Information
Section C-3: Annual Reports or Financial Statements

Section D: Insurance Requirements

Section E: Additional Information

7.0 TERMS AND CONDITIONS

- 7.1.1 The services in this proposal shall be awarded by Board resolution. ESCO shall prepare an Agreement for Services for review by the MVWA and execution by the MVWA Executive Director.
- 7.1.2 The contents of the successful firm's proposal will become part of the Agreement for Services.
 - 1. The MVWA reserves the right to accept or reject any or all submissions when it is in the best interest of the MVWA to do so.
 - a. The MVWA is not liable for any costs incurred prior to the issuance of an executed Agreement or a written notice to proceed.
 - b. The MVWA reserves the right to negotiate scope revision and associated compensation adjustments with any or all respondents prior to award.

APPENDIX

APPENDIX A -	MVWA MVBE UTILIZATION REVIEW PLAN
APPENDIX B -	MVWA MVBE REQUEST FOR WAIVER
APPENDIX C -	SERVICE-DISABLED VETERAN-OWNED BUSINESS PROGRAM
APPENDIX D -	NYS ENERGY LAW ARTICLE 9
APPENDIX E -	FORM 1

MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES (MWBE)

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A, Mohawk Valley Water Authority (MVWA) recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of MVWA contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. Because of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that MVWA establishes goals for maximum feasible participation of New York State Certified minority- and women - owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

BUSINESS PARTICIPATION OPPORTUNITIES FOR MWBES

For purposes of this solicitation, MVWA hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A contractor ("Contractor") on the subject contract ("Contract") must document good faith efforts to provide meaningful participation by MWBES as subcontractors or suppliers in the performance of the Contract and Contractor agrees that MVWA may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBES can be viewed at: <http://www.esd.ny.gov/mwbe.html>.

For guidance on how MVWA will determine a Contractor's "good faith efforts" refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and MVWA may withhold payment from the Contractor as liquidated damages.

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.

By submitting a bid or proposal, a bidder on the Contract ("Bidder/") agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Bidders are required to submit a MWBE Utilization Plan with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to MVWA.
- B. MVWA will review the submitted MWBE Utilization Plan and advise the Bidder of MVWA acceptance or issue a notice of deficiency within 30 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the MVWA, 1 Kennedy Plaza, Utica, NY 13502, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is

found by MVWA to be inadequate, MVWA shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver in a timely manner may be grounds for disqualification of the bid or proposal.

- D. MVWA may disqualify a Bidder as being non-responsive under the following circumstances:
- a) If a Bidder fails to submit a MWBE Utilization Plan;
 - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - c) If a Bidder fails to submit a request for waiver; or
 - d) If MVWA determines that the Bidder has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made after Contract Award may be made at any time during the term of the Contract to MVWA but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to submit a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report to the MVWA, 1 Kennedy Plaza, Utica 13502 by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

BUSINESS PARTICIPATION OPPORTUNITIES FOR SDVOBS

For purposes of this solicitation, MVWA hereby establishes an overall goal of 6.5% for Service-Disabled Veteran-Owned Business Program ("SDVOB") participation. A contractor ("Contractor") on the subject contract ("Contract") must document good faith efforts to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that MVWA may withhold payment pending receipt of the required SDVOB documentation. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/Veterans/>.

For guidance on how SDVOB will determine a Contractor's "good faith efforts" refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth

in the Contract, such finding constitutes a breach of Contract and MVWA may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to SDVOBs had the Contractor achieved the contractual SDVOB goals; and (2) all sums actually paid to SDVOBs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a bidder on the Contract ("Bidder/") agrees to submit the following documents and information as evidence of compliance with the foregoing:

- E. Bidders are required to submit a SDVOB Utilization Plan with their bid or proposal. Any modifications or changes to the SDVOB Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to MVWA.
- F. MVWA will review the submitted SDVOB Utilization Plan and advise the Bidder of MVWA acceptance or issue a notice of deficiency within 30 days of receipt.
- G. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the MVWA, 1 Kennedy Plaza, Utica, NY 13502, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by MVWA to be inadequate, MVWA shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver in a timely manner may be grounds for disqualification of the bid or proposal.
- H. MVWA may disqualify a Bidder as being non-responsive under the following circumstances:
 - e) If a Bidder fails to submit a SDVOB Utilization Plan.
 - f) If a Bidder fails to submit a written remedy to a notice of deficiency.
 - g) If a Bidder fails to submit a request for waiver; or
 - h) If MVWA determines that the Bidder has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any SDVOB identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made after Contract Award may be made at

any time during the term of the Contract to MVWA but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to submit a Contractor's Quarterly SDVOB Contractor Compliance & Payment Report to the MVWA, 1 Kennedy Plaza, Utica 13502 by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue 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, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable; to submit with the bid a staffing plan identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the MVWA, a workforce utilization report identifying the workforce utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will 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.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.



M/WBE UTILIZATION PLAN

INSTRUCTIONS: This form **MUST** be submitted with any bid, proposal, or proposed negotiated contract prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each NYS-certified Minority and Women-owned Business Enterprise (M/WBE), including the offeror if a NYS-certified MWBE, and estimated (or actual if known) annual dollar value under the contract and reflect the MWBE participation goals specified in the contract or procurement document.

Will there be M/WBE participation for services provided under this contract? YES (Complete the form.) NO (If No, please complete Request for Waiver.)

Contract Overview				
Offeror/Contractor Name: _____ Telephone: _____		SFS Vendor		
Address: _____		Federal ID No: _____ ID: _____		
City, State, Zip: _____		Solicitation No: _____		
NYS Certified M/WBE Fill out box below for each NYS Certified M/WBE Contractor or Subcontractor	Classification	Description of Scope of Work (Subcontractors/Supplies/Services)	Annual Dollar Value of Subcontracts/Supplies/Services	
Name: _____ Address: _____ City, State, Zip _____ Telephone: _____ Fed. ID. No: _____ SFS Vendor ID: _____	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DUAL	<input type="checkbox"/> DIRECT (Spending directly fulfilling contract obligations.) Description: _____ <input type="checkbox"/> INDIRECT (Spending in support of company operations.) Description: _____ <input type="checkbox"/> Copy of written agreement attached (Required for teaming.)	\$ _____	
Name: _____ Address: _____ City, State, Zip _____ Telephone: _____ Fed. ID. No: _____ SFS Vendor ID: _____	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> DUAL	<input type="checkbox"/> DIRECT (Spending directly fulfilling contract obligations.) Description: _____ <input type="checkbox"/> INDIRECT (Spending in support of company operations.) Description: _____ <input type="checkbox"/> Copy of written agreement attached (Required for teaming.)	\$ _____	

VENDOR CERTIFICATION: I hereby affirm that the information supplied in this utilization plan is true and correct.

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 142, AND THE ABOVE REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.

Signature: _____ Date: _____
 Print Name: _____ Telephone: _____
 Title: _____ Email: _____



M/WBE UTILIZATION PLAN

FOR AUTHORIZED USE ONLY	
Utilization Plan Approved: <input type="checkbox"/> Y <input type="checkbox"/> N	Date: _____
Notice of Deficiency Issued: <input type="checkbox"/> Y <input type="checkbox"/> N	Date: _____
Notice of Acceptance Issued: <input type="checkbox"/> Y <input type="checkbox"/> N	Date: _____
Reviewed By: _____	Date: _____
Comment(s):	



REQUEST FOR WAIVER

Please see bid specifications for documentation requirements. By submitting this form and the required information, the offeror/contractor certifies that every Good Faith Effort has been taken to promote M/WBE participation pursuant to the M/WBE participation requirements set forth under the contract.

CONTRACT OVERVIEW

Offeror/Contractor Name: _____ Telephone: _____

Address: _____ Federal ID No. _____ SFS Vendor ID: _____

City, State, Zip: _____ Solicitation/Contract: _____

Type of Procurement: Competitive Bid Other Bid Response Due Date: _____ Est. or Actual Cost: _____

WAIVER REQUEST ("X" ALL boxes that apply)

1. MBE Waiver – A waiver of the MBE Goal for this procurement is requested. Total Partial
2. WBE Waiver – A waiver of the WBE of the WBE Goal for this procurement is requested. Total Partial
3. Waiver – Pending ESD Certification – Check here if subcontractors or suppliers of Contractor are not certified M/WBE but an application has been filled with Empire State Development. Supplier Name: _____ Date of Filing: _____ Reference submission Instruction on Page 2, Item 1.
4. Vendor does not subcontract construction/professional services.
5. Vendor subcontracts some of this type of work but at lower % than bids/solicitation describes.
6. Vendor has solicited NYS Certified M/WBE firms for purposes in complying with participation goals without success. Reference submission Instruction on Page 2 – 10.
7. Other:

Provide a summary of your Justification for requesting a waiver:

By checking this box you verify that you went through the NYS ESD M/WBE Directory of Certified firms to view companies that you may be currently using or may use on this bid.

SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 142, AND THE ABOVE REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN FINDING OF NON-COMPLIANCE AND/OR TERMINATION OF THE CONTRACT.

Submit copy via email to: jmurray@mvwva.us or fax to: 315-792-0358. Originals are to be mailed to: Mohawk Valley Water Authority, Attn: Jolie Murray, 1 Kennedy Plaza, Utica, NY 13502



REQUEST FOR WAIVER

VENDOR CERTIFICATION – I hereby affirm that the information supplied in support of this waiver request is true and correct, and that this request is made in good faith.

Signature

Date

Print Name

Title

Company

COUNTY OF _____)
)
 STATE OF NEW YORK)

Sworn to before me this _____ day of _____ 20____

Notary Public

REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS

To be considered, the Request for Waiver form must be accompanied by supporting documentation for Items 1 – 10 as listed below. If a Waiver Pending ESD Certification is requested, please see note below. Copies of the following information and all relevant supporting documentation must be submitted along with the request.

SUPPORTING DOCUMENTATION:

1. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
2. Provide the names of general circulation, trade association, and MWBE oriented publications in which you solicited certified MWBEs for the purposes of complying with your participation goals.
3. Provide a list identifying the date(s) that all solicitations for certified MWBE participation were published in any of the above publications and the text of said solicitation(s).
4. Provide a list of all certified MWBEs appearing in the NYS Directory of Certified Firms that were solicited in writing for purposes of complying with the certified MWBE participation levels.
5. Provide copies of notices, dates of contract, 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 MWBEs.
6. Provide copies of responses made by certified MWBEs to your solicitations.
7. Provide a description of any contract documents, plans or specifications made available to certified MWBEs for purposes of soliciting their bids, and the date and manner in which these documents were made available.
8. Provide documentation of any negotiations between the Offeror/Contractor, and/or MWBE(s) undertaken for purposes of complying with the certified MWBE participations goals.
9. Provide the name, title, address, telephone number, and email address of the Offeror/Contractor's representative authorized to discuss this waiver request.
10. Copy of notice of application receipt issued by Empire State Development (ESD).

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 the State, to determine MWBE compliance.

FOR AUTHORIZED USE ONLY			
Reviewed By: _____	Date: _____	Waiver Granted: <input type="checkbox"/> Yes <input type="checkbox"/> No	_____
<input type="checkbox"/> Total Waiver	<input type="checkbox"/> Partial Waiver	<input type="checkbox"/> Conditional Waiver	<input type="checkbox"/> ESD Certification Waiver <input type="checkbox"/> Date of Deficiency Issued: _____

Instructions for Completing the Monthly SDVOB Compliance Report – SDVOB 101

The SDVOB Monthly Reporting Form is to be completed by the Contractor/Vendor, and submitted **by the 10th day of each month for the duration of the Contract.** This form should include **all** (e.g. SDVOB and non SDVOB) Subcontractors and/or Suppliers assigned by the Contractor/Vendor to perform work during the contract. This reporting should also include payments made by your Subcontractors and/or Suppliers to SDVOB firms.

Complete the form as specified below.

Contract No.	Indicate the MVWA Contract No.
Contractor/Vendor Name and Address	Provide your firm's name and address.
Federal ID No.	Enter your firm's Federal ID No.
Goals	Indicate SDVOB participation goals.
Reporting Period	Fill in the month and year of reporting period. One copy must be submitted with final payment application.
Contract Name	Fill in the name of the contract
Firm Name and Address	Provide the name, address and phone number of all Subcontractors/Suppliers assigned by the Contractor/Vendor on this contract or purchase agreement(s).
Federal ID No.	Enter the Subcontractor's/Supplier's Federal ID No. If no Federal ID No. has been assigned, provide only the owner's last four (4) digits of his or her Social Security No.
Payment This Month	Indicate the amount paid <i>this month</i> to each SDVOB Subcontractor/Supplier. If there was no income activity for the Subcontractor/Supplier, please check the box indicating "No Payment This Month."
Contract Amount	Enter the total contract amount or purchase agreement(s) amount for each contract or total monthly sales, which ever applies
Description of Work/Supplies	Briefly describe the work performed or supplies provided by each Subcontractor/Supplier.

Submit to:

MVWA

SDVOB UTILIZATION PLAN

Initial Plan Revised plan Contract/Solicitation # _____

INSTRUCTIONS: This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each NYS **Certified** Service-Disabled Veteran-Owned Business (SDVOB) under the contract. By submission of this Plan, the Bidder/Contractor commits to making good faith efforts in the utilization of SDVOB subcontractors and suppliers as required by the SDVOB goals contained in the Solicitation/Contract. Making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Firms that do not perform commercially useful functions may not be counted toward SDVOB utilization. Attach additional sheets if necessary.

BIDDER/CONTRACTOR INFORMATION		SDVOB Goals In Contract
Bidder/Contractor Name:	NYS Vendor ID:	%
Bidder/Contractor Address (Street, City, State and Zip Code):		
Bidder/Contractor Telephone Number:	Contract Work Location/Region:	
Contract Description/Title:		

CONTRACTOR INFORMATION			
Prepared by (Signature):	Name and Title of Preparer:	Telephone Number:	Date:
Email Address:			

If unable to meet the SDVOB goals set forth in the solicitation/contract, bidder/contractor must submit a request for waiver on the SDVOB Waiver Form.

SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____%			

SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:	Federal Identification No.:	Telephone No.:	
Address:	Email Address:		
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____%			

FOR MVWA USE ONLY			
MVWA Authorized Signature:	<input type="checkbox"/> Accepted	<input type="checkbox"/> Accepted as Noted	<input type="checkbox"/> Notice of Deficiency
NAME (Please Print):	SDVOB %/\$ _____	Date Received:	Date Processed:
Comments:			
NYS CERTIFIED SDVOB SUBCONTRACTOR/SUPPLIER INFORMATION: The directory of New York State Certified SDVOBs can be viewed at: https://ogs.ny.gov/Veterans/default.asp Note: All listed Subcontractors/Suppliers will be contacted and verified by MVWA.			

ADDITIONAL SHEET

Bidder/Contractor Name:	Contract/Solicitation # _____
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SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:		Federal Identification No.:	Telephone No.:
Address:		Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____%			
SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:		Federal Identification No.:	Telephone No.:
Address:		Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____%			
SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:		Federal Identification No.:	Telephone No.:
Address:		Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____%			
SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:		Federal Identification No.:	Telephone No.:
Address:		Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____%			
SDVOB Subcontractor/Supplier Name:			
Please identify the person you contacted:		Federal Identification No.:	Telephone No.:
Address:		Email Address:	
Detailed Description of work to be provided by subcontractor/supplier:			
Dollar Value of subcontracts/supplies/services (When \$ value cannot be estimated, provide the estimated % of contract work the SDVOB will perform): \$ _____ or _____%			

APPLICATION FOR WAIVER OF SDVOB PARTICIPATION GOAL

(must be submitted before requesting final payment on the Contract)

Section 1: Basic Information			
Contractor's Name:		Federal Identification Number:	
Street Address:		E-Mail Address:	
City, State, Zip Code:		Telephone: () -	
Contract Number:		SDVOB CONTRACT GOALS	
		%	
Section 2: Type of SDVOB Waiver Requested			
<input type="checkbox"/> Total	<input type="checkbox"/> Partial	If partial waiver, please enter the revised SDVOB percentage:	%
Please explain the reason for the waiver request:			
Section 3: Supporting Documentation			
Provide the following documentation as evidence of your good faith efforts to meet the SDVOB goals set forth in the contract and in support of your waiver application:			
<input type="checkbox"/> Attachment A. Copies of solicitations to SDVOBs and any responses thereto. <input type="checkbox"/> Attachment B. Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected. <input type="checkbox"/> Attachment C. Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by MVWA with certified SDVOBs whom MVWA determined were capable of fulfilling the SDVOB goals set forth in the contract. <input type="checkbox"/> Attachment D. Information describing the specific steps undertaken to reasonably structure the contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs. <input type="checkbox"/> Attachment E. Other information deemed relevant to the request.			
Section 4: Signature and Contact Information			
By signing and submitting this form, the contractor certifies that a good faith effort has been made to promote SDVOB participation pursuant to the SDVOB requirements set forth under the solicitation or Contract. Failure to submit complete and accurate information may result in a finding of noncompliance, non-responsibility, and a suspension or termination of the contract.			
Prepared By: (Signature)			Date:
Name and Title of Preparer (Print or Type)			

For MVWA Use Only

Reviewed By:

Date:

Decision:

- Full SDVOB waiver granted
- Partial SDVOB waiver granted; revised SDVOB goal: _____ %
- SDVOB waiver denied

Approved By:

Date:

Date Notice of Determination Sent:

Comments

CONTRACTOR'S MONTHLY SDVOB COMPLIANCE REPORT (DUE ON THE 10TH DAY OF EACH MONTH FOR THE PRECEDING MONTH'S ACTIVITY AS EVIDENCE TOWARDS ACHIEVEMENT OF THE SDVOB GOALS ON THE CONTRACT

Contract No.: _____

Contractor/Vendor Name, Address and Phone No.:		Contractor/Vendor Federal ID No.:		SDVOB Goals		Reporting Period	
Contract Name				%		Month	Year
SDVOB Firm Name, Address and Phone Number (List All Firms)		Description of Work or Supplies Provided				SDVOB Payment	
Federal ID No.:						<input type="checkbox"/> No Payment This Month	
Federal ID No.:						<input type="checkbox"/> No Payment This Month	
Federal ID No.:						<input type="checkbox"/> No Payment This Month	
Federal ID No.:						<input type="checkbox"/> No Payment This Month	

Signature _____

Print Name and Title _____

Date _____

For MWVA Use Only

Reviewed By: _____ Date: _____

Submission of this form constitutes the Contractor's acknowledgement as to the accuracy of the information contained herein. Failure to submit complete and accurate information may result in a finding of noncompliance, non-responsibility, suspension and/or termination of the Contract.

NEW YORK STATE ENERGY LAW
ARTICLE 9 - ENERGY PERFORMANCE CONTRACTS
IN CONNECTION WITH PUBLIC BUILDINGS AND FACILITIES

§ 9-101. Purpose

The purpose of this article is to obtain long-term energy and cost savings for agencies and municipalities by facilitating prompt incorporation of energy conservation improvements or energy production equipment, or both, in connection with buildings or facilities owned, operated or under the supervision and control of agencies or municipalities, in cooperation with providers of such services and associated materials from the private sector. Such arrangements will improve and protect the health, safety, security, and welfare of the people of the state by promoting energy conservation and independence, developing alternate sources of energy, and fostering business activity.

§ 9-102. Definitions

For the purposes of this article, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context.

1. "Owner" means any state department, agency, board, commission, office, or division.
2. "Municipality" means a municipal corporation, as defined in section two of the general municipal law, school district, board of cooperative educational services, fire district, district corporation or special improvement district governed by a separate board of commissioners.
3. "Public authority" means any public authority, public benefit corporation, or the port authority of New York and New Jersey, to the extent its facilities are located within the state of New York.
4. "Energy performance contract" means an agreement for the provision of energy services, including but not limited to electricity, heating, ventilation, cooling, steam or hot water, in which a person agrees to install, maintain or manage energy systems or equipment to improve the energy efficiency of, or produce energy in connection with, a building or facility in exchange for a portion of the energy savings or revenues.

§ 9-103. Energy performance contracts

1. Notwithstanding any other provision of law, any agency, municipality, or public authority, in addition to existing powers, is authorized to enter into energy performance contracts of up to thirty-five years duration, provided, that the duration of any such contract shall not exceed the reasonably expected useful life of the energy facilities or equipment subject to such contract.
2. Any energy performance contract entered into by any agency or municipality shall contain the following clause: "This contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefor shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract."
3. In the case of a school district or a board of cooperative educational services, an energy performance contract shall be an ordinary contingent expense, and shall in no event be construed as or deemed a lease or lease-purchase of a building or facility, for purposes of the education law.
4. Agencies, municipalities, and public authorities are encouraged to consult with and seek advice and assistance from the New York state energy research and development authority concerning energy performance contracts.
5. Notwithstanding any other provision of law, in order to convey an interest in real property necessary for the construction of facilities or the operation of equipment provided for in an energy performance contract, any agency, municipality or public authority may enter into a lease of such real property to which it holds title or which is under its

administrative jurisdiction as is necessary for such construction or operation, with an energy performance contractor, for the same length of time as the term of such energy performance contract, and on such terms and conditions as may be agreeable to the parties thereto and are not otherwise inconsistent with law, and notwithstanding that such real property may remain useful to such agency, municipality or public authority for the purpose for which such real property was originally acquired or devoted or for which such real property is being used.

6. In lieu of any other competitive procurement or acquisition process that may apply pursuant to any other provision of law, an agency, municipality, or public authority may procure an energy performance contractor by issuing and advertising a written request for proposals in accordance with procurement or internal control policies, procedures, or guidelines that the agency, municipality, or public authority has adopted pursuant to applicable provisions of the state finance law, the executive law, the general municipal law, or the public authorities law, as the case may be.

7. Sections one hundred three and one hundred nine-b of the general municipal law shall not apply to an energy performance contract for which a written request for proposals is issued pursuant to subdivision six of this section.

8. In the case of a school district or a board of cooperative educational services, an energy performance contract shall be developed and approved pursuant to the requirements of this section and pursuant to regulations promulgated by the commissioner of education in consultation with the New York state energy research and development authority. Such regulations shall include, but shall not be limited to: a list of the appropriate type of projects that qualify as energy performance contracts; an approval process that includes review of the type and nature of the proposed project, the scope and nature of the work to be performed, and a detailed breakdown of the energy savings to be derived each year and for the duration of the energy performance contract; and a process for ensuring that districts have obtained financing at the lowest cost possible. Such regulations shall require that all energy performance contracts which contain maintenance and monitoring charges as part of the energy performance contract price state such maintenance and monitoring charges separately in the contract in a clear and conspicuous manner. Such regulations shall not apply to energy performance contracts entered into prior to the effective date of such regulations, nor shall they apply to energy performance contracts for which a request for proposals was issued prior to such effective date.

Added L. 1985, c. 733, § 2; amended L. 1989, c. 638, §§ 1,2; amended L. 1994, c. 368, §§ 1,2; amended L. 1995, c.83, §47; amended L. 1997, c. 436, §78.

FORM IGENERAL INFORMATION: ESCO

1. Name of firm: _____
2. Address: _____

3. Name and Title of Contact person for this project: _____
4. Telephone number of contact person: _____
5. Lead personnel for this project (persons who will have supervisory or other responsibility for the work to be performed):

<u>Name</u>	<u>Title</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
6. Number of years the firm has been in business: _____
7. Number of years the firm in performance contracting business: _____
8. Approximate number of Energy Performance Contract projects implemented by the firm: _____