



STATE OF NEW YORK
OFFICE OF GENERAL SERVICES
DESIGN AND CONSTRUCTION GROUP
THE GOVERNOR NELSON A. ROCKEFELLER
EMPIRE STATE PLAZA
ALBANY, NY 12242



ADDENDUM NO. 3 TO PROJECT NO. 45124

**CONSTRUCTION WORK, HVAC WORK, PLUMBING WORK, AND ELECTRICAL WORK
ABATE HAZARDOUS MATERIALS
AND RENOVATE BUILDING NO. 4
STATE OFFICE BUILDING CAMPUS
1220 WASHINGTON AVENUE
ALBANY, NY**

September 29, 2016

NOTE: This Addendum forms a part of the Contract Documents. Insert it in the Project Manual.
Acknowledge receipt of this Addendum in the space provided on the Bid Form.

CONTRACTING REQUIREMENTS

- 1. DOCUMENT 007327 – SUPPLEMENTARY CONDITIONS – SDVOB.** Add attached DOCUMENT 007327 – SUPPLEMENTARY CONDITIONS – SDVOB (pages 1-3) including attached SDVOB 100 Utilization Plan, SDVOB 101 Monthly Compliance Report and SDVOB 200 Waiver Form.

END OF ADDENDUM

Margaret F. Larkin
Executive Director
Design and Construction

SUPPLEMENTARY CONDITIONS – SDVOB

This supplement modifies the General Conditions. Where any part of the General Conditions is modified by this supplement, the unaltered provisions of that part shall remain in effect.

Add the following article:

ARTICLE 28 – PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. OGS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OGS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

28.1 Contract Goals

28.1.1 OGS hereby establishes overall goals under this contract of **3%** for SDVOB participation for the C and E trade contractors and **0%** for SDVOB participation for the H and P trades contractors, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision services and materials. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at:

http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf

Questions regarding compliance with SDVOB participation goals should be directed to the Designated Contacts within the OGS Division of Service-Disabled Veterans’ Business Development (the “Division”). Additionally, following Contract execution, Contractor is encouraged to contact the Division at 518-474-2015 to discuss additional methods of maximizing participation by SDVOBs on the Contract.

28.1.2 Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause 28.4 below).

28.2 SDVOB Utilization Plan

28.2.1 The SDVOB Utilization Plan, using the attached form SDVOB 100, shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, and the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that 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. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to OGS.

28.2.2 The apparent low bidder must submit the completed SDVOB Utilization Plan within five (5) working days after the bids are opened. OGS will review the submitted SDVOB Utilization Plan and advise the bidder of OGS acceptance or issue a notice of deficiency within twenty (20) days of receipt.

28.2.3 If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to OGS a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by OGS to be inadequate, OGS shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five (5) business days of notification by OGS, a request for a partial or total waiver of SDVOB participation goals on form SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

28.2.4 OGS may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:

- (a) If a Bidder fails to submit an SDVOB 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 OGS determines that the Bidder has failed to document good faith efforts.

28.2.5 If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.

28.2.6 Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, OGS shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

28.3 Request for Waiver

28.3.1 In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in 28.4 below, may submit a request for a partial or total waiver on form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by OGS at that time, the provisions of clauses 28.2.2, 28.2.3 and 28.2.4 will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, OGS shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

28.3.2 Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to OGS, but must be made prior to the submission of a request for final payment on the Contract. Such waiver requests shall be made on form SDVOB 200, accompanied by supporting documentation, and e-mailed to Ms. Calisia Humphries (calisia.humphries@ogs.ny.gov).

28.3.3 If OGS, upon review of the SDVOB Utilization Plan (SDVOB 100) and Monthly SDVOB Compliance Report (SDVOB 101), determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, OGS 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 SDVOB contract goals.

28.4 Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by OGS with certified SDVOBs whom OGS determined were capable of fulfilling the SDVOB goals set in the Contract.
- (4) 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.
- (5) Other information deemed relevant to the waiver request.

28.5 Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance each month to OGS during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be reported by the Contractor using form SDVOB 101 (attached) and e-mailed by the 10th day of each month for the preceding month's activity to Ms. Calisia Humphries (calisia.humphries@ogs.ny.gov).

28.6 Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

END OF DOCUMENT



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 OGS USE ONLY			
OGS 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:			
<p>NYS CERTIFIED SDVOB SUBCONTRACTOR/SUPPLIER INFORMATION: The directory of New York State Certified SDVOBs can be viewed at: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf</p> <p>Note: All listed Subcontractors/Suppliers will be contacted and verified by OGS.</p>			

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 _____%			



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 OGS 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.
Description of Project Briefly describe the work you are providing under the terms of this 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 this month to each Subcontractor/Supplier. If there was no income activity for a 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 Subcontractor/Supplier.
Description of Work/Supplies Briefly describe the work performed or supplies provided by each Subcontractor/Supplier.

Submit to:

Business Unit must fill out contact information



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 OGS with certified SDVOBs whom OGS 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 OGS 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

DRAFT