



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. 1 TO PROJECT NO. M2987

**CONSTRUCTION WORK
REPLACE ROOF BUILDING 46 AND CORRIDOR ROOF
WATERTOWN CORRECTIONAL FACILITY
23147 SWAN ROAD
WATERTOWN, NEW YORK**

March 13, 2012

<p>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.</p>
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CONTRACTING REQUIREMENTS

1. DOCUMENT 007307 SUPPLEMENTARY CONDITIONS – AFFIRMATIVE ACTIONS:
Discard the document bound in the Project Manual and use the attached document noted “Revised 3/13/12”.

END OF ADDENDUM

James Dirolf, P.E.
Director of Design

DOCUMENT 007307

SUPPLEMENTARY CONDITIONS - AFFIRMATIVE ACTIONS

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.

ARTICLE 16 - STATUTORY REQUIREMENTS FOR UTILIZATION OF MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

Add the following:

16.6 Participation by Minority and Women-Owned Business Enterprises (M/WBEs): The Contractor shall use every good faith effort to provide for meaningful participation by M/WBEs in the Work. Such good faith efforts shall include at least the following:

- (a) Dividing the Work to be subcontracted into smaller portions where technically feasible.
- (b) Actively and affirmatively soliciting bids for subcontracts from certified M/WBEs, including circulation of solicitations to minority and women contractor associations. Contractor shall maintain records detailing the efforts made to provide for meaningful M/WBEs contacted and, if any such M/WBE is not selected as a joint venturer or subcontractor, the reasons for such decision.
- (c) Making plans and specifications for prospective work available to certified M/WBEs, in sufficient time for review.
- (d) Utilizing the services and cooperating with those organizations providing technical assistance in connection with M/WBE participation.
- (e) Utilizing the list of certified M/WBEs maintained by the New York State Department of Economic Development, Division of Minority & Women's Business Development for the purpose of soliciting bids for subcontracts soliciting bids for subcontracts and supplies.
- (f) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors where appropriate to insure that appropriate to insure that the Contractor will meet its obligations hereunder.
- (g) Insuring that provision is made to provide progress payments to certified M/WBEs on a timely basis.
- (h) Not requiring bonds from and/or providing bonds and insurance of certified M/WBEs where appropriate.
- (i) The Contractor shall include the foregoing provisions in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or supplier.

Add the following articles:

ARTICLE 26 - AFFIRMATIVE ACTION

26.1 Participation by Minority Persons and Women: The Contractor shall use every good faith effort to ensure meaningful participation by minority persons and women in the Work. Such good faith efforts shall include at least the following:

- (a) Ensure and maintain a working environment free of harassment, intimidation and coercion. The Contractor shall specifically ensure that all foremen, superintendents and other supervisory personnel are aware of and carry out the Contractor's obligation to maintain such working environment.
- (b) Establish and maintain a current list of minority and women recruitment sources and notify such sources and Minority community organizations when employment opportunities are available, and maintain a

- record of the sources' and organizations' responses.
- (c) Maintain a file of the names and addresses of each minority person and woman of what referred to it by an individual, recruitment source or community organization and of what action was taken with respect to each such referred individual. If the individual was not employed by the Contractor, the file should set forth reasons therefore.
 - (d) Promptly notify the State when the union or unions with which the Contractor has a collective bargaining agreement has not referred to Contractor a minority person or woman sent by the Contractor to such union for employment in the work, or when it has other information that the union referral process has impeded efforts to meet its obligations.
 - (e) Disseminate the Contractor's equal employment opportunity policy within its organization by including it in any employee handbook or policy manual; by publicizing it in company newspapers and annual reports; and by advertising such policy at reasonable intervals in union publications. The equal employment opportunity policy should be further disseminated by conducting staff meetings to explain and discuss the policy; by posting of the policy at the site of any work and by review of the policy with employees.
 - (f) Disseminate the Contractor's equal employment opportunity policy externally by informing and discussing it with all recruitment sources and community organizations; by advertising in news media, specifically including minority and women news media; and by notifying and discussing it with all subcontractors.
 - (g) Make both specific and reasonably recurrent, written and oral recruitment efforts, directed at minority and women's organizations, schools with substantial minority and women enrollment, and to minority and women recruitment and training organizations within the Contractor's recruitment area.
 - (h) Validate all tests and other selection requirements.
 - (i) Ensure that seniority practices, job classifications, work assignments and other personnel practices do not have a discriminatory effect.
 - (j) Ensure that all facilities and company activities are nonsegregated except that to separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - (k) Continually monitor all personnel activities to ensure that its equal employment opportunity policy is being carried out including the evaluation of minority and women employees for promotional opportunities on an annual basis, and the encouragement of such employees to seek those opportunities.
 - (l) File monthly compliance reports relating to the operation and implementation of approved affirmative action programs.
 - (m) The contractor shall include the foregoing provisions (a) through (l) in every subcontract or purchase order so that such provision will be binding upon each subcontractor or supplier.

ARTICLE 27 - MINORITY AND WOMEN PARTICIPATION

27.1 Goals for Minority and Women Workforce Participation:

- (a) The Contractor shall exert good faith efforts to achieve minority and women workforce participation for each occupation utilized in the work on an occupation by occupation basis including trainees.
- (b) The minority and women workforce participation goals are expressed for each that occupations a percentage equal to the person-hours of training and employment in that occupation of minority and women workers used by the Contractor and any subcontractor in the work, divided by the total person-hours of training and employment of all workers in that occupation (including supervisory personnel) used by the contractor and any subcontractor in the Work.
- (c) The required participation for minority and women employment and training must be substantially uniform throughout the Work.
- (d) The Contractor shall not participate in the transfer of minority or women employees or trainees from employer-to-employer or from project-to-project for the sole purpose of meeting the Contractor's obligations hereunder.
- (e) In achieving the goals for minority and women workforce participation in the Work, the Contractor shall make every good faith and reasonable to effort to find and employ qualified minority and women

supervisory personnel and journeypersons.

- (f) The nonworking hours of trainees or apprentices may not be considered in meeting the goals for minority and women workforce participation contained in meeting; (1) such trainees or apprentices are employed by the Contractor during the training period, (2) the Contractor has made a commitment to employ the trainees or apprentices at the completion of their training, subject to the availability of employment opportunities; and (3) the trainees are trained pursuant to a training program approved by the State.
- (g) The Contractor shall include the foregoing provisions in every subcontract, so that such provisions will be binding upon each subcontractor.

27.2 Goals for Minority and Women-owned Business Enterprise Participation:

- (a) The Contractor shall exert good faith efforts to achieve a 6% goal for Minority Business Enterprise participation in the Work.
- (b) The Contractor shall exert good faith efforts to achieve a 9% goal for Women-Owned Business Enterprise participation in the Work.
- (c) The goal for participation in the conduct of the Work is expressed as a percentage equal to the dollar value of the Work performed divided by the Contract Sum. (1) Where the cost to the Contractor of a single item of equipment exceeds twenty-five percent of the total contract price and where the Contractor has shown good faith efforts to obtain such equipment from M/WBE manufacturers and suppliers, the cost of such equipment shall be deducted from the contract sum prior to computing the M/WBE participation.

27.3 The dollar value of the Work performed by M/WBEs will be determined as: (1) Where an M/WBE is not the Contractor - the dollar value of the Work subcontracted to M/WBEs, provided, however, that where materials are purchased from an M/WBE, which acts merely as a conduit for goods manufactured or produced by a non-M/WBE, only that portion of the price paid for such materials which will accrue as profit to the M/WBE and/or the fee received by the M/WBE shall be included for the purpose of determining the dollar value of Work performed by M/WBEs (2) Where the Contractor is a joint venture including one or more M/WBEs as joint venturers - the Contract Sum multiplied by the percentage of the joint venture's profits (or losses) which are to accrue to the M/WBE joint venturer(s) under the joint venture agreement; and (3) Where any M/WBE is the Contractor or where the Contractor is a joint venture consisting entirely of M/WBEs, and the Contractor can document good faith efforts to subcontract to M/WBE subcontractors and/or suppliers - the Contract Sum.

27.4 Compliance Reports: The Contractor shall file monthly compliance reports with the State regarding compliance with the provisions of this Article. Compliance reports filed within such time, shall contain such information and shall be in such form as the State may prescribe.

27.5 Access to the Contractor's Books: The Contractor shall permit access to its books, records and accounts by the State for purposes of investigation to ascertain compliance with the provisions of this Article. The contractor shall include this provision in every subcontract so that such provision will be binding upon each subcontractor.

27.5.1 Upon a showing by the Contractor of full compliance with its approved affirmative action program the State will waive a Contractor's failure to achieve the goal for minority and women workforce participation.

27.5.2 Upon a showing by the Contractor of the use of every good faith effort to achieve the goal for Minority and/or Women-Owned Business Enterprise participation in the Work, the State will waive a Contractor's failure to achieve the goal for minority and/or Women-Owned Business Enterprise participation.

27.6 Sanctions for noncompliance:

- (a) In the event the Contractor fails to achieve the goal for the minority and women workforce participation and is not granted a waiver under the provisions of 27.5.1, the State may withhold from the final payment as additional liquidated damages for the Contractor's failure to achieve the goal for minority and women

workforce participation a sum equaling the difference between (1) all sums which would have been paid to minority and women employees had the Contractor achieved the goal for minority and women workforce participation set forth in this Agreement and (2) such sums actually paid to minority and women employees in accordance with this Agreement.

- (b) In the event the Contractor fails to achieve the goal for Minority and/or Women-Owned Business Enterprise participation and is not granted a waiver under the provisions of 27.5.2, the State may withhold from the Final Payment as additional liquidated damages for the Contractor's failure to achieve the goal for Minority and/or Women-owned Business Enterprise participation in the Work a sum equaling the difference between (1) all sums which would have been paid to M/WBEs had the Contractor achieved the goal for Minority and/or Women-Owned Business Enterprise participation in the Work set forth in this Agreement, and (2) such sums actually paid to M/WBEs for the Work in accordance with this Agreement.

END OF DOCUMENT