

American Recovery and Reinvestment Act of 2009 (ARRA) **Bidding and Award of Construction Contracts**

This guide provided information to assist project sponsors in bidding projects and receiving Department of Health and Environmental Control (DHEC) approval to award contracts that meet the requirements for SRF funding. Complying with the following guidelines will help to assure procurement integrity is maintained and will aid in DHEC contract approval. To prevent confusion about the State Revolving Fund (SRF) eligibility of any portion of project work, it is recommended that project sponsors receive DHEC approval of the project's plans and specifications before advertising for bids and also prior to executing a construction contract. If Project Sponsors elect to execute a construction contract without approval, they do so "at their own risk". **It is mandatory that Project Sponsors receive DHEC approval of both the DBE/EEO and Bid packages prior to executing a construction contract.**

BIDDING

Project Sponsors are required to competitively bid their projects. The Project Sponsor shall:

- Advertise the project, for a minimum of thirty (30) days in advance of bid opening, using at least one of the following methods: (a) local newspapers of general circulation, (b) publications targeting minority or women owned businesses, (c) statewide or regional newspapers of general circulation, or (d) with prior notification to the Department, the South Carolina Business Opportunities (SCBO). The ad should include the following information:
 - ▶ A complete statement of the work to be performed.
 - ▶ Place, date and time of the bid opening.
 - ▶ Location of the bid documents along with instructions and cost to purchase a bid set.
 - ▶ A statement that the project is being funded by a loan from the State Revolving Fund and that bidders must comply with all applicable state and federal requirements identified in the bid documents.
 - ▶ It is recommended that the advertisement also contain a statement that the project is being funded through the American Recovery and Reinvestment Act of 2009 (ARRA) (Stimulus Funds).
 - ▶ A statement informing the prospective bidders of the project's disadvantaged business enterprise (DBE) goals.
 - ▶ A statement that prospective bidders must implement procedures that ensure that DBE firms are given opportunities for meaningful participation if subcontracts are awarded.
 - ▶ A statement that bidders must provide a 5% bid bond.

- Modify bid documents only by written addenda, which requires prior DHEC approval.
- Hold a public bid opening.
- Use a competitive sealed construction bidding.
- Require at least a five percent (5%) bid bond or certified check. It is the responsibility of the Project Sponsor's attorney to review the bid bond for accuracy and completeness.
- Require a one hundred percent (100%) payment bond and performance bond. It is the responsibility of the Project Sponsor's attorney to review the payment and performance bonds for accuracy and completeness.
- Require the contractor to provide fire, extended coverage, vandalism and malicious mischief insurance equal to the actual value of the insured property during construction. It is the responsibility of the Project Sponsor's attorney to review the insurance documents for accuracy and completeness.
- Follow the "Buy American" provision (Section 1605) of the American Recovery and Reinvestment Act of 2009 (ARRA) and certify that all of the iron, steel and manufactured goods used in the project were produced in the United States unless a waiver was granted by the U.S. Environmental Protection Agency. Require the prime contractor to follow the "Buy American" provisions of ARRA.
- Follow the Davis-Bacon and Related Acts (Section 1606) of ARRA which requires all laborers and mechanics employed by contractors and subcontractors be paid wages at rates not less than those listed on the prevailing wage rate contained in the contract documents and that all applicable provisions of the Davis-Bacon and Related Acts be met. Require the prime contractor to follow the "Davis-Bacon" provision of ARRA.
- Follow the "Good Faith Efforts" strategies outlined in the "Disadvantaged Business Enterprise (DBE) Compliance" section of the Federal Requirements guide to aid in successfully meeting the DBE requirements. If subcontracts are awarded, require the prime contractor to follow the "Good Faith Efforts" strategies outlined in the bid documents and provide required documentation.
- As part of the mandatory DBE requirements, create and maintain a Bidders List of all firms that bid or quote on prime contracts and/or subcontracts including both MBE/WEBs and non-MBE/WEBs. The Bidders List must be kept until the project period has ended. The following information must be obtained from all contractors:
 - ▶ Contractor's name with point of contact;
 - ▶ Contractor's mailing address, telephone number and e-mail address;
 - ▶ The procurement (scope of work) on which the contractor bid or quoted and when; and
 - ▶ The contractor's status as a MBE, WBE, or non-MBE/WBE.
- If other funding sources are used which have stricter bidding requirements or if applicable federal, state, or local laws or ordinances have stricter requirements, these stricter requirements govern.

AFTER BID OPENING

DHEC must concur in the Project Sponsor's construction contract award. It is recommended that Project Sponsors receive DHEC approval prior to executing a construction contract to prevent any confusion about SRF eligibility. The Project Sponsor shall provide DHEC with a bid package consisting of the following items:

- "Project Construction Summary" (DHEC Form 2555) signed by the project sponsor's representative.
- A certified copy of the advertisement with date of publication.
- A copy of the Project Sponsor's Bidders List.
- A copy of the detailed bid tabulation certified by the Project Sponsor's engineer.
- Proposal of the successful bidder(s).
- A copy of the Bid Bond and associated Power of Attorney.
- A copy of the Davis-Bacon Wage Rate used in bidding the project.
- A copy of the engineer's award recommendation of low bidder(s) to the Project Sponsor listing the proposed contract amount. If award is recommended to other than low bidder(s), provide justification for this decision.
- A certified copy of the Project Sponsor's tentative award resolution listing the proposed contractor(s) and contract amount(s).
- A copy of the proposed prime contractor's "Buy American Certification" (DHEC Form 2556).
- A copy of the "Prime Contractor's Subagreement Certification" (DHEC Form 3591) from the proposed low bidder(s).
- Evidence that the low bidder(s) complied with the DBE requirements listed in the bid documents.
DBE approval must precede bid package approval.
- A copy of the proposed prime contractor's Bidders List.
- A copy of the "DBE Subcontractor Performance Form" (EPA Form 6100-3) from all DBE firms.
- A copy of the "EEO Documentation Form" (DHEC 2323), with all required attachments (to include "Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity" (DHEC 3592)), from the proposed prime contractor(s).

- A copy of the "EEO Documentation Form" (DHEC 2323), with all required attachments (to include "Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity" (DHEC 3592)), from all subcontractors whose contract amount is expected to exceed \$10,000.
- A copy of the "Certification Regarding Debarment, Suspension and Other Responsibility Matters" (DHEC 3590) from the proposed prime contractor(s).
- A copy of the "Certification Regarding Debarment, Suspension and Other Responsibility Matters" (DHEC 3590) from all subcontractors whose contract amount is expected to equal or exceed \$25,000.
- A signed copy of the "Project Inspection Designation Form" (DHEC 2324), with all required attachments, indicating the selected method of providing continuous inspection during construction.

EQUIPMENT/MATERIAL PROCUREMENT

Under Section 11-35-50 of the South Carolina Consolidated Procurement Code, Act 148 of 1981, all South Carolina political subdivisions are required to have and use a procurement ordinance or procedures that embody sound principles of appropriately competitive procurement. Project sponsors should follow their own established procurement policy when purchasing equipment and/or materials. Equipment and/or materials purchased *directly* by the project sponsor is eligible for loan participation provided:

- The equipment/material is determined to be technically eligible by the SRF project manager.
- A copy of the equipment/material contract or purchase order is submitted for purposes of cost-documentation.
- The mandatory SRF Supplemental General Conditions (Appendix A) are added to the equipment/material contract or purchase order. (See "Permit Application...." guide)
- The documentation required by Appendix A is submitted for the selected equipment/material supplier and approved by DHEC.
- The "Project Sponsor's "Buy American" Certification for Direct Equipment/Material Purchases" (DHEC Form 2558) is submitted.

Prior to any disbursement of funds for equipment and/or materials, an equipment and/or materials line item must be established in the budget of the loan agreement.

More information?

Contact the SRF Section at DHEC's Bureau of Water.
 David Price is the program manager and can be reached at:
 Phone: (803) 898-3993 E-mail: pricedc@dhec.sc.gov





Project Name: _____
Project No.: _____
Sponsor's Name: _____
Sponsor's Address: _____
Sponsor's Representative: _____
Sponsor's Rep. Telephone No.: _____

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA)
PROJECT CONSTRUCTION SUMMARY

This questionnaire/check sheet is furnished as an administrative aid and is suggested for use in supplying required information and documents as well as for reporting minor changes. After taking bids for construction contracts, this complete package should be forwarded to the SC Department of Health and Environmental Control, Water Facilities Permitting Division, SRF Section, 2600 Bull Street, Columbia, SC 29201.

1. Have there been any changes in the project since the plans and specifications were approved? If yes, list below:

Addendum No. _____	Approved _____
Addendum No. _____	Approved _____
Addendum No. _____	Approved _____

2. Please list any other sources of funding necessary to finance this project. Are additional funds necessary to finance ineligible construction or other ineligible expenditures?

3. Bid Information: Bid Advertisement Date _____ Bid Opening Date _____
 Bid Expiration Date _____

4. Attach the following:

- a. This Project Construction Summary Form (DHEC 2555) signed by the Project Sponsor's Representative.
- b. A certified copy of the advertisement with date of publication.
- c. A copy of the Project Sponsor's Bidders List.
- d. A copy of the detailed bid tabulation certified by the Project Sponsor's engineer.
- e. Proposal of the successful bidder(s).
- f. A copy of the Bid Bond and associated Power of Attorney.
- g. A copy of the Davis-Bacon wage rate used in bidding the project.

- h. A copy of the engineer's award recommendation of low bidder(s) to the Project Sponsor listing the proposed contract amount. If award is recommended to other than low bidder(s), provide justification for this decision.
- i. A certified copy of the Project Sponsor's tentative award resolution listing the proposed contractor(s) and contract amount(s).
- j. A copy of the proposed prime contractor's Buy American Certification (DHEC Form).
- k. A copy of the Prime Contractor's Subagreement Certification Form (DHEC 3591) from the proposed low bidder(s).
- l. Evidence that the low bidder(s) complied with the Disadvantaged Business Enterprise (DBE) requirements listed in the bid documents. **DBE approval must precede bid package approval.**
- m. A copy of the proposed prime contractor's Bidders List.
- n. A copy of the DBE Subcontractor Performance Form (EPA Form 6100-3) from all DBE firms.
- o. A copy of the EEO Documentation Form (DHEC 2323), with all required attachments (to include the Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity (DHEC 3592)), from the proposed prime contractor(s).
- p. A copy of the EEO Documentation Form (DHEC 2323), with all required attachments (to include the Certification by Proposed Prime or Subcontractor Regarding Equal Employment Opportunity (DHEC 3592)), from all subcontractors whose contract amount is expected to exceed \$10,000.
- q. A copy of the Certification Regarding Debarment, Suspension and Other Responsibility Matters (DHEC 3590) from the proposed prime contractor(s).
- r. A copy of the Certification Regarding Debarment, Suspension and Other Responsibility Matters (DHEC 3590) from all subcontractors whose contract amount is expected to equal or exceed \$25,000.
- s. A signed copy of the Project Inspection Designation Form (DHEC 2324), with all required attachments, indicating the selected method of providing continuous inspection during construction.

Signature of Project Sponsor's Representative

Date

Print Name and Title of Project Sponsor's Representative

DHEC 2555 (05/2009)

**INSTRUCTIONS FOR COMPLETING ARRA PROJECT CONSTRUCTION
SUMMARY – DHEC FORM 2555**

The purpose of the ARRA Project Construction Summary form is to aid in providing the required bid documentation as well as for reporting minor changes to SRF projects funded through the American Recovery and Reinvestment Act of 2009 (ARRA).

Project Sponsors must complete this form.

Please provide the name of the project, the SRF project number, the Project Sponsor's name, address, telephone number and name of the Project Sponsor's representative.

Please answer the questions in items 1-4 and attach the items listed under number 5 and forward the form with attachments to the SRF Section for review.

DHEC Review and Filing. The Bureau of Water will use the above referenced form and attachments to review compliance with bidding requirements for SRF projects funded through ARRA. This form will be kept in the SRF Bidding file of the project name listed on the form. The ARRA Project Construction Summary form will be retained on file with the Bureau of Water for twenty years