

The Nassau County Department of Public Works (DPW) encourages Minority and Women-Owned Business Enterprises (MWBE) and Section 3 Participation in the Bay Park Phase E3 project. To support participation, a Pre-bid Meeting was held at 1:00 p.m. on Monday March 2, 2015 in the Ceremonial Room at the Theodore Roosevelt Executive and Legislative Building, 1550 Franklin Avenue, Mineola, New York 11501. The Pre-bid Meeting included a MWBE/Section 3 Forum, presented by the New York State Governor's Office of Storm Recovery (GOSR). The Pre-bid Meeting and Forum were followed by an MWBE/Section 3 and Prime Contractor Networking event.

The following written responses to questions posed during the MWBE/Section 3 Forum are offered to provide the information to people that were able to attend the March 02, 2015 as well as to provide the information to anyone that was unable to attend the March 02, 2015 event. The questions asked during the forum are shown in **bold font** and the answers are shown in plain font under each question. Supplemental information that was not discussed at the meeting is shown in *Italic font*.

**1. Q. Who will be handling the Value Engineering?**

A. Nassau County will handle all Value Engineering.

**2. Q. What if a Section 3 business cannot afford the plans?**

A. Nassau County understands that a Section 3 business may not wish to purchase a copy of the plans, in their entirety, on a CD in pdf format. The documents can be viewed free of charge at two locations:

The Permit Office of the Department of Public Works, first floor, which is located at 1194 Prospect Avenue, Westbury, Nassau County, New York, 11590-2723, beginning at 9:00 AM on Friday February 13, 2015 until 3:45 P.M. on Friday March 27, 2015 . Please note this office is closed each day from 12:00 Noon to 1:00 P.M. The telephone number for the Permit Office is 516- 571-6840.

*Nassau County Office of Minority Affairs (OMA), Suite 307, 240 Old Country Road, Mineola, NY 11501. To view the documents, call OMA at 516-572-2240 and ask for Ms. Shelley Brazley, Project Director.*

**3. Q. Did the Engineer of Record hire minority firms?**

A. Yes. The Engineer of Record, which is the Joint Venture of Hazen and Sawyer/ Arcadis (the JV), has an MWBE utilization plan and has hired two different MWBE firms for two different projects, sludge dewatering and the berm, which are underway at the Bay Park STP.

**4. Q. Will the project be de-bundled so more MWBE firms can become prime contractor?**

- A. Phase E3 is a big contract with many opportunities for participation by MWBE and Section 3 businesses. A prime contractor will be responsible for the execution of this contract and that contractor will be encouraged to include MWBE and Section 3 Businesses in their bid. The overall electrical work that is and will be done at the Bay Park STP has been de-bundled into the Phase E1, Phase E2, and Phase E3 contracts.

*Phase E1 and Phase E2 projects are funded through the Federal Emergency Management Agency (FEMA). FEMA does not have MWBE and Section 3 participation goals associated with their funding. Prior to October 01, 2014, the NYS MWBE participation goal was 20%. So the County is following the MWBE participation goal of 20 percent for the Phase E1 and E2 projects. Please note these projects do not contain Housing and Urban Development (HUD) funding.*

*The Phase E3 project will be funded using FEMA and HUD Community Development Block Grant Disaster Recovery (CDBG-DR) funding. HUD does have MWBE and Section 3 participation goals associated with their funding. NYS GOSR is the grantee for the HUD CDBG-DR funding for the Phase E3 project. On October 1, 2014, Governor Andrew Cuomo announced that every agency and authority of New York State, which includes NYS GOSR, must meet a 30% MWBE participation goal, which is a 10% increase from the previous 20% goal. So the County is following the MWBE participation goal of 30% for the Phase E3 Project.*

**5. Q. Who will monitor the compliance of the HUD regulations?**

- A. Nassau County DPW will collaborate with NYS GOSR to monitor the Phase E3 project efforts to be sure that the project is done in compliance with the Governor's directive. The County's Office of Minority Affairs will assist with identifying MWBE contractors to assist with meeting the NYS MWBE participation goal of 30%.

**6. Q. Section 3 states efforts must be at the “greatest extent feasible”, will this apply to Nassau County only or the service area?**

A. The community in which the HUD CDBG-DR funds will be spent is Nassau County. Subsequently, the businesses that substantially employ low and very low persons in the community in which the funds are spent would be located in Nassau County. This means that the Section 3 outreach efforts apply to Nassau County.

For the Phase E3 project, the service area, that is, the area that would be served by the project is the Bay Park STP service area. The STP’s service area is fully contained within Nassau County.

**7. Q. Was a law firm engaged by the Engineer of Record and if so, how were they procured?**

A. A law firm has not been engaged by the Engineer of Record for the preparation of the Phase E3 documents.

**8. Q. How will the MWBEs know that a best effort was put forth?**

A. As the sub-grantee of HUD CDBG-DR funds, Nassau County is required to make sure that all HUD requirements are met, including putting forth the best effort to meet the NYS MWBE participation goal of 30%.

Nassau County DPW will regularly post updates to their website regarding the MWBE outreach for the Phase E3 project. Contractors are encouraged to register with the County so that bid updated information will automatically be emailed to them.

Nassau County DPW and OMA will collaborate with NYS GOSR to maximize outreach to MWBE contractors.

**9. Q. Are there any handouts?**

A. Yes. GOSR handed out 52 copies of a document titled “GOSR Civil Rights & Diversity” requirements during the meeting. A copy of this handout is attached to this list of Questions and Answers.

**10.Q. Did E1 and E2 have the same scrutiny as the E3 project?**

Phase E1 and Phase E2 projects are funded through the FEMA. FEMA does not have MWBE and Section 3 participation goals associated with their funding. Prior to October 01, 2014, the NYS MWBE participation goal was 20%. So, the County is following the MWBE participation goal of 20 percent for the Phase E1 and E2 projects. Please note these projects do not contain HUD funding.

The Phase E3 project will be funded using FEMA and HUD funding. HUD does have MWBE and Section 3 participation goals associated with their funding. NYS GOSR is the grantee for the HUD CDBG-DR funding for the Phase E3 project. On October 1, 2014, Governor Andrew Cuomo announced that every agency and authority of New York State, which includes NYS GOSR, must meet a 30% MWBE participation goal, which is a 10% increase from the previous 20% goal. So, the County is following the MWBE participation goal of 30% for the Phase E3 Project.

**11.Q. Are their financing programs available to assist MWBE and Section 3 businesses to accomplish the goals of providing the necessary resources for this project?**

- A. NYS GOSR stated that the Governor's office does have a program available to assist MWBE and Section 3 Businesses to accomplish the goals of providing the necessary resources for the Phase E3 project.

*Nassau County also has programs, through their Industrial Development Agency (IDA), to help small businesses. IDA offers the following three forms of tax assistance to help small businesses: 1) Small to Medium Sized Business Sales Tax Relief, 2) Property Tax, and 3) Mortgage Recording Tax Exemption. Additional information is available by contacting IDA at 516-571-1945 or visiting the IDA website at: <http://www.nassauida.org/Public/Contact-Us>.*

**12.Q. Do the prime contractors need to have their utilization plan in place at the time of bid?**

- A. Yes. Prime contractors need to have their MWBE utilization plan in place at the time of the bid.

**13.Q. Does the County have a Section 3 plan?**

- A. Yes, Nassau County has a Section 3 Plan that was approved by GOSR in December 2014. We encourage you to view the plan, free of charge, by visiting the County's DPW website at:  
<http://www.nassaucountyny.gov/3803/BPSTP-Phase-E3-S5121-14F>

*Nassau County's Section 3 Plan can also be viewed free of charge at their Office of Minority Affairs (OMA), Suite 307, 240 Old Country Road, Mineola, NY 11501. To view the plan, call OMA at 516-572-2240 and ask for Ms. Shelley Brazley, Project Director.*

**14.Q. Is there a percentage of dollars in this project budgeted for training and orientation of the MWBE and Section 3 personnel?**

- A. A percentage of the project dollars has not been specifically budgeted for training and orientation of MWBE and Section 3 personnel. However, NYS GOSR will be hosting Section 3 Outreach events to build a list of Section 3 individuals and businesses. A GOSR-hosted Section 3 Outreach event is scheduled for Tuesday March 17, 2015 at the Hempstead Public Library. The library is located at 115 Nichols Ct, Hempstead, NY 11550.

**15.Q. Is there a way for payments to be received quicker from the County?**

Nassau County DPW is collaborating with the County Comptroller's Office to develop ways of expediting invoice payments.

**16.Q. Are the 30% MWBE and 10% of construction contract dollar amount for Section 3 goals combined?**

- A. *The attached handout titled "GOSR Civil Rights & Diversity", which was provided by GOSR at the March 02, 2015 event, shows that the 30% MWBE participation goal and the 10% Section 3 participation goals are separate.*

**17.Q. Will Liquidated Damages be applied?**

- A. The application of Liquidated Damages in this contract would be the same as for any other DPW contract of a similar nature.



## **GOSR Civil Rights & Diversity Requirements**

### **Areas of Compliance**

- Minority and Women-Owned Business Enterprises
- Section 3
- Fair Housing
- Davis-Bacon
- American with Disabilities Act
- Limited English Proficiency

### **NY RISING CIVIL RIGHTS & DIVERSITY COMPLIANCE REQUIREMENTS**

GOSR is committed to complying with the standards set forth, but also to assist with providing innovative approaches to maximize the benefits for whom these programs exist. GOSR looks forward to working with each recipient on these important recovery efforts.

### **MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES**

GOSR encourages Minority and Women-Owned Business Enterprises (M\WBE) to participate in the rebuilding of New York from Hurricanes Lee, Irene and Superstorm Sandy by promoting economic and contracting opportunities to these businesses. For purposes of procurement, GOSR follows 24 CFR 85.36 and Article 15A of the NYS Executive Law, the latter of which provides an overall participation goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises (MBE) and 15% for Women-Owned Business Enterprises (WBE). This program has been developed pursuant to generally accepted principles and applicable state and federal regulations. For more information, please see New York Article 15-A of the Executive Law, as found at <http://www.esd.ny.gov/MWBE.html>. In addition, please visit GOSR's MWBE Outreach page for more information <http://stormrecovery.ny.gov/mwbe-outreach>.

### **SECTION 3 REQUIREMENTS**

Section 3 of the Housing and Urban Development Act of 1968 ensures that employment, training and contracting generated by certain U. S. Department of Housing and Urban Development (HUD) financial assistance shall, to the greatest extent feasible, be directed to low- and very low-income persons with an emphasis on individuals who are recipients of government assistance for housing, and to businesses which provide economic opportunities to low-and very low-income persons.

- **Minimum Numerical Goals include:**



- 30% of New Hires
- 10% of the dollar amount of Construction Contracts
- 3% of the dollar amount of Non-Construction Contracts

Please visit these sites for additional information:

[http://portal.hud.gov/hudportal/documents/huddoc?id=BR\\_Brochure.English.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=BR_Brochure.English.pdf)

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/section3/section3brochure](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3brochure)

<http://portal.hud.gov/hudportal/documents/huddoc?id=11secfags.pdf>

<http://www.stormrecovery.ny.gov/governor's-office-storm-recovery-local-workforce-opportunities>

### DAVIS-BACON REQUIREMENTS

**Davis Bacon Act and Related Acts:** Davis Bacon Act applies to contracts in excess of \$2,000 for the construction, alteration, and/or repair of public buildings or public works, including painting and decorating. The Act requires all contractors and subcontractors to pay the various classes of laborers and mechanics employed on the site of the work on the contract the wage rates and fringe benefits to be prevailing for corresponding classes of employees engaged on similar projects in the locality. In addition, the Act requires that certain labor standards provisions be specified in the contract awarded to the successful bidder (*see* 29 CFR § 5.5 (a)). An applicable wage determination must also be included in the contract documents. Wage determinations are published on the Wage Determinations Online ([WDOL website](#)). If wage rates higher than those required under this Act are imposed by New York State, the higher wage rate is applicable and can be found on the New York State Department of Labor Website <http://wpp.labor.state.ny.us/wpp/showFindProject.do?method=showIt>.

**Davis Bacon Related Acts include the following:**

- **Contract Work Hours and Safety Standards Act ("CWHSSA")** - The CWHSSA (40 USC 327–334) requires overtime pay for laborers and mechanics at a rate of one and one-half times the basic rate of pay for hours in excess of 40 per week worked on Federally funded or Federally assisted construction contracts in excess of \$100,000. CWHSSA also requires an assessment of liquidated damages at the rate of \$10 per day per worker for each day that each laborer or mechanic worked without receiving the required overtime compensation.



- **Copeland "Anti-Kickback" Act** (18 USC 874 and 40 USC 276c) - The Copeland Act makes it a federal crime for anyone to require a worker to give back any part of their wages. The Copeland Act requires every employer (contractors and subcontractors) to submit weekly payroll reports and regulates permissible payroll deductions.
- **Fair Labor Standards Act of 1938**, as amended (FLSA) - The FLSA (29 USC 201, et seq.) establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week.  
Please click here for more information regarding Davis Bacon and a full explanation of all of its requirements:  
<http://portal.hud.gov/hudportal/documents/huddoc?id=4812-LRguide.pdf>.

#### **FAIR HOUSING RESPONSIBILITIES**

The Fair Housing Act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. The Equal Opportunity in Housing Act prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds. Please visit [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_11868.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_11868.pdf) for more information.

#### **ADHERENCE TO THE AMERICANS WITH DISABILITIES ACT (ADA)**

GOSR ensures that qualified persons with disabilities are informed of the availability of program services and activities. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in Federally-assisted programs on the basis of a mental or physical disability. Section 504 imposes requirements to ensure that "qualified individuals with disabilities" have access to programs, services, facilities, and activities that receive GOSR funds. Please visit [http://www.ada.gov/ada\\_fed\\_resources.htm](http://www.ada.gov/ada_fed_resources.htm) for more information.

#### **SERVING THOSE WITH LIMITED ENGLISH PROFICIENCY (LEP)**

Executive Order 13166, Title VI of the Civil Rights Act of 1964 (Title VI), and the Title VI regulations regarding language access, concerns individuals who do not speak English as their primary



language and who have a limited ability to read, speak, write, or understand English and can be limited English proficient, or "LEP." These individuals may be entitled language assistance with respect to a particular type of service, benefit, or encounter. All program benefits, laws, and regulations must be communicated to the entire affected community. Therefore, GOSR is developing a "Language Access Plan for Limited English Proficiency Individuals" (Language Assistance Plan). A summary of the draft Plan is available for your review. Please visit <http://www.lep.gov/> for more information.