**WASHINGTON STATE DEPARTMENT OF ECOLOGY**

**CLEAN WATER SECTION 319 PROGRAM**

**SPECIFICATIONS INSERT**

# General

# Partial funding of this project is being provided by the Washington State Department of

# Ecology’s (Ecology) and United States Environmental Protection Agency’s (EPA) Clean Water Section 319 Program and the Washington State Department of

# Ecology (Ecology).

# Compliance with State and Local Laws

The construction of the project, including all subcontracted work, shall conform to the applicable requirements of state and local laws and ordinances.

# State Interest Exclusion

It is anticipated that this project will be funded in part by Ecology and EPA. Neither the State Of Washington nor any of its departments or employees are, or shall be, a party to this contract or any subcontract.

# Third Party Beneficiary

Partial funding of this project is being provided through the EPA’s Clean Water Section 319 Program and the Washington State Department of Ecology. All parties agree that the State of Washington shall be, and is hereby, named as an express third-party beneficiary of this contract, with full rights as such.

# Access to the construction site and to records

The contractor shall provide for the safe access to the construction site and to the contractor's records by United States Environmental Proection Agency and Washington State Department of Ecology personnel.

The Contractor shall maintain accurate records and accounts to facilitate the Owner’s audit requirements and shall ensure that all subcontractors maintain auditable records.

These Project records shall be separate and distinct from the Contractor’s other records and accounts.

All such records shall be available to the Owner and to United States Environmental Proection Agency and Washington State Department of Ecology personnel for examination. All records pertinent to this project shall be retained by the Contractor for a period of three (3) years after the final audit.

# Protection of the Environment

No construction related activity shall contribute to the degradation of the environment, allow material to enter surface or ground waters, or allow particulate emissions to the atmosphere, which exceed state or federal standards. Any actions that potentially allow a discharge to state waters must have prior approval of the Washington State Department of Ecology.

# Inadvertent Discovery of Archeological Resources

The contractor shall obtain a copy of the Inadvertent Discovery Plan from the Project Owner.  The contractor shall keep a copy of the inadvertent discovery plan for the project on the work site at all times.  The contractor shall immediately stop all work if human remains, cultural, or archeological resources are discovered in the course of construction.  The contractor shall follow the inadvertent discovery plan in dealing with the human remains, cultural, or archeological resources.

# Project Signs

If feasible, the Contractor shall display signage that informs the public that the project received financial assistance from Ecology and the United States Environmenetal Protection Agency (EPA). The sign shall include the logos of Ecology and the EPA and shall include the following sentence: “This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology.”

# Disadvantaged Business Enterprises

## General Compliance (40 CFR Part 33)

The contractor shall comply with the requirements of the Environmental Protection Agency’s Program for Participation By Disadvantaged Business Enterprises (DBE) 40 CFR Part 33.

## Non-discrimination Provision (40CFR Appendix A to Part 33)

The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

The contractor shall comply with all federal and state nondiscrimination laws, including, but not limited to Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington’s Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

## Six Good Faith Efforts (40 CFR Part 33 Subpart C)

The contractor agrees to make the following good faith efforts whenever procuring subcontracts, equipment, services and supplies. The contractor shall retain records documenting compliance with the following six good faith efforts.

1. Ensuring Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources. Qualified Women and Minority business enterprises may be found on the Internet at [www.omwbe.wa.gov](http://www.omwbe.wa.gov) or by contacting the Washington State Office of Minority and Women’s Enterprises at (866) 208-1064.
2. Making information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
3. Considering in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
4. Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
5. Using services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
6. If the prime contractor awards subcontracts, requiring the subcontractors to take the six good faith efforts in paragraphs 1 through 5 above.

## MBE/WBE Reporting (40 CFR Part 33 Parts 33.302, 33.502 and 33.503)

1. The contractor shall complete the DBE Subcontractor Utilization Form (EPA Form 6100–4).
2. The contractor shall require all DBE subcontractors to complete the DBE Subcontractor Performance Form (EPA Form 6100-3). The DBE Subcontractor Performance Form is only required to be completed by certified DBE subcontractors.
3. The contractor shall submit DBE Subcontractor Utilization Form (EPA Form 6100-4) and all completed DBE Subcontractor Performance Form(s) (EPA Form 6100-3) as part of the bid, or within one hour after the published bid submittal time (consistent with RCW 39.30.060)
4. The contractor shall provide DBE Subcontractor Participation Form (EPA Form 6100-2) to all DBE subcontractors. These subcontractors may submit Subcontractor Participation Form (EPA Form 6100-2) to the EPA Region 10 DBE coordinator in order to document issues or concerns with their usage or payment for a subcontract.

The 6100 forms can be found at: <http://www.ecy.wa.gov/programs/wq/funding/GrantLoanMgmtDocs/Eng/GrantLoanMgmtEngRes.html>

## Bidders List (40 CFR Part 33 part 33.501)

All bidders shall submit the following information for all firms that bid or quote on subcontracts (including both DBE and non-DBE firms) as part of the bid, or within one hour after the published bid submittal time (consistent with RCW 39.30.060).

1. Firm’s name with point of contact;
2. Firm’s mailing address, telephone number, and e-mail address;
3. The work on which the firm bid or quoted, and when the firm bid or quoted; and
4. Firm’s status as an MBE/WBE or non-MBE/WBE.

## Contract Administration Provisions (40 CFR part 33.302)

The contractor shall comply with the contract administration provisions of 40 CFR, Part33.302.

1. The contractor shall pay its subcontractor for satisfactory performance no more than 30 days from the contractor's receipt of payment.
2. The contractor shall notify the owner in writing prior to any termination of a DBE subcontractor.
3. If a DBE subcontractor fails to complete work under the subcontract for any reason, the contractor shall employ the six good faith efforts when soliciting a replacement subcontractor.
4. The contractor shall employ the six good faith efforts even if the contractor has achieved its fair share objectives.

*Revised 6/12/20*