

**Article 17-B (SDVOB) Provisions for Solicitation Documents (non-construction)**

**Attachment J**

**SDVOB WAIVER FORM**

Solicitation or Contract No.: \_\_\_\_\_ Date: \_\_\_\_\_

1. PRIME CONTRACTOR INFORMATION

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Federal ID #: \_\_\_\_\_

Brief Description of Work:

\_\_\_\_\_  
\_\_\_\_\_

2. I hereby request a **Partial** or **Total** (circle one) waiver of the certified SDVOB goals as established in the solicitation or contract identified above. To substantiate and demonstrate my good faith efforts the following information is submitted for the Authority's review and approval.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Print name and title Authorized Representative

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1. Provide a statement setting forth the basis for requesting a partial or total waiver of the certified SDVOB goal established in the solicitation:
  
2. List the certified SDVOBs that were solicited in writing to provide bids for purposes of complying with the SDVOB goal requirements of the solicitation.
  
3. Provide proof of dates on which such solicitations were made in writing and copies of said solicitations as well as copies of responses you received.
  
4. Provide a description of any contract documents, plans or specifications that were made available to certified SDVOBs for purposes of soliciting their bids.
  
5. Provide the dates and manner in which the above documents were made available.
  
6. Provide 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
  
7. Attach any documentation you have of negotiations between the contractor and the certified SDVOB undertaken for purposes of complying with the goal requirements in the solicitation.
  
8. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
  
9. Provide the name, title, address and telephone number contractor's representative authorized to discuss and negotiate this waiver request.

Waiver request is:  Granted  Denied

By: \_\_\_\_\_ Date: \_\_\_\_\_

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NYSERDA may grant a partial or total waiver of the goal requirements established in the solicitation/contract upon the submission of a waiver form by a contractor documenting good faith efforts by the contractor to meet the goal requirements, and in consideration of the following factors:

1. The number and types of certified SDVOBS available to perform the work
2. The total dollar value of the contract and the scope of work to be performed
3. The project size and project term
4. The availability of other business enterprises located in the region qualified to do the work
5. The ability of certified SDVOBs located outside the region to perform the work
6. The extent to which the contractor's own actions contributed to its inability to meet the goal

In addition to the information provided by the contractor on this form, NYSERDA may also consider the following to determine whether the contractor has demonstrated good faith efforts:

1. Where applicable, whether the contractor submitted an amended utilization plan consistent with the subcontractor or supplier opportunities in the contract
2. The number of certified SDVOBs in the region that could, in the judgment of NYSERDA, perform work required by the contract
3. The actions taken by the contractor to contact and assess the ability of certified SDVOBs located outside of the region in which the contract is to be performed to participate on the contract
4. Whether the contractor provided relevant plans, specifications or terms and conditions to certified SDVOBs sufficiently in advance to enable them to prepare an informed response to a contractor request for participation as a subcontractor or supplier
5. The terms and conditions of any subcontractor or provision of suppliers offered to certified SDVOBs and a comparison of such terms and conditions of those offered in the ordinary course of the contractor's business
6. Whether the contractor offered to make up any inability to comply with the certified SDVOB goals in the subject contract in other state contracts being performed or awarded to the contractor
7. The extent to which the contractor's actions contributed to its inability to meet the goals
8. Whether the contractor knowingly utilized one or more certified SDVOBs, in the performance of the contract, that contractor knew or reasonably should have known could not perform a commercially useful function
9. Whether the contractor submitted compliance reports which identified certified SDVOBs that the contractor knew or reasonably should have known did not perform a commercially useful function on a State contract on which goals were assigned
10. Any other information that is relevant or appropriate to determining whether the contractor has demonstrated a good faith effort.