



*Department of Health  
and Human Services*

*Maine People Living  
Safe, Healthy and Productive Lives*

Department of Health and Human Services  
Maine Center for Disease Control and Prevention  
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## **DWSRF SUPPLEMENTAL GENERAL CONDITIONS FOR NON-EQUIVALENCY PROJECTS**

**PURPOSE:** The DWSRF Supplemental General Conditions are written to ensure that State and Federal funding and project requirements are included in DWSRF construction contract documents these conditions are intended for Non-Equivalency Projects only. Please contact your Project Manager to determine if you project is Non-Equivalency

**ORIGINATOR/OWNER:** DWP DWSRF Staff/Chief Engineer

**PROCEDURE:**

All contents of the DWSRF Supplemental General Conditions in this document must be included in DWSRF funded construction contract specification documents for projects and shall be put out for public bid.

It is helpful to incorporate the complete DWSRF Supplemental General Conditions documented here into a specification document, yet as long as all of the conditions are present in the specification document, the complete set of conditions described below do not need to be included as shown.

Specifically, when other sources are funding portions of a construction project funded also by DWSRF, as long as each item in the DWSRF supplemental general conditions is included in the specifications document, there is no need to duplicate conditions within the specifications document.

3. When questions arise regarding a component of these supplemental general conditions, the public water system or their engineer should contact their DWP DWSRF Project Manager to discuss the issue first. A DWSRF Manager will assist with decision making as needed.

**ASSOCIATED DOCUMENTS:**

- DWSRF Project Management Guidance Manual
- State of Maine Rules Relating to Drinking Water State Revolving Loan fund

**SUPERSEDED DOCUMENTS:** All previously undocumented versions of this document

**RETENTION:** This document is retained per DWP Record Retention Schedules

## REVISION LOG:

Section	Page	Rev.	Date	Description Of Change	Approved by:
		Original	8-15-12		Norm Lamie
MBE/WBE	5	A	3-1-2013	MBE/WBE goals change from 1.3% and 3.7% to 0.64% and 1.64% respectively.	Norm Lamie
DBE, Davis Bacon, AIS, Change in Work and Work Price.	3, 11, 5-7, 9,12,14	B	7-28-15	Change WBE/MBE to DBE and added new requirements and reference to EPA documents. Modified Davis Bacon description. Added American Iron & Steel requirements. Added list of related info and forms. Removed "Bid Protest" and "Claims or Disputes" or Disputes sections which are covered by EJCDC. Included that Change Orders shall require DHHS approval.	Norm Lamie
DBE  Related Info & Forms	5-6  13	C	3-18-16	Changed "EPA" to "DWP" on the titles of the 6100-2,3,4 forms described in the section on DBEs.	Nathan Saunders
Appendix A		D	3-24-16	FROMS: Added Appendix Documents: Forms 6100-4,3,2, Progress Rpt of DBE Subcontractor Utilization, Weekly Payroll Labor Stds Compliance Review, AIS Certificaton	Nathan Saunders
		E	1-24-17	Updated EJCDC document #s and names	Nathan Saunders
		F	11-28-17	Added Executive Order 12549 on Debarment and Suspension	Nathan Saunders
Appendix A and Appendix B		G	2-12-18	Change Appendix A to Appendix B to enable adding .pdf forms at the end of the document. Added Wage Rate Requirements as Appendix A.	Nathan Saunders
Appendix B		H	3-21-19	Added Deminimus Tracking Form to Appendix B	Nathan Saunders
General Conditions	15	J	1-5-2021	Added Federal requirement: "Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment"	Nathan Saunders
Appendix B		K	4-7-2021	Updated all forms to be generic SRF instead of DWSRF in order to make forms for DWP and DEP the same, specifically valuable for working MDOT projects with both DWP and DEP work involved.	Nathan Saunders
General Conditions	3, 11	L	3-23-2022	Added EO 14026	McKenzie Parker
General Conditions Appendix B Appendix C		M	4-6-2023	Removed EO14026, Added BIL project Sign, Updated Definition of Equivalency	McKenzie Parker

Section	Page	Rev.	Date	Description of Change	Approved by:
Federal Requirements, Bid Ad Appendix C	3, 42	N	1/8/2025	Added additional Super-Crosscutters, Removed BIL Project Sign	McKenzie Parker
WHD Certified Payroll Form Appendix B	25, App. B	O	4/28/2025	Added Updated WHD Certified Payroll Form	

## **DWSRF SUPPLEMENTAL GENERAL CONDITIONS**

The provisions of the Drinking Water State Revolving Loan Fund (DWSRF) Supplemental General Conditions as described below change, amend, or supplement the General Conditions and shall supersede any conflicting provisions of the CONTRACT. These provisions shall be used in conjunction with the most recent version of EJCDC documents C-700 (Standard General Conditions) and C-520 (Agreement between Owner and Contractor), both the Funding Agency version. All provisions of the General Conditions, which are not changed, amended, or supplemented, remain in full force.

### Notice to Bidders

Any person interested in Bidding on this contract should thoroughly familiarize themselves with these DWSRF Supplemental General Conditions. Failure to comply with any of these conditions may result in the Bidder being determined non-responsive and therefore, not entitled to the award of this contract.

**NOTE: In the ADVERTISEMENT TO BIDDERS, the following language should be used making all Bidders aware of the DHHS Special conditions.**

### Bid Bond

A certified check or bank draft payable to the OWNER or a satisfactory Bid Bond executed by the Bidder and a Surety Company in the equal to five percent (5%) of the Bid shall be submitted with each bid. No bid may be withdrawn for at least 60 days after receipt of bids unless released by the owner.

### Disadvantaged Business Enterprise Requirements

Each Bidder shall take notice special notice of the Guidance for use of Disadvantaged Business Enterprises in the DWSRF Supplemental General Conditions. Failure to complete these requirements may result in finding that the Bidder is nonresponsive and therefore, not eligible to awarded this contract. Complete requirements are located in the Bid Documents.

### Nondiscrimination in Employment and Labor Standards

Bidders on this work will be required to comply with the President's Executive Order No. 11246 and amendments and supplements to that Order. The requirements for Bidders and CONTRACTORS under this Order are located in the DWSRF Supplemental General Conditions.

### Federal Requirements

The CONTRACTOR must comply with the Department of Labor Regulations relating to Copeland "Anti-Kickback Act (18 U.S.C. 874) as supplemented by 29 CFR part 3, Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by 29 CFR part 5, Occupational Safety and Health Standards (OSHA) (29 CFR part 1910).

The CONTRACTOR must comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Safe Drinking Water Act, Executive Order 11738, and the Environmental Protection Agency regulations (40 CFR Part 15).

The CONTRACTOR must comply with Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Section 504 of the Rehabilitation Act of 1964, Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and the Uniform Relocation and Real Property Acquisition Policies Act.

The CONTRACTOR must comply with all permits, restrictions and conditions, issued for the PROJECT by Federal Cross-cutting Authorities.

## Disclaimer

Any contract awarded under this Advertisement to Bidders is expected to be funded in part by a Maine Drinking Water State Revolving Fund loan. Neither the State of Maine nor any of its departments, agencies, or employees is, or will be, party to the CONTRACT.

**NOTE: The following language shall be added to the INFORMATION FOR BIDDERS section of the specifications:**

### Bonding and Insurance

Bidders must furnish a bid guarantee equivalent to five percent (5%) of the bid price. In addition the CONTRACTOR awarded a construction contract must furnish performance and payment bonds, each of which shall be in an amount not less than 100 percent of the contract price. CONTRACTORS shall obtain such construction insurance (e.g., fire and extended coverage, workmen's compensation, public liability and property damage, and "all risk" builders risk) as is customary and appropriate.

### Manufacturer's Experience

Wherever it may be written that an equipment manufacturer must have a specified period of experience with his product or equipment, who does not meet the specified experience period, can be considered if the equipment supplier or manufacturer is willing to provide a bond or cash deposit for the duration of the specified time period which will guarantee replacement of that equipment in the event of failure.

### Sales Tax

This PROJECT is exempt from State Sales and Use or Excise Taxes to the extent allowed by law.

**Each system must determine whether or not the Sales Tax paragraph is applicable to its project.**

### Safety and Health Regulations

This PROJECT is subject to all the Safety and Health Regulations (CFR 29 Part 1926 and all subsequent amendments) as promulgated by the US. Department of Labor on June 24, 1974. CONTRACTORS are urged to become familiar with the requirements of these regulations.

### Nondiscrimination in Employment

- a. Contracts for work under this proposal will obligate the CONTRACTORS and the SUBCONTRACTORS not to discriminate in employment practices.
- b. Bidders must submit with their initial bid a signed statement as to whether they have previously performed work subject to the President's Executive Order No. 11246, or any preceding similar Executive Order.
- c. Bidders must, if requested, submit a compliance report concerning their employment practices and policies in order to maintain their eligibility to receive the award of the contract.
- d. Successful bidders must, if requested, submit a list of all SUBCONTRACTORS who will perform work on the PROJECT, and written signed statements from authorized agents of labor pools with which they will or may deal for employees on the work together with supporting information to the effect that such labor pools' practices and policies are in conformity with Executive Order No. 11246; that they will affirmatively cooperate in or offer no hindrance to the recruitment, employment, and equal treatment of employees seeking employment and performing work under the contract or, a certification as to what efforts have been made to secure such statements when such agents or labor pools have failed or refused to furnish them prior to award of the contract.

- e. Successful bidders must be prepared to comply in all respects with the contract provisions regarding nondiscrimination.

#### SRF Disadvantaged Business Enterprises (DBE) Program

“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, Disadvantaged Business Enterprises (DBE), in the award and administration of subcontracts. 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 goals for this project are a minimum of 0.64% certified Minority Business Enterprise (MBE) and a minimum of 1.64% certified Women’s Business Enterprise (WBE) participation. Lists of certified businesses may be found on the following internet websites: EPA Office of Small and Disadvantaged Business Utilization (OSDBU), State of Maine Department of Transportation (DOT), and the United States Small Business Administration (SBA).

The contractor must maintain all records documenting its compliance with the requirements of this part, including documentation of its good faith efforts (such as copies of solicitation letters and emails) and data relied upon in formulating its fair share objectives.

1. During the bidding period, the Contractor is required to make the following good faith efforts if they will be awarding subcontracts:  
Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. This will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
  - (a) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
  - (b) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
  - (c) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
  - (d) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
  - (e) Employ the good faith efforts described above even if the prime contractor has achieved its fair share objectives under subpart D of this part.
2. The Contractor must comply with the following provisions when submitting their bid:
  - (a) The contractor must complete and submit DWP Form 6100–4, ‘DBE Program Subcontractor Utilization Form’ (**See Appendix B**) as part of the prime contractor’s bid or proposal package to the Owner. Note, only DBE subcontractors should be listed. If no DBE subcontractors are to be used, the contractor must still complete and submit the form.
  - (b) The contractor must have each of its proposed DBE subcontractors complete the DWP Form 6100–3, ‘DBE Program Subcontractor Performance Form’ (**See Appendix B**). The completed forms must be submitted as part of the prime contractor’s bid or proposal package to the Owner.
3. Prior to contract award, as the Successful Bidder, the Contractor must comply with the following provisions:
  - (a) The contractor must submit to the Owner documentation of its good faith efforts (such as copies of solicitation letters and emails) and data relied upon in formulating its fair share objectives. Solicitation documentation must include proof of receipt. The records must be submitted to the Owner even if the goals were met.

(b) The contractor must submit to the Owner a bidders list of all firms that bid or quote on subcontracts, including both MBE/WBEs and non-MBE/WBEs. The purpose of a bidders list is to provide contractors who conduct competitive bidding with as accurate a database as possible about the universe of MBE/WBE and non-MBE/WBE subcontractors. The list must include the following information:

- (1) Entity's name with point of contact;
- (2) Entity's mailing address, telephone number, and e-mail address;
- (3) The procurement on which the entity bid or quoted, and when; and
- (4) Entity's status as an MBE/WBE or non-MBE/WBE.

4. Following contract award, the Contractor must comply with the following additional provisions:

- (a) The contractor must provide DWP Form 6100-2, 'DBE Program Subcontractor Participation Form' (**See Appendix**) to all DBE subcontractors listed on Form 6100-4. DWP Form 6100-2 gives a DBE subcontractor the opportunity to describe the work the DBE subcontractor received from the prime contractor, how much the DBE subcontractor was paid and any other concerns the DBE subcontractor might have during the course of the project, for example, reasons why the DBE subcontractor believes it was terminated by the prime contractor. If DBE subcontractors choose to complete this form, the completed form should be sent directly to the "Contract Administrator" identified in the Preconstruction Meeting.
- (b) Complete the DWSRF DWP Progress Report of DBE Subcontractor Utilization Form (**See Appendix**) for all contractor pay applications whether or not they include invoiced amounts from DBE subcontractors. The progress report shall be attached to the corresponding pay application for processing through the Owner.
- (c) Pay subcontractors for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the Owner.
- (d) Notify the Owner in writing prior to any termination of a DBE subcontractor for convenience by the prime contractor.
- (e) If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the good faith efforts described above if soliciting a replacement subcontractor. Documentation of good faith efforts shall be submitted to the Owner upon request."

#### American Iron and Steel (AIS) Requirements

"The Contractor acknowledges, to and for the benefit of the Owner and the State (Maine Drinking Water Program), that it understands the goods and services under this Agreement are being funded with monies made available by the Drinking Water State Revolving Fund (DWSRF) that have statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement. See Public Law 113-76, Section 436 (**available in the AIS Guidelines at [www.medwp.com](http://www.medwp.com)**). The Contractor hereby represents and warrants, to and for the benefit of the Owner and the State, that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Owner or the State. While the Contractor has no direct contractual privity with the State, as a lender to the Owner for the funding of its project, the Owner and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

The Owner shall maintain files on the project site for American Iron and Steel (AIS) manufacturer certifications. The Contractor and subcontractors shall provide step manufacturer certifications to the Owner for each AIS item delivered to the site. The files shall be made available to State and Federal officials for inspection upon request. See sample Step Manufacturer Certification form (**from Use of AIS Certification available at [www.medwp.com](http://www.medwp.com)**) for information that should be included.

The Contractor and its subcontractors shall submit to the Owner, an AIS Compliance Certification (**See Appendix**) prior to the project Preconstruction Meeting. The Owner, shall in turn, submit this certification from the Contractor, with their AIS Compliance Certification (**See Appendix**), to the State at the project Preconstruction Meeting.

The nationwide waiver to the American Iron and Steel law permits the use of products when they occur in de minimis incidental components of such projects funded by the Act that may otherwise be prohibited under section 436(a). Funds used for such de minimis incidental components cumulatively may comprise no more than a total of 5 percent of the total cost of the materials used in and incorporated into a project; the cost of an individual item may not exceed 1 percent of the total cost of the materials used in and incorporated into a project. It is the State's interpretation that all DWSRF projects will contain incidental components that might not comply with the law and therefore it is likely that the Owner will use the de minimis waiver. The Contractor is required to provide the necessary documentation. Owners should, in consultation with their contractors, determine the items to be covered by this waiver, must retain relevant documentation (i.e., invoices) as to those items in their project files, and must summarize in reports the types and/or categories of items to which this waiver is applied, the total cost of incidental components covered by the waiver for each type or category, and the calculations by which they determined the total cost of materials used in and incorporated into the project. The Owner shall maintain files on the project site for this documentation. The files shall be made available to State and Federal officials for inspection upon request.

The Contractor shall refer to the "Use of American Iron and Steel (AIS) Guidance" (**available at [www.medwp.com](http://www.medwp.com)**). Additional information regarding the AIS requirements can be found on this website [http://water.epa.gov/grants\\_funding/aisrequirement.cfm](http://water.epa.gov/grants_funding/aisrequirement.cfm)



# Notice to Labor Union or Other Organization of Workers

## Nondiscrimination in Employment

To: \_\_\_\_\_  
(Name of Union or organization of workers)

The undersigned currently holds contract(s) with \_\_\_\_\_  
(Name of Applicant)

involving funds or credit of the U.S. Government of (a) subcontract(s) with a prime CONTRACTOR holding such contract(s).

You are advised that under the provisions of the above contract(s) or subcontract(s) and in accordance with Executive Order 11246, dated September 24, 1965, the undersigned is obliged not to discriminate against any employee or applicant for employment because of race, color, creed, or national origin. This obligation not to discriminate in employment includes, but is not limited to the following:

HIRING, PLACEMENT, UPGRADING, TRANSFER, OR DEMOTION

RECRUITMENT, ADVERTISING, OR SOLICITATION FOR

EMPLOYMENT TRAINING DURING EMPLOYMENT, RATES OF

PAY OR OTHER FORMS OF COMPENSATION, SELECTION FOR TRAINING

INCLUDING APPRENTICESHIP, LAYOFF, OR TERMINATION.

This notice is furnished to you pursuant to the provisions of the above contract(s) or subcontract(s) and Executive Order 11246.

COPIES OF THIS NOTICE WILL BE POSTED BY THE UNDERSIGNED IN CONSPICUOUS PLACES AVAILABLE TO EMPLOYEES OR APPLICANT FOR EMPLOYMENT.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

/s/ \_\_\_\_\_  
(Contractor or Subcontractor)

\_\_\_\_\_

(Date)

### Contractor's and Subcontractor's Insurance

The CONTRACTOR shall not commence work under this contract until he has obtained all the insurance required hereunder and the OWNER has approved such insurance, nor shall the CONTRACTOR allow any SUBCONTRACTOR to commence work on his subcontract until all similar insurance required of the SUBCONTRACTOR has been so obtained and approved. Approval of the insurance by the OWNER shall not relieve or decrease the liability of the CONTRACTOR hereunder.

Operations under the CONTRACT DOCUMENTS, whether such operations be by himself or by any SUBCONTRACTOR under him, requires insurance to be written with a limit of liability of not less than \$1,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefore, sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$500,000 for all property damage sustained by any one person in any one accident-, and a limit of liability of not less than \$500,000 aggregate for any such damage sustained by two or more persons in any one accident.

The CONTRACTOR shall acquire and maintain, if applicable, Fire and Extended Coverage insurance upon the PROJECT to the full insurable value thereof for the benefit of the OWNER, the CONTRACTOR, and SUBCONTRACTOR as their interest may appear. This provision shall in no way release the CONTRACTOR or CONTRACTOR'S surety from obligations under the CONTRACT DOCUMENTS to fully complete the PROJECT.

The CONTRACTOR shall procure and maintain, at his own expense, during the CONTRACT TIME, in accordance with the provisions of the laws of the State of Maine, Workmen's Compensation Insurance, including occupational disease provisions, for all of his employees at the site of the PROJECT and in case any work is sublet, the CONTRACTOR shall require such SUBCONTRACTOR similarly to provide Workmen's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. In case any class of employees engaged in hazardous work under this contract at the site of the PROJECT is not protected under Workmen's Compensation statute, the CONTRACTOR shall provide adequate and suitable insurance for the protection of his employees not otherwise protected.

### Posting Documents

The following documents must be posted and maintained by the CONTRACTOR at such place or places on the PROJECT site where employees can easily see them. The posters may be obtained, free of charge, from "Business Answers" 1-800-872-3838.

- "Notice to Labor Union or Other Organizations of Workers" (Exhibit 2)
- "Equal Employment Opportunity is the Law" poster
- "Job Safety and Health Protection" poster
- "Fair Labor Standards Act" poster
- "Employee Polygraph Protection Act" poster
- "Family and Medical Leave Act" poster (applicable to employers of 50 or more employees)
- "Notice Relative to the Regulation of Employment" (State Poster)
- "Minimum Wage" (State Poster)
- "Whistleblowers' Protection Act" (State Poster)
- "Sexual Harassment Law" (State Poster)
- "Workers Compensation" (State Poster)
- "Maine Employment Security Law" (applicable to employers who must pay unemployment tax)

“Notice to All Employees” (<http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>)

“Davis-Bacon” wage rates

Available from the Maine Dept. of Labor at <http://www.maine.gov/labor/posters/>.

### Project Sign

The CONTRACTOR shall provide and erect PROJECT sign as detailed and specified in Appendix C (See “Project Signs for all Agencies” at [www.medwp.com](http://www.medwp.com) for sign specifications when multiple funding agencies are being utilized). The location of the sign shall be as directed by the ENGINEER. No other CONTRACTOR, SUBCONTRACTOR or material signs will be permitted on the sign. The CONTRACTOR shall maintain and keep the PROJECT sign in good condition until the work is completed when the sign will be removed. All other signs to be erected on the site shall be approved by the ENGINEER. Provide adequate supports for sign as site conditions may require and keep sign a proper distance above prevailing grade to permit public viewing. DHHS may provide an alternative method to placing a project sign for certain types of projects.

### Inspection

Representatives of the OWNER and of the Department of Health and Human Services (DHHS) shall have access to the work wherever it is in preparation or progress and the CONTRACTOR shall provide proper facilities for such access and inspection.

### **Payment of Employees**

#### Minimum Wages

All mechanics and laborers employed or working upon the construction site work of the PROJECT, will be paid the full amounts due at time of payment computed at wage rates not less than State or Federal Minimum Wage, whichever is higher, regardless of any contractual relationship which may be alleged to exist between the CONTRACTOR and such laborers and mechanics.

#### Overtime Payments

An employer is obligated to make proper wage payments under the Fair Labor Standards Act, and the Contract Work Hours Standards Act, for hours worked in excess of 40 hours in a work week. An employee must receive compensation at a rate not less than one and one-half times the regular rate of pay (basic hourly rate) for all hours worked in excess of 40 hours per week.

#### Davis-Bacon Wages

Davis-Bacon Wage Rates apply to projects with DWSRF funding. For Davis-Bacon wage determination purposes, work on most projects will be considered “heavy construction”. Some projects may also include work under the “building construction” category. The wage decision that is current as of ten (10) days prior to the bid opening will be applied to DWSRF funded project. The wage decision applicable to this project can be found within these project documents. It is the responsibility of the bidder to verify the applicable wage decision. For job classifications not listed in the applicable wage decision a project-specific wage determination request must be filed with the federal Department of Labor. The Drinking Water Program will provide the wage determination request application form. The Drinking Water Program must review, sign, and submit the wage determination request application. Wage determination request submittals are expected to be responded to within 30 days;

however, some responses have taken longer than this. For each job classification needed for this project not listed in the applicable wage decision the successful bidder is encouraged to identify these job classifications and notify all parties early on in the project such as during the preconstruction meeting. The contractor bears all responsibility for reimbursing workers at Davis-Bacon wage rates. This includes for job classifications not listed in the wage decision that require wage determination requests. All pay requisitions submitted that include contract expenses must include a Weekly Payroll Labor Standards Compliance Review sheet (**See Appendix**) for each week that the pay requisition covers.

For more information, see [www.dol.gov/whd/govcontracts/dbra.htm](http://www.dol.gov/whd/govcontracts/dbra.htm)

### Wage Record of Contractor

The CONTRACTOR and each SUBCONTRACTOR shall keep an accurate record showing the names, social security number, and occupation of each and all laborers, workmen, and mechanics employed by them in connection with this PROJECT showing the hours worked, the title of the job, the hourly rate and the actual wages paid to each of them. A copy of such record shall be kept at the job site and shall be open at all reasonable hours to the inspection of the Bureau of Labor Standards, the OWNER, and the Department of Health and Human Services.

### Retention of Payroll Records

Payroll records, including original field notes and back up material will be maintained during the course of the work by the CONTRACTOR, including payroll of each SUBCONTRACTOR for a period of three years after the completion of the PROJECT.

### Violations of Labor Standards

In the event of a violation of the Overtime Payments clause the CONTRACTOR and any SUBCONTRACTOR responsible therefore shall be liable for the unpaid wages and shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages.

In the event of any violation by the CONTRACTOR or SUBCONTRACTOR of the labor standards provisions of their contract, the OWNER may, after notice to the CONTRACTOR, suspend further payments until such violations have ceased.

### Payment to Contractor

At least ten (10) days before each progress payment falls due (but not more often than once a month), the CONTRACTOR will submit to the ENGINEER a partial payment estimate filled out and signed by the CONTRACTOR covering the WORK performed during the period covered by the partial payment estimate and supported by such data as the ENGINEER may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the WORK but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the OWNER, as will establish the OWNER'S title to the material and equipment and protect the OWNER'S interest therein, including applicable insurance. The ENGINEER will, within ten (10) days after receipt of each partial payment estimate, either indicate in writing approval of payment, and present the partial payment estimate to the OWNER, or return the partial payment estimate to the CONTRACTOR indicating in writing the reasons for refusing to approve payment.

In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. The OWNER will, within ten (10) days of presentation of an approved partial payment estimate, pay the CONTRACTOR a progress payment on the basis of the approved partial payment estimate less the retainage. The retainage shall be an amount equal to ten percent (10%) of said estimate until fifty percent (50%) of the work has been completed. At fifty percent (50%) completion, further partial payments shall be made in full to the CONTRACTOR and no additional amounts retained unless the ENGINEER certifies that the job is not proceeding satisfactorily, but amounts previously retained shall not be paid to the CONTRACTOR. At fifty percent (50%) completion or any time thereafter when the progress of the WORK is not satisfactory, additional amounts may be retained but in no event shall the total retainage be more than ten percent (10%) of the value of the work completed. Upon substantial completion of the work the OWNER may retain an amount sufficient to cover the estimated cost of the work still to be completed.

The CONTRACTOR will indemnify and save the OWNER harmless from all claims growing out of the lawful demand of SUBCONTRACTORS, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, tools, and all supplies incurred in the furtherance of the performance of the WORK. The CONTRACTOR shall, at the OWNER'S request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. This may be required on a monthly basis. If the CONTRACTOR fails to do so the OWNER may, after having notified the CONTRACTOR, either pay unpaid bills or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the CONTRACTOR shall be resumed in accordance with the terms of the CONTRACT DOCUMENTS, but in no event shall the provisions of this sentence be construed to impose any obligations upon the OWNER to either the CONTRACTOR, the CONTRACTOR'S Surety, or any third party. In paying any unpaid bills of the CONTRACTOR, any payment so made by the OWNER shall be considered as a payment made under the CONTRACT DOCUMENTS by the OWNER to the CONTRACTOR and the OWNER shall not be liable to the CONTRACTOR for any such payments made in good faith.

#### Changes in the Work

The OWNER may at any time, as the need arises, order changes within the scope of the WORK without invalidating the Agreement. If such changes increase or decrease the amount due under the CONTRACT DOCUMENTS, or the time required for performance of the WORK, an equitable adjustment shall be authorized by CHANGE ORDER.

The ENGINEER, also, may at any time, by issuing a FIELD ORDER, make changes in the details of the WORK. The CONTRACTOR shall proceed with the performance of any changes in the WORK so ordered by the ENGINEER unless the CONTRACTOR believes that such FIELD ORDER entitles the CONTRACTOR to a change in CONTRACT PRICE or TIME, or both, in which event the CONTRACTOR shall give the ENGINEER WRITTEN NOTICE thereof within seven (7) days after the receipt of the ordered change. Thereafter the CONTRACTOR shall document the basis for the change in CONTRACT PRICE or TIME within thirty (30) days.

The CONTRACTOR shall not execute such changes pending the receipt of an executed CHANGE ORDER or further instruction from the OWNER. All Change Orders shall be approved by DHHS. HHS.

### Changes in Contract Price

The CONTRACT PRICE may be changed only by a CHANGE ORDER. All Change Orders shall be approved by DHHS. The value of any WORK covered by a CHANGE ORDER or of any claim for increase or decrease in the CONTRACT PRICE shall be determined by one or more of the following methods in the order of procedure listed below:

- a. Unit prices previously approved.
- b. An agreed lump sum.
- c. Time and materials

For all change order work performed under c, a fee for overhead and profit will be allowed over and above the "actual cost" of the work. For work performed by a SUBCONTRACTOR, this fee shall not exceed fifteen percent (15%) for the SUBCONTRACTOR and five percent (5%) for the general CONTRACTOR. The general CONTRACTOR'S five percent (5%) is calculated on the SUBCONTRACTOR'S actual cost before the fee is added. The total fee on "actual work" shall not exceed twenty percent (20%). For work performed by the general CONTRACTOR, this fee shall not exceed fifteen percent (15%).

The "actual cost" of work includes the reasonable cost to the CONTRACTOR of the following:

- a. materials used as part of the work;
- b. common and skilled labor and foreman only;
- c. equipment rental for the period employed directly on the work at rates not exceeding the monthly rate contained in the current "Rental Rate Blue Book for Construction Equipment (published by the Equipment Guidebook Company);
- d. additional insurance if required, to cover public liability for injury to persons and property;
- e. Workmen's Compensation Insurance, Federal Social Security and any other costs associated with payrolls and required by law.

The "actual cost" of work does not include the following:

- a. purchase or rental of small tools and buildings;
- b. CONTRACTOR'S supervision of SUBCONTRACTOR (these costs are part of fee outlined above;
- c. use of capital or premium on the bond unless the extra work includes an extension of time approved and authorized by the OWNER.
- d. overhead and profit.

### Access to records

The OWNER, DHHS, Maine Municipal Bond Bank and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of CONTRACTORS which are pertinent to this PROJECT in order to make audits, examinations, excerpts, and transcripts.

Expiration of right of access. The rights of access shall last as long as the records are retained. The minimum retention period is three years.

## Executive Order 12549--Debarment and suspension

Source: The provisions of Executive Order 12549 of Feb. 18, 1986, appear at 51 FR 6370, 3 CFR, 1986 Comp., p. 189, unless otherwise noted.

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to curb fraud, waste, and abuse in Federal programs, increase agency accountability, and ensure consistency among agency regulations concerning debarment and suspension of participants in Federal programs, it is hereby ordered that:

Section 1. (a) To the extent permitted by law and subject to the limitations in Section 1(c), Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.

(b) Activities covered by this Order include but are not limited to: grants, cooperative agreements, contracts of assistance, loans, and loan guarantees.

(c) This Order does not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement, or Federal employment.

Sec. 2. To the extent permitted by law, Executive departments and agencies shall:

(a) Follow government-wide criteria and government-wide minimum due process procedures when they act to debar or suspend participants in affected programs.

(b) Send to the agency designated pursuant to Section 5 identifying information concerning debarred and suspended participants in affected programs, participants who have agreed to exclusion from participation, and participants declared ineligible under applicable law, including Executive Orders. This information shall be included in the list to be maintained pursuant to Section 5.

(c) Not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in an affected program. An agency may grant an exception permitting a debarred, suspended, or excluded party to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reason(s) for deviating from this Presidential policy. However, I intend that exceptions to this policy should be granted only infrequently.

Sec. 3. Executive departments and agencies shall issue regulations governing their implementation of this Order that shall be consistent with the guidelines issued under Section 6. Proposed regulations shall be submitted to the Office of Management and Budget for review within four months of the date of the guidelines issued under Section 6. The Director of the Office of Management and Budget may return for reconsideration proposed regulations that the Director believes are inconsistent with the guidelines. Final regulations shall be published within twelve months of the date of the guidelines.

Sec. 4. There is hereby constituted the Interagency Committee on Debarment and Suspension, which shall monitor implementation of this Order. The Committee shall consist of representatives of agencies designated by the Director of the Office of Management and Budget.

Sec. 5. The Director of the Office of Management and Budget shall designate a Federal agency to perform the following functions: maintain a current list of all individuals and organizations excluded from program participation under this Order, periodically distribute the list to Federal agencies, and study the feasibility of automating the list; coordinate with the lead agency responsible for government-wide debarment and suspension of contractors; chair the Interagency Committee established by Section 4; and report periodically to the Director on implementation of this Order, with the first report due within two years of the date of the Order.

Sec. 6. The Director of the Office of Management and Budget is authorized to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by this Order, prescribe government-wide criteria and government-wide minimum due process procedures, and set forth other related details for the effective administration of the guidelines.

Sec. 7. The Director of the Office of Management and Budget shall report to the President within three years of the date of this Order on Federal agency compliance with the Order, including the number of exceptions made under Section 2(c), and shall make recommendations as are appropriate further to curb fraud, waste, and abuse.

#### Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

This term and condition implements 2 CFR 200.216 and is effective for obligations and expenditures of EPA financial assistance funding on or after 8/13/2020. As required by 2 CFR 200.216, EPA recipients and subrecipients, including borrowers under EPA funded revolving loan fund programs, are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Recipients, subrecipients, and borrowers also may not use EPA funds to purchase: a. For the purpose of public safety, security of government facilities, physical security surveillance of critical Page 4 of 29 infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). b. Telecommunications or video surveillance services provided by such entities or using such equipment. c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances: a. Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to: (1) Procure or obtain, extend or renew a contract to procure or obtain; (2) Enter into a contract (or extend or renew a contract) to procure; or (3) Obtain the equipment, services, or systems. Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the System for Award Management exclusion list.



## **Appendix A**

### **Wage Rate Requirements**

The recipient agrees to include in all agreements to provide assistance for any construction project carried out in whole or in part with such assistance made available by a drinking water revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12), a term and condition requiring compliance with the requirements of section 1450(e) of the Safe Drinking Water Act (42 U.S.C.300j-9(e)) in all procurement contracts and sub-grants, and require that loan recipients, procurement contractors and sub-grantees include such a term and condition in subcontracts and other lower tiered transactions. All contracts and subcontracts for any construction project carried out in whole or in part with assistance made available as stated herein shall insert in full in any contract in excess of \$2,000 the contract clauses as attached hereto entitled “Wage Rate Requirements Under The Clean Water Act, Section 513 and the Safe Drinking Water Act, Section 1450(e).” This term and condition applies to all agreements to provide assistance under the authorities referenced herein, whether in the form of a loan, bond purchase, grant, or any other vehicle to provide financing for a project, where such agreements are executed on or after October 30, 2009.

### **Preamble**

With respect to the Safe Drinking Water State Revolving Funds, EPA provides capitalization grants to each State which in turn provides sub grants or loans to eligible entities within the State. Typically, the sub recipients are municipal or other local governmental entities that manage the funds. For these types of recipients, the provisions set forth under Roman numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring sub recipients’ compliance with the wage rate requirements set forth herein, those sub recipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Occasionally, the sub recipient may be a private for profit or not for profit entity. For these types of recipients, the provisions set forth in Roman Numeral II, below, shall apply. Although EPA and the State remain responsible for ensuring sub recipients’ compliance with the wage rate requirements set forth herein, those sub recipients shall have the primary responsibility to maintain payroll records as described in Section II-3(ii)(A), below and for compliance as described in Section II-5.

### **Requirements Under The Consolidated Appropriations Act , 2017 (P.L. 115-31) For Sub recipients That Are Not Governmental Entities :**

The following terms and conditions specify how recipients will assist EPA in meeting its DB responsibilities when DB applies to EPA awards of financial assistance under the FY2017 Consolidated Appropriations Act with respect to sub recipients that are not governmental entities. If a sub recipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient for guidance. The recipient or sub recipient may also obtain additional guidance from DOL’s web site at <http://www.dol.gov/whd/>

**Under these terms and conditions , the sub recipient must submit its proposed DB wage determinations to the State recipient for approval prior to including the wage determination in**

**any solicitation, contract task orders , work assignments, or similar instruments to existing contractors.**

**1. Applicability of the Davis - Bacon (DB) prevailing wage requirements .**

Under the FY 2017 Consolidated Appropriations Act, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a sub recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub recipient must discuss the situation with the recipient State before authorizing work on that site.

**2. Obtaining Wage Determinations .**

(a) Sub recipients must obtain proposed wage determinations for specific localities at [www.sam.gov](http://www.sam.gov).

(b) Sub recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub recipient shall monitor [www.sam.gov](http://www.sam.gov) on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The sub recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub recipient.

(ii) If the sub recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub recipient shall monitor [www.sam.gov](http://www.sam.gov) on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(c) If the sub recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub recipient shall insert the appropriate DOL wage determination from [www.sam.gov](http://www.sam.gov) into the ordering instrument.

(d) Sub recipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(e) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The sub recipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

### **3. Contract and Subcontract provisions .**

(a) The Recipient shall insure that the sub recipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2017 Consolidated and Continuing Appropriations Act, the following clauses:

#### **(1) Minimum wages.**

(i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3) ), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Sub recipients may obtain wage determinations from the U.S. Department of Labor's web site, [www.sam.gov](http://www.sam.gov).

(ii)(A) The sub recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub recipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the and the sub recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs

reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The sub recipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment , advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this

purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site.

The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the sub recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub recipient(s).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the

work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable



predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Sub recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

#### **4. Contract Provision for Contracts in Excess of \$100,000.**

(a) Contract Work Hours and Safety Standards Act. The sub recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.



(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub recipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(c) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

## **5. Compliance Verification**

(a) The sub recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the

appropriate wage rates. As provided in 29 CFR 5.6(a)(3), all interviews must be conducted in confidence. The sub recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c). The sub recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the sub recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Sub recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB . In addition, during the examinations the sub recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d). The sub recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour

District Office listed at <http://www.dol.gov/whd/america2.htm>

## **Appendix B**

### **FORMS**



## Disadvantaged Business Enterprise Program (DBE) Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE<sup>1</sup> subcontractors<sup>2</sup> and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

Prime Contractor Name		Project Name	
Bid /Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Issuing/Funding Entity:			

I have identified potential DBE certified subcontractors	_____ YES	_____ NO	
If yes, please complete the table below. If no, please explain:			
<b>Subcontractor Name/ Company Name</b>	<b>Company Address/Phone/Email</b>	<b>Est. Dollar Amt.</b>	<b>Currently DBE Certified?</b>

Continue on back if needed

<sup>1</sup>A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup>Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award or financial assistance.



## **Disadvantaged Business Enterprise Program (DBE) Subcontractor Utilization Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Section 33.202 (c).

<b>Prime Contractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>



## Disadvantaged Business Enterprise Program (DBE) Subcontractor Performance Form

This form is intended to capture the DBE<sup>1</sup> subcontractor's<sup>2</sup> description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

Subcontractor Name		Project Name	
Bid /Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies	Price of Work Submitted to the Prime Contractor
DBE Certified By: ____DOT ____SBA ____Other: _____		Meets/exceeds EPA certification standards? ____YES ____NO ____Unknown

<sup>1</sup>A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup>Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.



## **Disadvantaged Business Enterprise Program (DBE) Subcontractor Performance Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.202 (c).

<b>Prime Contractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>

<b>Subcontractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>



## Disadvantaged Business Enterprise Program (DBE) Subcontractor Participation Form

An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE<sup>1</sup> subcontractor<sup>2</sup> the opportunity to describe work received and /or report any concerns regarding the EPA-funded project (e.g. in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the DEP DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name	
Bid /Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services, Equipment or Supplies	Amount Received by Prime Contractor

<sup>1</sup>A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

<sup>2</sup>Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.





## **Disadvantaged Business Enterprise Program (DBE) Subcontractor Participation Form**

Please use the space below to report any concerns regarding the above EPA-funded project:

<b>Subcontractor Signature</b>	<b>Print Name</b>
<b>Title</b>	<b>Date</b>



**Disadvantaged Business Enterprise Program (DBE)**

**PROGRESS REPORT OF DBE SUBCONTRACTOR UTILIZATION FORM**

TO ENSURE PROMPT PAYMENT THE FOLLOWING INFORMATION MUST BE SUBMITTED WITH ALL REIMBURSEMENT REQUESTS WHETHER THEY INCLUDE INVOICED AMOUNTS FROM A QUALIFYING WBE OR MBE PARTICIPANT OR NOT:

Municipality/District:\_\_\_\_\_ SRF #:\_\_\_\_\_

Name of Project:\_\_\_\_\_ Contractor:\_\_\_\_\_

Contractor's Payment Request No.\_\_\_\_\_ Period covered by the request\_\_\_\_\_

The accompanying Reimbursement Request includes the following WBE/MBE participation:

Name & Address of WBE/MBE firm to be paid	WBE	MBE	Source of Certification, i.e., DOT, EPA or SBA	Amount to be paid this request	Type of Work

This attachment must be signed by an authorized representative of the contractor.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_



## **Owner's Davis-Bacon Compliance Report**

Project Name \_\_\_\_\_ SRF Project # \_\_\_\_\_

Project Owner: \_\_\_\_\_

Certified Payrolls Reviewed By: \_\_\_\_\_  
(Printed name of Owner's Representative)

Employee interviews have been conducted in accordance with the contract requirements. Yes ☐ No ☐

Prime Contractor: \_\_\_\_\_

Prime Contractor's Pay Application No: \_\_\_\_\_ (Note: Only one allowed per Compliance Report)

Application Period: From \_\_\_\_\_ to \_\_\_\_\_

**Check one box and sign below:**

- ☐ For the application period indicated, there were no certified payrolls reported because there were no workers on the site that were subject to the Davis-Bacon and Related Acts.
- ☐ For the application period indicated, the certified payrolls are in compliance with the Davis-Bacon and Related Acts.
- ☐ For the application period indicated, the certified payrolls are not in compliance with the Davis-Bacon and Related Acts. A Compliance Report for the corrective action will be submitted ASAP.

**Summary of noncompliant findings and follow up actions needed:**

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\_\_\_\_\_  
**Owner's Representative Signature**

\_\_\_\_\_  
**Date**

[illegible]



## **From the “Consolidated Appropriations Act, 2014”**

H.R. 3547 (PL113-76, enacted 1/17/2014)

### **USE OF AMERICAN IRON AND STEEL**

“SEC. 436. (a)(1) None of the funds made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or made available by a drinking water treatment revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

(2) In this section, the term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the “Administrator”) finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

(e) The Administrator may retain up to 0.25 percent of the funds appropriated in this Act for the Clean and Drinking Water State Revolving Funds for carrying out the provisions described in subsection (a)(1) for management and oversight of the requirements of this section.

(f) This section does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency’s capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of the enactment of this Act.”



**CERTIFICATION BY THE OWNER  
OF COMPLIANCE WITH THE  
USE OF AMERICAN IRON AND STEEL LAW**  
enacted on 1/17/2014

*(To be attached to each Utility Construction SRF requisition submitted for payment)*

We, the Owner named, \_\_\_\_\_, having obtained funding from the State of Maine, State Revolving Fund (SRF), for the Utility Construction Project named \_\_\_\_\_, hereby submit to the SRF program, certification from each contractor working on the Utility Construction Project that the use of American Iron and Steel in the construction of the project complies with the law, or that a waiver has been obtained from the U.S. Environmental Protection Agency. Thereby, it is to the best of the Owner's knowledge that the costs being requested with this SRF requisition #\_\_\_\_\_ are in compliance with the Use of American Iron and Steel Law.

\_\_\_\_\_  
Signature of Official

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date

Attachment: Certification by Contractor



**CERTIFICATION BY CONTRACTOR**  
OF COMPLIANCE WITH THE  
**USE OF AMERICAN IRON AND STEEL LAW**  
enacted on 1/17/2014

*(To be attached to each Utility Construction payment application)*

We, the Prime Contractor and Subcontractors, as named below, hereby certify that the use of American iron and steel in the utility construction of the Project named \_\_\_\_\_, being requested in the Utility Construction payment application (or invoice) # \_\_\_\_\_ and dated \_\_\_\_\_, complies with the Use of American Iron and Steel Law, or that a waiver been obtained from the U.S. Environmental Protection Agency.

Prime Contractor Name: \_\_\_\_\_

\_\_\_\_\_  
Signature of Official

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date

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Subcontractor Name

Signature of Official

Date

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# ***Sample Step Manufacturer Certification***

*(Documentation must be provided on company letterhead)*

Date

Company Name

Company Address

City, State Zip

Subject: American Iron and Steel Step Manufacturer Certification

Project Name \_\_\_\_\_

I, \_\_\_\_\_ (company representative), certify that the \_\_\_\_\_  
(melting, bending, coating, galvanizing, cutting, etc.) process for \_\_\_\_\_  
(manufacturing or fabricating) the following products and/or materials shipped or provided for  
the project is in full compliance with the American Iron and Steel requirement as mandated in  
EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Such process took place at the following location: \_\_\_\_\_(address)

If any of the above compliance statements change while providing material to this project we  
will immediately notify the prime contractor and the engineer.

\_\_\_\_\_  
Company representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**State Revolving Fund (SRF)**  
**American Iron and Steel - De Minimis Tracking Form**

The EPA has issued a public interest waiver for De Minimis incidental components. An Owner wishing to use this waiver should consult with their contractor(s) to maintain an itemized list to track the components covered under De Minimis. The Owner may create their own format for the list or use this sample form.

Owner: \_\_\_\_\_

Loan #: \_\_\_\_\_

Project Name: \_\_\_\_\_

NOTE: The De Minimis waiver is only applicable to the cost of materials for the entire project. Do not include other project costs (labor, installation costs, etc.) in the "Total Cost of Materials". The total cost of a material may be based on estimated, or if available, actual costs.

**Funds used for de minimis incidental components cumulatively may comprise no more than a total of 5 percent of the total cost of the materials used in and incorporated into a project; the cost of an individual item may not exceed 1 percent of the total cost of the materials used in and incorporated into a project.**

Total Cost of Materials: \_\_\_\_\_

5% Limit: \_\_\_\_\_

1% limit: \_\_\_\_\_

Manufacturer & Component Description	Part/Model #	Quantity (if applicable)	Cost per Unit (if applicable)	Component's Total Cost	Invoice or receipt attached

Use additional sheets as necessary

**Total Cost of Components  
deemed to be De Minimis:**

Completed by:

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

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

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

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

# U.S. Department of Labor

Wage and Hour Division

## Davis-Bacon and Related Acts Weekly Certified Payroll Form

(For Contractor's Optional Use; See Instructions at [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/whd/forms/wh347instr.htm))

Unless otherwise noted, the information requested is specific to the named project below.

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.



Rev. January 2025  
OMB No.: 1235-0008  
Expires: 01/31/2028

☐ SUBMISSION OF FINAL DBRA CERTIFIED PAYROLL FORM

☐ PRIME CONTRACTOR

☐ SUBCONTRACTOR

PROJECT NAME				PROJECT NO. or CONTRACT NO.			CERTIFIED PAYROLL NO.			PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME															
PROJECT LOCATION				WAGE DETERMINATION NO.			WEEK ENDING DATE			PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS ADDRESS															
(1A)	(1B)	(1C)	(1D)	(1E)	(2)	(3)	(4)					(5)	(6A)	(6B)	(6C)	(7A)	(7B)	(8)			(9)				
WORKER ENTRY NO.	WORKER LAST NAME	WORKER FIRST NAME	WORKER MIDDLE INITIAL	WORKER IDENTIFYING NO.	(J) JOURNEYWORKER (RA) REGISTERED APPRENTICE	LABOR CLASSIFICATION	ST = STRAIGHT TIME OT = OVERTIME	(TOP) DAYS OF WORK WEEK (BOTTOM) DATES							TOTAL HOURS WORKED FOR WEEK	HOURLY WAGE RATE PAID FOR ST AND OT	TOTAL FRINGE BENEFIT CREDIT	PAYMENT IN LIEU OF FRINGE BENEFITS	GROSS AMT EARNED	GROSS AMT EARNED FOR ALL WORK	DEDUCTIONS FOR ALL WORK				NET PAY TO WORKER FOR ALL WORK
								HOURS WORKED EACH DAY													TAX WITH-HOLDINGS	FICA	OTHER (MUST SPECIFY, SEE INSTRUCTIONS)	TOTAL DEDUCTIONS	
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While use of Form WH-347 itself is optional, covered contractors and subcontractors performing work on Federal or federally assisted construction contracts are required by the DBRA regulations and the contract clauses to submit payroll information on a weekly basis. The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federal or federally financed construction contracts to, on a weekly basis, "furnish a statement on the wages paid each employee during the prior week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors and subcontractors to submit weekly certified payrolls to the appropriate Federal agency if the agency is a party to the contract (or, if the agency is not such a party, to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the Federal agency). Each certified payroll must be accompanied by a signed "Statement of Compliance" (e.g., page 2 of the WH-347 or another document with identical wording) indicating that the certified payrolls are accurate and complete, and that each laborer or mechanic has been paid not less than the required Davis-Bacon prevailing wage rate(s) (including any fringe benefits) for the work performed. DOL and contracting agencies receiving this information review the information to determine whether workers have received legally required wages and fringe benefits.

### Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210 (over)

PROJECT NAME			PROJECT NO. or CONTRACT NO.		PAYROLL NO.		PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME																																																																																																																																																																							
PROJECT LOCATION					WEEK ENDING DATE		CERTIFYING OFFICIAL'S NAME AND TITLE																																																																																																																																																																							
I paid or supervised the payment of the laborers or mechanics working on the above project during the stated time period. I certify the following:																																																																																																																																																																														
<input type="checkbox"/>	The payroll information submitted with this statement is correct and complete for the above project during the above period, and the wage and fringe benefit rates paid to the workers, including credit taken for the reasonably anticipated costs of a bona fide fringe benefit plan, fund or program, are not less than the applicable wage and fringe benefits rates for the classification(s) of work actually performed, as specified in the wage determination(s) incorporated into the contract.																																																																																																																																																																													
<input type="checkbox"/>	All regular payrolls and all other basic records that the contractor is required to maintain for this payroll period are complete and accurate and will be made available upon request from the agency or the Department of Labor.																																																																																																																																																																													
<input type="checkbox"/>	The classifications reported for each laborer or mechanic are the classification(s) of work that each worker actually performed.																																																																																																																																																																													
<input type="checkbox"/>	Any workers paid as apprentices during the above period are duly registered in a bona fide apprenticeship program registered with the Office of Apprenticeship, Employment and Training Administration, United States Department of Labor ("OA"), or a State Apprenticeship Agency ("SAA") recognized by Department of Labor. I have verified the registered apprenticeship program information provided below as accurate and applicable to any apprentices identified on page 1 of this form.																																																																																																																																																																													
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<input type="checkbox"/>	Fringe benefits have been paid in cash and/or to bona fide fringe benefit plans, funds, or programs. Where the contractor is claiming an hourly credit for their contributions to or reasonably anticipated costs of a bona fide fringe benefit plan, fund, or program, provide plan information and the hourly credit claimed for each worker listed on the previous page of this form.																																																																																																																																																																													
<p align="center"><b>HOURLY CREDIT FOR FRINGE BENEFITS</b></p> <p align="center"><i>If an amount is listed in (6B) on the first page of this certified payroll form, enter the hourly credit claimed under each plan name, type and number for each worker and check whether the plan is funded or unfunded.</i></p> <table border="1"> <thead> <tr> <th rowspan="4">NAME OF WORKER</th> <th>FB NAME</th> <th></th> <th>FB NAME</th> <th></th> <th>FB NAME</th> <th></th> <th>FB NAME</th> <th></th> <th>FB NAME</th> <th></th> <th>FB NAME</th> <th></th> <th rowspan="4">TOTAL HOURLY CREDIT</th> </tr> <tr> <th>FB TYPE</th> <th></th> <th>FB TYPE</th> <th></th> <th>FB TYPE</th> <th></th> <th>FB TYPE</th> <th></th> <th>FB TYPE</th> <th></th> <th>FB TYPE</th> <th></th> </tr> <tr> <th>PLAN NO.</th> <th></th> <th>PLAN NO.</th> <th></th> <th>PLAN NO.</th> <th></th> <th>PLAN NO.</th> <th></th> <th>PLAN NO.</th> <th></th> <th>PLAN NO.</th> <th></th> </tr> <tr> <th><input type="checkbox"/> Funded    <input type="checkbox"/> Unfunded</th> <th></th> <th><input type="checkbox"/> Funded    <input type="checkbox"/> Unfunded</th> <th></th> <th><input type="checkbox"/> Funded    <input type="checkbox"/> Unfunded</th> <th></th> <th><input type="checkbox"/> Funded    <input type="checkbox"/> Unfunded</th> <th></th> <th><input type="checkbox"/> Funded    <input type="checkbox"/> Unfunded</th> <th></th> <th><input type="checkbox"/> Funded    <input type="checkbox"/> Unfunded</th> <th></th> </tr> </thead> <tbody> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> </tbody> </table>													NAME OF WORKER	FB NAME		FB NAME		FB NAME		FB NAME		FB NAME		FB NAME		TOTAL HOURLY CREDIT	FB TYPE		FB TYPE		FB TYPE		FB TYPE		FB TYPE		FB TYPE		PLAN NO.		PLAN NO.		PLAN NO.		PLAN NO.		PLAN NO.		PLAN NO.		<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded		<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded			Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
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<input type="checkbox"/>	All workers on the project have been paid the full weekly wages earned, and no rebates or deductions have been or will be made either directly or indirectly, other than permissible deductions as defined in 29 CFR part 3.																																																																																																																																																																													
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THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION (SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF TITLE 31 OF THE UNITED STATES CODE), AS WELL AS DEBARMENT FROM FUTURE FEDERAL AND FEDERALLY-ASSISTED CONTRACTS. INFORMATION REPORTED IN CERTIFIED PAYROLLS MAY BE SUBJECT TO DISCLOSURE IN RESPONSE TO A FREEDOM OF INFORMATION ACT REQUEST.																																																																																																																																																																														

**Appendix C**  
**PROJECT SIGN**

# Temporary Construction Sign for DWSRF Projects

Diagram of a Temporary Construction Sign for DWSRF Projects. The sign has a white background and black lettering.

**Project Title** (include Town / District name)


Engineer:


Contractor:

Total Project Cost:

Financed by:

**DWSRF Program: Maine Department of Health and Human Services, and  
Maine Municipal Bond Bank**

 **EPA** United States Environmental Protection Agency

 **SRF**  
State Revolving Loan Fund

This institution is an equal opportunity provider

Labels and Arrows:

- WHITE BACKGROUND (points to the sign area)
- BLACK LETTERING (points to the text on the sign)
- WAVE (points to the SRF logo)
- BLUE, PMS 655 FADING TO 30% SCREEN
- GREEN, PMS 627 @ 30% SCREEN DARKENING TO 100% SCREEN THEN BACK TO 30% SCREEN

MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")

EXTERIOR PLYWOOD (A-B GRADE)

MINIMUM LETTERING SIZE: 5 CM (2-INCHES)