

**2022**

**Drinking Water State Revolving Fund Loan  
Customer Handbook**



# Disclaimer

This handbook is a guide for Drinking Water State Revolving Fund (DWSRF) loan recipients. Please note that this handbook is a helpful resource but does not guarantee compliance with all federal and state requirements. Borrowers are responsible for compliance with all the rules and guidelines as required by the DWSRF Program as enacted in the laws. Department of Health expressly disclaims any warranty related to the compliance with the federal and state requirements and will accept no responsibility for any consequences arising from the use of or reliance on this handbook.

# TABLE OF CONTENTS

<b>Section 1</b>	<b>GETTING STARTED</b> .....	<b>1</b>
1.1	Introduction .....	1
1.2	DWSRF Program Administration .....	1
1.3	DWSRF Subsidies Criteria .....	2
1.4	Loan Fee .....	3
1.5	What is the Difference between Municipal and Non-municipal Borrowers?.....	3
1.6	Federal and State Requirements.....	4
1.7	Borrower’s Roles and Responsibilities .....	4
1.8	Time of Performance Requirements.....	4
1.9	Insurance – Additional Requirements for Non-municipals .....	4
1.10	Annual Loan Payments.....	5
1.11	Establishment of Adequate Rates and Reserves.....	5
	Attachment 1-A: Federal and State Requirements .....	6
<b>Section 2</b>	<b>CONTRACT AMENDMENTS AND IMPLEMENTATION CHECKLIST</b> .....	<b>8</b>
2.1	Contract Amendments Overview.....	8
2.2	Scope of Work Amendment.....	8
2.3	Requesting Extensions.....	8
2.4	Contract Implementation Checklist.....	8
	Attachment 2-A: Quick References for Drinking Water State Revolving Fund .....	12
<b>Section 3</b>	<b>RECORD KEEPING AND REPORTING</b> .....	<b>13</b>
3.1	Overview .....	13
3.2	Establishing a Filing System.....	13
3.3	Security.....	13
3.4	Maintaining Records .....	13
3.5	Organizing a Filing System .....	13
3.6	Progress Status Reports .....	14
3.7	Project Completion .....	14
<b>Section 4</b>	<b>FINANCIAL MANAGEMENT</b> .....	<b>15</b>
4.1	Overview .....	15
4.2	Internal Control .....	15

4.3	Establishing a Dedicated Repayment Account.....	15
4.4	Audit.....	15
4.5	Requesting Reimbursement for Preconstruction Activities.....	16
4.6	Requirements before Starting Construction.....	16
4.7	Requesting Reimbursement for Construction Activities.....	17
4.8	A-19 Reimbursement Voucher & Project Status Report.....	17
4.9	Frequency of Reimbursement Requests.....	17
4.10	Eligible/Ineligible Activities and Costs.....	18
4.11	Compliance by Prime, Sub-Contractors and Professional Service Providers.....	18
Attachment 4-A:	Certified Compliance of Payroll Review.....	19
Attachment 4-B:	Eligible Activities and Costs.....	20
Attachment 4-C:	Ineligible Activities and Costs.....	23
Attachment 4-D:	American Iron and Steel Provision.....	24
<b>Section 5</b>	<b>REQUIREMENTS AND PROCEDURES FOR PROCURING PROFESSIONAL SERVICES.....</b>	<b>25</b>
5.1	Overview.....	25
5.2	Consultant Roster.....	25
5.3	Advertise.....	25
5.4	Check for Federal Exclusion.....	26
5.5	Prepare the Contract.....	26
5.6	Monitor Performance.....	27
5.7	Record Keeping and Reporting.....	27
<b>Section 6</b>	<b>ENVIRONMENTAL AND CULTURAL REVIEWS.....</b>	<b>28</b>
6.1	Overview.....	28
6.2	Projects Receiving Additional State or Federal Funding.....	29
6.3	Cultural and Environmental Review Timetable.....	29
6.4	Things That May Hinder Your Progress.....	30
6.5	Cultural Review Flow Chart.....	31
<b>Section 7</b>	<b>REQUIREMENTS AND PROCEDURES FOR PROCURING CONSTRUCTION CONTRACTS.....</b>	<b>32</b>
7.1	Overview.....	32

7.2	Non-Municipals: Small Purchase Procedures for Limited Public Works Projects .....	32
7.3	Small Works Roster .....	32
7.4	Advertise for Bids/Invitation for Bid (IFB) .....	32
7.5	Disadvantaged Business Enterprise (DBE) Utilization Requirements .....	33
7.6	Fair Share Objective Goals .....	34
7.7	Six Good Faith Efforts.....	34
7.8	Preventing Unfair DBE Practices .....	35
7.9	Bidders List.....	36
7.10	Reporting the Use of MBE and WBE Contractors.....	36
7.11	Develop the Advertisement/Invitation for Bid with Scope of Work.....	36
7.12	Contents of the Bid Specifications .....	36
7.13	Obtaining the Prevailing Wage Rates.....	37
7.14	Check Federal Wage Rate (Ten Day Bid Check).....	38
7.15	License, Bonding, and Insurance for Contractors.....	38
7.16	American Iron & Steel Provision.....	39
7.17	Develop the Contract Document.....	40
7.18	Receive Sealed Bids .....	40
7.19	Conduct Bid Opening .....	40
7.20	Select the Lowest Responsible Bidder.....	40
7.21	Check Contractor Eligibility.....	41
7.22	Award the Contract.....	41
7.23	Negotiating the Bid Price .....	41
7.24	Execute the Contract .....	41
7.25	Conduct Preconstruction Conference.....	41
7.26	Send Notice of Contract Award to DOH Contract Manager.....	42
7.27	Maintain Procurement Records.....	42
7.28	List of Reference Materials.....	42
Attachment 7-A:	Example of Advertisement for Construction Contract Bids.....	44
Attachment 7-B:	Notice of Contract Award and Notice to Proceed.....	45
Attachment 7-C:	Bid Checklist Revamped .....	46
Attachment 7-D:	Bid Spec Insert for Municipal Borrowers .....	47

Attachment 7-E:	Bid Spec Insert for Non-municipal Borrowers.....	75
Attachment 7-F:	Davis-Bacon Flow Chart.....	103
<b>Section 8</b>	<b>MEETING “YOUR” INVESTMENT GRADE EFFICIENCY CONTRACT REQUIREMENT.....</b>	<b>105</b>
8.1	Investment Grade Efficiency Audit.....	105
<b>Section 9</b>	<b>MANAGING CONSTRUCTION PROJECTS .....</b>	<b>107</b>
9.1	Overview .....	107
9.2	Conduct the Preconstruction Conference.....	107
9.3	Request Additional “Trade” Classifications and Wage Rates.....	107
9.4	Issue Notice of Contract Award & Notice to Proceed.....	108
9.5	Conduct Payroll Reviews.....	108
9.6	Conduct On-Site Reviews.....	109
9.7	Conduct Employee Interviews .....	110
9.8	Submit 21 Day Labor Packet .....	110
9.9	Resolve Overtime Violations .....	110
9.10	Resolve Other Underpayments .....	111
9.11	Conduct Technical Inspections.....	111
9.12	Maintain Project Records.....	111
9.13	Project Completion Requirements and Certified Report.....	111
Attachment 9-A:	Request for Authorizing Additional Classification & Rate.....	112
Attachment 9-B:	Employee Interview Form.....	113
Attachment 9-C:	Weekly Certified Payroll.....	114
	Project Manager map by county .....	116
<b>GLOSSARY .....</b>		<b>117</b>

# Section 1 Getting Started

## 1.1 Introduction

The Drinking Water State Revolving Fund (DWSRF) is a federal infrastructure loan program designed to assist publicly owned (municipal) and privately owned (non-municipal) drinking water systems in Washington State with low-interest construction loan funding. The purpose of the DWSRF program is to:

- Provide low-interest loans and subsidized loans to water systems for capital improvements that increase public health protection and compliance with drinking water regulations, and.
- Protect the health of the people of Washington State by assuring safe and reliable drinking water.

The Washington State Department of Health Office of Drinking Water (DOH) uses specific criteria to score and rank applications received each year. We give funding priority to projects that address severe public health threats and compliance issues.

This contract is subject to the Davis Bacon Act, which requires all construction workers be paid the higher of federal or state prevailing wage for the project area and contained in the Bid Specifications. The American Iron and Steel provision applies to this contract.

### New for 2022

DWSRF construction projects chosen as FFATA/Equivalency projects must comply with the Buy America Build America Provisions. Projects started prior to May 14, 2022, may be exempt. Visit the EPA website for more information on the BABA requirements and the waiver process at [epa.gov/cwsrf/build-america-buy-america-baba](https://epa.gov/cwsrf/build-america-buy-america-baba)

## 1.2 DWSRF Program Administration

The Grants and Loans Unit at DOH's Office of Drinking Water administers the DWSRF loan program.

DWSRF program staff are responsible for the application and contracting process including:

- Publishing program guidelines and application;
- Scoring and ranking applications;
- Developing the prioritized funding lists and publishing the DWSRF Intended Use Plan;
- Overseeing the public health priorities of the program;
- Determining project readiness and negotiating final scopes of work;
- Overseeing the state environmental review process (SERP) and Section 106 cultural review process;
- Conducting affordability index analysis, risk analysis, and financial review;

- ➔ Providing contracts management training;
- ➔ Monitoring compliance with federal requirements and contract progress;
- ➔ Reviewing and approving reimbursement requests;
- ➔ Amending contracts, project completion process; and
- ➔ Issuing annual loan billing statements.
- ➔ Preparing and executing loan contract documents;
- ➔ Providing training on the DWSRF program; and,
- ➔ Managing contracts for completed projects.

The following table provides information on DWSRF program staff.

Questions About	Contact	Phone	E-mail
General and Eligibility	Corina Hayes	360-236-3153	<a href="mailto:Corina.hayes@doh.wa.gov">Corina.hayes@doh.wa.gov</a>
General and Application	Sara J. Herrera	360-236-3089	<a href="mailto:Sara.Herrera@doh.wa.gov">Sara.Herrera@doh.wa.gov</a>
Cultural/environmental	Scott Kugel	360-480-7617	<a href="mailto:Scott.kugel@doh.wa.gov">Scott.kugel@doh.wa.gov</a>
Underwriting	Mike Copeland	360-236-3083	<a href="mailto:michael.copeland@doh.wa.gov">michael.copeland@doh.wa.gov</a>
Contracting	Eloise Rudolph	360-236-3124	<a href="mailto:Eloise.Rudolph@doh.wa.gov">Eloise.Rudolph@doh.wa.gov</a>
Contracting	Dennis Hewitt	360-236-3017	<a href="mailto:dennis.hewitt@doh.wa.gov">dennis.hewitt@doh.wa.gov</a>
Contracting	Brittany Cody-Pinkney	360-236-3047	<a href="mailto:Brittany.Cody-Pinkney@doh.wa.gov">Brittany.Cody-Pinkney@doh.wa.gov</a>

### 1.3 DWSRF Subsidies Criteria

We use affordability, area poverty rate and debt-service coverage criteria to determine the loan interest rate and the percent of principal forgiveness for applicants. The affordability index (AI) measures the burden of costs passed from the drinking water system to the users against the median household income (MHI) for the area. It is important to note that compliance with subsidy requirements do not guarantee funding and subsidy. We will distribute the subsidy among the qualifying projects scoring highest for health and poverty criteria on the fundable list. The final loan amounts and loan forgiveness portions are calculated at project completion and are based on the project’s actual eligible costs.



Income Level of Households	Interest Rate	Loan Fee	Loan Repayment Period
Water system is not economically disadvantaged	2.25% fixed	1.00% at loan execution	*20 years or life of the project, whichever is less
Water system with an affordability index between 1.5 and 2.0%	1.75% interest on Loan	1.00% at loan execution	*20 years or life of the project, whichever is less
Water system with an affordability index between 2.01 to 3.5%	30% Principal Forgiveness & 1.75% interest on Loan	No Fee	*24 years or life of the project, whichever is less
Water system with an affordability index of 3.51% or higher	50% Principal Forgiveness & 1.75% interest on Loan	No Fee	*24 years or life of the project, whichever is less

*Note: If applicable, borrowers will receive principal forgiveness on project completion. Poverty rates are scored with highest percentage given priority for subsidy eligible recipients per application cycle.*

*\*Loan term may be extended to 30 years if needed to cash flow if the term matches the economic life of the project.*

## 1.4 Loan Fee

An administrative loan fee of 1.00 percent is charged on borrowers and made payable on contract execution and may be financed or paid at contract execution.

Water systems receiving subsidy are not subject to loan fees.

## 1.5 What is the Difference between Municipal and Non-municipal Borrowers?

A **municipal borrower** is a political unit, such as a city or town or special purpose district, such as a P.U.D., that is incorporated and self-governing.

A **non-municipal borrower** will fall under one of the following categories:

- ➔ Homeowners' Associations
- ➔ Water Associations
- ➔ Nonprofit Organizations
- ➔ For-Profit Organizations

Non-municipal borrowers must comply with additional requirements.

## 1.6 Federal and State Requirements

You must follow numerous federal and state requirements when implementing a DWSRF-funded project. These requirements are a part of the contract between the DOH and the borrower. Please see Attachment 1-A.

## 1.7 Borrower's Roles and Responsibilities

The borrower is responsible for implementing a DWSRF-funded project. The first step is to designate an employee or official (or volunteer, for non-municipal drinking water systems) as the contract manager. This person must keep track of all phases of the project and serve as the administrative point of contact.

The contract manager should use the checklist in Section 2 to identify major tasks necessary to measure progress and to complete the project in compliance with state and federal regulations.

The contract manager must receive training from the DWSRF contract manager. Please contact DWSRF contracting staff to schedule a training session.

## 1.8 Time of Performance Requirements

Borrowers must demonstrate that projects are progressing in a timely manner. Contracts that don't progress on schedule may be terminated. Borrowers must complete projects within 48 months according to the scope of work.

Borrowers must issue the Notice to Proceed within 18 months of contract execution. Projects that cannot meet this requirement may be issued a pre-construction loan. Submit Notice of Contract Award and Notice to Proceed (Attachment 7B) to your DWSRF contract manager.

When the project is complete, the borrower must submit a *Construction Completion Report* to DOH and a *DWSRF Completion Request* to the DWSRF contract manager.

## 1.9 Insurance: An Additional Requirement for Non-municipal Borrowers

Non-municipal borrowers must submit proof of liability insurance to their DWSRF contract manager within 30 days of contract execution. The DOH must be named as a certificate holder.

**Liability Coverage:** Commercial general liability coverage must be obtained at the borrower's sole expense and kept in force until the activities listed in the DWSRF loan contract scope of work are complete. The recommended policy limits should be no less than \$1 million per occurrence with a general aggregate limit of \$5 million, or the amount of the DWSRF loan.

**Property Coverage:** Property insurance provides coverage for all risks of physical damage or loss to the improvements or structures to be constructed using the proceeds of the DWSRF loan. Property insurance must be obtained at the borrower's sole expense and kept in force during the entire term of the loan. Borrowers must send a certificate of insurance to the DWSRF contract manager as proof of coverage for property insurance. Borrowers may request reimbursement for property insurance costs during the construction period.

Proof of property coverage, in the form of a certificate of insurance, is required on issuance of Notice to Proceed.

Contact the Washington State Office of Insurance Commissioner for questions about insurance companies at [insurance.wa.gov](https://insurance.wa.gov) or call 800-562-6900.

## **1.10 Annual Loan Repayments**

Loan repayments are due October 1, following the execution date. Repayments shall consist of principal and interest remaining for the term of the loan. The final payment, which is due on or before the term of the loan, must be enough to bring the loan balance to zero.

DOH issues billing statements to borrowers about one month prior to the payment due date.

The borrower will repay the loan according to the preceding conditions with a check, money order, or equivalent means made payable to the Washington State Department of Health, or its successor.

## **1.11 Establishment of Adequate Rates and Reserves**

Borrowers must have sufficient rates or charges to provide funds, which, along with other system revenues, will pay all operating expenses and debt repayments during the term of the loan. In addition, the borrower must create, fund, and maintain reserves at least as required by the Water System Plan or Small Water System Management Plan. DOH reserves the right, at any time, to ask the borrower for proof of compliance with these requirements and may implement rate increases in order to cover the requirements above.

## Attachment 1-A: Federal and State Requirements

### Environmental Authorities

Archeological and Historic Preservation Act of 1974, Public Law 86-523 as amended  
Clean Air Act, Public Law 84-159 as amended  
Coastal Barrier Resources Act, Public Law 92-583 as amended  
Endangered Species Act, Public Law 93-205 as amended  
Environmental Justice, Executive Order 12898  
Floodplain Management, Executive Order 11934 as amended by Executive Order 12148  
Protection of Wetlands, Executive Order 11990  
Farmland Protection Policy Act, Public Law 97-98  
Fish and Wildlife Coordination Act, Public Law 85-624 as amended  
National Historic Preservation Act of 1966, Public Law 89-665 as amended  
Safe Drinking Water Act, Public Law 93-523 as amended  
Wild and Scenic Rivers Act, Public Law 90-542 as amended  
Title 40 Part 141 Code of Federal Regulations, Federal National Primary Drinking Water Regulations  
(Section Adopted by Reference)

### Economic and Miscellaneous Authorities

Demonstration Cities and Metropolitan Development Act of 1996, Public Law 89-754 as amended,  
Executive Order 12372  
Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean  
Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal  
Water Pollution Control Act with Respect to Federal Contracts, Grants or Loans  
Uniform Relocation and Real Property Policies Act, Public Law 91-646 as amended  
Debarment and Suspension, Executive Order 12549  
American Iron & Steel Products Requirements of Consolidated Appropriations Act of 2014  
Bipartisan Infrastructure Law of 2021, Buy American Build American (BABA)

### Social Policy Authorities

Age Discrimination Act of 1975, Public Law 94-135  
Title VI of the Civil Rights Act of 1964, Public Law 88-352

Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500 (the Clean Water Act)

Section 504 of the Rehabilitation Act of 1973, Public Law 93-112 (including Executive Orders 11914 and 11250)

Equal Employment Opportunity, Executive Order 11246

Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432

Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Public Law 100-590

### **Davis Bacon Act**

Applicable federal wage decisions

### **State Laws**

Chapter 36.70A RCW, Growth Management Act

Chapter 39.80 RCW, Contracts for Architectural and Engineering Services

Chapter 39.12 RCW, Washington State Public Works Act

Chapter 43.20 RCW, State Board of Health

Chapter 43.70 RCW, Department of Health

Chapter 43.155 RCW, Public Works Project

Chapter 70.116 RCW, Public Water Systems Coordination Act of 1977

Chapter 70.119 RCW, Public Water Supply Systems Certification and Regulation of Operations

Chapter 70.119A RCW, Public Water Systems, Penalties & Compliances

Chapter 246-290 WAC, Group A Public Water Systems

Chapter 246-291 WAC, Group B Public Water Systems

Chapter 246-292 WAC, Waterworks Operator Certification Regulations

Chapter 246-293 WAC, Water Systems Coordination Act

Chapter 246-294 WAC, Drinking Water Operating Permits

Chapter 246-295 WAC, Satellite System Management Agencies

Chapter 246-296 WAC Drinking Water State Revolving Fund Loan Program

Chapter 173-160 WAC, Minimum Standards for Construction & Maintenance of Wells

Title 173 WAC, Department of Ecology Rules

ESHB 1497 Section 1021, Investment Grade Efficiency Audit

# Section 2 Contract Amendments and Implementation Checklist

## 2.1 Contract Amendments Overview

A borrower must request a contract amendment to change the scope of work, type of budget activities funded, or the timing to carry out the contract activities.

To initiate a contract amendment, the borrower should contact their DWSRF contract manager.

## 2.2 Scope of Work Amendment

To propose any change in the scope of work, the borrower submits the request to the DWSRF contract manager.

An additional environmental (SERP) and/or cultural review (106) may be required whenever the borrower revises the scope of work, especially if the change involves:

- Increasing or changing the project location (Area of Potential Effect).
- Excavating at a deeper depth or different location.
- Adding new elements to the project scope of work.
- Increasing the pipe size.

No work related to a change in scope of work is permitted before the DWSRF contract manager determines whether the change is allowed, all elements of the SERP/106 are completed for the proposed change, and a contract amendment is fully executed.

## 2.3 Requesting Extensions

For DOH to consider a project extension, it must receive a Project Completion Extension Request from the borrower at least **120** days before the expiration date listed on the Declarations page of the contract. The request must state the reason for the delay and list the revised timeline for completing the activities.

If the contract manager doesn't issue a Notice to Proceed (NTP) within 18 months of contract execution, the borrower must send the DWSRF contract manager a written request to extend the NTP date. The request will be discussed/ considered by the DWSRF team.

## 2.4 Contract Implementation Checklist

The following checklist is a general guide for implementing an approved DWSRF project. As such, some items may not apply to the type of project you're constructing.

Row	AWARD	Handbook Section	YES	N/A
1	Established project files.	3		
2	Designated a Project Manager.	1		
3	Negotiated contract scope of work with DOH.			
4	Received loan award letter from DWSRF staff.			
5	Received procurement training from DWSRF contract manager.			
6	Received two sets of contracts from the DWSRF staff.			
7	Signed and returned two original sets of contracts to the DWSRF contract manager.			
8	Received training from DWSRF contract manager on contracts management and federal requirements.			
9	Established a dedicated repayment account for the DWSRF loan and sent the DWSRF contract manager a copy of the statement within 30 days of contract execution.	4		
10	Obtained proof of insurance (non-municipal borrowers) and sent the DWSRF contract manager a copy within 30 days of contract execution.	1		
11	Completed the state environmental review process (SERP).	6		
12	Completed the Section 106 Cultural/Historical Review process.	6		
13	Provided a copy of the approval letter for Project Report and Construction Documents to the DWSRF contract manager.			
14	Submitted progress status reports to DWSRF contract manager as part of each reimbursement request. For construction draws, you must include <i>Certified Compliance of Payroll</i> and <i>American Iron and Steel</i> forms.	4		
15	Conducted a competitive process to procure professional services (engineer, architect).	5		

Row	AWARD	Handbook Section	YES	N/A
16	Checked Federal Excluded Parties List (Beta.sam.gov) for clearance on professional service providers (engineers, architects) before signing contracts (even if your professional service is currently under contract); and sent copies of website search results to your DWSRF contract manager.	5		
17	Developed contracts according to all applicable state and federal requirements.	5		
18	Requested federal wage rates from DWSRF contract manager or U.S. Dept. of Labor website.	7		
19	Developed Bid packet; forwarded to DWSRF contract manager for review.	7		
20	Sent a copy of the proposed bid advertisement to the DWSRF contract manager for approval before advertising the construction contract.	7		
21	Advertised for bid after the DWSRF contract manager approved the bid advertisement.	7		
22	Demonstrated compliance with Disadvantaged Business Enterprises.	5, 7		
23	Ten days before bid opening, verified with DWSRF contract manager that federal rates in bid packet are current.	7		
24	Conducted bid opening according to Washington State law.	7		
25	Contacted DWSRF contract manager when less than two bids received.	7		
26	Adopted proper bonding.	7		
27	Checked Federal Excluded Parties List (Beta.sam.gov) for clearance on prime contractor, subcontractors, and vendors before signing contracts; provided copies to DWSRF contract manager.	5, 7		
28	Conducted preconstruction conference; forwarded copy to DWSRF contract manager.	9		
29	Submitted DWSRF Notice of Contract Award and Notice to Proceed to DWSRF contract manager. <b>Notice to Proceed must be issued within 18 months of contract execution.</b>	7		



Row	AWARD	Handbook Section	YES	N/A
30	Submitted proof of property insurance coverage to DWSRF contract manager (non-municipal borrowers).	1		
31	Posted applicable Federal Wage Decision and U.S. Department of Labor poster at the job site.	7		
32	Submitted 21-day Labor Packet to DWSRF contract manager for approval.	9		
33	Monitor labor standards compliance and conduct employee interviews throughout construction.			
34	Submitted <i>Construction Completion Report</i> to the DOH regional engineer and a copy of the engineer's approval letter to the DWSRF contract manager.	9		
35	Submitted the Project Completion Request to the DWSRF contract manager.	9		
36	Scheduled A-133 audit following \$750,000 or more in expenditures (all federal sources of funds) in borrower's fiscal year if applicable or \$100,000 or more when using the small work roster. <b>***Audit requirements are currently under revision; please contact your DWSRF contract manager for updates.</b>	4		
37	Met the Investment Grade Efficiency Audit requirements, if applicable.	8		
38	Met American Iron & Steel requirements by placing requirement in bid specs and submitting American Iron and Steel Certification with construction reimbursement requests.	7		

## Attachment 2-A: Quick References for Drinking Water State Revolving Fund

Federal Wage Decision

[www.wdol.gov](http://www.wdol.gov)

Washington State Labor & Industries Prevailing Wage

[www.lni.wa.gov](http://www.lni.wa.gov)

Office of Minority & Women's Businesses

[www.omwbe.wa.gov](http://www.omwbe.wa.gov)

Municipal Research and Services Center (MRSC)

[www.mrsc.org](http://www.mrsc.org)

Washington Small Business Development

[www.wsbdc.org](http://www.wsbdc.org)

Washington Society of Certified Public Accountants

[www.wscpa.org](http://www.wscpa.org)

Washington State Department of Health, Office of Drinking Water

[www.doh.wa.gov/ehp/dw](http://www.doh.wa.gov/ehp/dw)

Federal Excluded Parties List

[www.Beta.sam.gov](http://www.Beta.sam.gov)

# Section 3 Record Keeping and Reporting

## 3.1 Overview

DWSRF borrowers must be able to document compliance with all state and federal regulations. Good record keeping and reporting systems are essential to document compliance. This section will help you set up a DWSRF record keeping system and summarize the reports we will request from you during the management of the contract.

## 3.2 Establishing a Filing System

The borrower must maintain accurate and current files. It is best to keep all DWSRF files in one central location. Files need to be accessible to all project funders.

## 3.3 Security

Files should be kept in a secure place, but accessible to the public.

## 3.4. Maintaining Records

All records and files pertaining to the DWSRF application, engineering, and construction of the project must be stored for the life of the loan plus six years (generally, 26 years for a 20-year loan). You don't have to save records of operating and maintenance costs for purposes of the DWSRF loan.

## 3.5. Organizing a Filing System

A good filing system can be a very effective management tool. It will ensure that the borrower has all necessary documentation to meet compliance requirements. The following is a basic guide for DWSRF record keeping. We recommend that borrowers keep separate files for each DWSRF project.

The system includes major headings for administration, financial management and compliance:

- |                                |                                     |
|--------------------------------|-------------------------------------|
| 1 – Application                | 6 – Environmental / Cultural Review |
| 2 – Loan Contract & Amendments | 7 – Prime Contractor Contracts      |
| 3 – Financial Management       | 8 – Labor Construction & Standards  |
| 4 – Non-construction Contracts | 9 – Required Reports                |
| 5 – Procurement / Bonding      |                                     |

## 3.6. Progress Status Reports

Along with each A19 Reimbursement Voucher, you must have a Project Status Report, which describes the progress made on the project since you submitted the last invoice. Your DWSRF contract manager will not release payment for any reimbursement until they receive the Project Status Report. After approving the Reimbursement Voucher and the Project Status Report, the Department of Health shall promptly remit a warrant. You should also alert your project manager if you suspect any delays in construction of your project.

### 3.7. Project Completion

To complete your project, you must submit the following to your DWSRF contract manager:

- A copy of the Construction Completion Report
- Project Completion Request

# Section 4 Financial Management

## 4.1 Overview

This section helps DWSRF borrowers understand and implement financial management systems that comply with DWSRF program requirements.

## 4.2 Internal Control

The borrower should designate one person as fiscal coordinator of the DWSRF loan. Only one signature is required to request reimbursement of expenditures from Department of Health, however, the borrower should authorize a second person to sign the reimbursement request form when the fiscal coordinator is absent, or in other circumstances.

Borrowers must maintain effective internal controls for DWSRF funds. Do this by complying with financial management standards and generally accepted accounting principles. Methods for maintaining internal control include establishing policies and practices for approval of expenditures, bonding staff that handle cash, defining clear loan and project management roles and responsibilities, and maintaining segregation of duties in handling and accounting for expenditures and receipting funds. Applicants with current audit exceptions for Financial and Operational Management issues will be deemed ineligible.

## 4.3 Establishing a Dedicated Repayment Account

**Non-municipal borrowers** must establish a dedicated account in a FDIC-insured institution to handle the funds for repaying the loan and should have a separate account for each DWSRF loan. You will use this account solely to repay the DWSRF loan. You must submit a copy of the initial bank statement to the DWSRF contract manager within 30 days of contract execution. We require this copy before we will pay the first request for reimbursement.

**Municipal borrowers** are required to establish a dedicated repayment (BARS) account. Please refer to special terms and condition of your contract.

## 4.4 Audit

### 2 CFR 200 Subpart F Federal Audit

The “**Super Circular**” will apply to your project if your city, town or water system has spent more than \$750,000 of **any** federal money within **your** fiscal year or \$100,000 or more if using the small work roster.

**Note: Non-municipal borrowers in need of locating an auditor, for purposes of complying with the audit, should contact the Washington Society of CPA’s at [wscpa.org](http://wscpa.org).**

### Audit for For-Profit Borrowers

All For-Profit borrowers that expend \$750,000 or more in federal funds (all sources) in their fiscal year must have an audit conducted according to current standards in or issued by the:

- American Institute of Certified Public Accountants (AICPA)
- Government Auditing Standards
- Governmental Accounting Standards Board (GASB)

**\*\*\*Audit requirements are currently under revision. Please contact your contract manager for updates.**

## 4.5 Requesting Reimbursement for Preconstruction Activities

After contract execution, you may request reimbursements for eligible preconstruction costs directly related to the project but not paid by any other state or federal funds. Eligible activities include preparation and submittal costs for Small Water System Management Programs and Water System Plan Amendments, design and engineering, permitting, project report and construction documents, and environmental/cultural reviews.

Along with each A19 Reimbursement Voucher, you must submit supporting documentation of costs incurred, and a Project Status Report. We will not release payment for any reimbursement request until the DWSRF contract manager receives the voucher, supporting documentation, and Project Status Report. After approving the voucher and the Project Status Report, the DWSRF contract manager shall promptly remit a warrant.

*Note:* Within 30 days of contract execution and before receiving any reimbursements, non-municipal borrowers must submit to the DWSRF contract manager documentation of compliance with the following requirements:

- Proof of liability insurance.
- A copy of the dedicated repayment account bank statement.

## 4.6 Requirements before Starting Construction

Before starting construction—including any ground-disturbing activities—borrowers must meet certain contract conditions. We will not issue the *Notice of Contract Award* and *Notice to Proceed* until you complete these conditions. That could take 60 to 180 days (or longer), so we encourage you to begin work as soon as possible to complete and obtain approval from DOH on the:

- State environmental review process (SERP)
- Section 106 cultural review process
- Project report and construction documents

Your DWSRF contract manager must review your Draft Bid Specifications and Bid Ad before you advertise.

In addition, you must submit the following to your DWSRF contract manager:

- Documentation that the prime contractor is not on the Federal Exclusions List (suspension and debarment). [Beta.sam.gov](https://beta.sam.gov)
- DWSRF Notice of Contract Award and Notice to Proceed form.

- A copy of the bidder's list

## 4.7 Requesting Reimbursement for Construction Activities

### Federal Wage Requirements

- Before your DWSRF contract manager can reimburse the borrower for the first construction reimbursement, the borrower must submit the 21 Day Labor Package to your DWSRF contract manager for approval.

## 4.8 A-19 Reimbursement Voucher & Project Status Report

Borrowers must request reimbursements using an A-19 Reimbursement Voucher and Project Status Report. A19 Reimbursement Vouchers must have a signature, title, and date in the designated area. Your DWSRF contract manager will provide these forms to you along with the executed contract. You may request electronic forms from your DWSRF contract manager. Borrowers may submit an A19 Reimbursement Voucher via mail or electronically. If submitting electronically the limit of backup documentation is 25 pages.

The A-19 Reimbursement Voucher must include copies of invoices for work or services completed as documentation of costs incurred. You must submit a Project Status Report, reflecting the status of the project, with EVERY A19 Reimbursement Voucher. You do not have to pay the invoice before requesting reimbursement, but you must incur the expense before billing us.

In addition, along with each construction A19 Reimbursement Voucher, you must submit a Certified Compliance of Payroll Review form (Attachment 4-A) and American Iron and steel Certification form (Attachment 4-D). Your DWSRF contract manager will not release payment for any reimbursement request before receiving the complete package. After approving the reimbursement request, your DWSRF contract manager shall promptly remit a warrant, usually within 12–15 business days. Department of Health will not pay the borrower's prime contractor, subcontractors or any vendors directly.

To receive reimbursements, your Beta.sam.gov registration MUST be current.

### Final Reimbursement Request

We will withhold 10 percent of the DWSRF funds until you complete all tasks, activities and conditions of the DWSRF contract successfully and DOH accepts them. At that time, you can request the final reimbursement.

## 4.9 Frequency of Reimbursement Requests

We ask borrowers to limit their reimbursement requests to no more than one request per month. The amount requested must be at least \$500. If the reimbursement is less, your DWSRF contract manager may hold it until your requests total at least \$500, and then process it for payment.

## 4.10 Eligible and Ineligible Activities and Costs

Please refer to Attachments 4-B and 4-C for eligible and ineligible project activities and costs.

## **Indirect Costs**

Before invoicing for “Indirect Cost,” you must submit the approved indirect rate letter from the approving agency or the “Certification of Indirect Costs” rate proposal you submitted for review per OMB 2 CFR 200, Appendix VII.

### **4.11 Compliance by Prime, Subcontractors and Professional Service Providers**

Borrowers must require their prime and subcontractors (including contracted administrators and engineers) to comply with all financial management and federal requirements, and document that they are not on the Federally Excluded Parties List. You need to check any businesses, professional services or contractors, including subcontractors, in Beta.sam.gov. Be sure to print the results of your search and retain them for your files.



## Attachment 4-A: Certified Compliance of Payroll Review

### Washington State Department of Health

#### DRINKING WATER STATE REVOLVING FUND LABOR STANDARDS CERTIFICATION

---

Legal Name

---

Contract Number

---

A19 Reimbursement Voucher  
Request #

#### CERTIFICATION

I hereby certify that I reviewed all certified payrolls for the period supported by the attached A19 Reimbursement voucher to ensure that we pay all laborers and mechanics at least the higher of the prevailing wage rates contained in the applicable federal or state wage decisions for the type of work performed.

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

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

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

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

## Attachment 4-B: Eligible Activities and Costs

Costs must relate directly to the DWSRF-funded project. Eligible project activities and costs include:

- Preconstruction activities directly related to an eligible capital construction project, such as engineering, Water System Plan Amendments and Small Water System Management Program preparation, design, legal, financial, environmental and cultural review, permitting, and surveying.
- Acquisition of real property from a willing seller as an integral part of a capital construction project being funded:
  - Purchase of land and easements acquired for and devoted to the project from a willing seller.
  - Purchase of improvements.
  - Adjustment or re-establishment of improvements.
  - Salaries, expenses or fees for appraisers, negotiators, or attorneys.
  - Removal or demolition of improvement.
  - Other direct costs in connection with acquisition. We will reduce amounts received from the sale of excess real property, improvements, or any rental from the direct costs.
- The costs for complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- DWSRF loan fees.
- The purchase of a portion of another system's capacity, if it is the most cost effective solution (limited to publicly owned municipal systems).
- Construction of reservoirs (clear wells) that are part of the treatment process and co-located with the treatment facility.
- Construction of distribution reservoirs (finished water).
- Cost associated with restructuring or consolidation of existing water systems by publicly owned water systems.
- Main extensions to connect to safe and reliable sources of drinking water.
- DOH-approved projects for refinancing of debts (that address surface water, Volatile Organic Chemicals (VOCs), Inorganic Chemicals (IOCs), and projects for systems under a compliance order to construct a project) when they have been incurred by publicly owned (municipal) water systems after July 1, 1993.
- Cost associated with collecting and preparing environmental assessment documents to obtain local permits.
- Direct labor including related employee benefits.

- Salaries and wages (at actual or average rates) covering productive labor hours of your employees (excluding the administrative organization of the operating unit) for time actively or incidentally engaged in predesign engineering, design engineering, construction engineering, acquisition of rights of way, and the cleaning, sterilization or bacteriological testing of water system components prior to public use. We consider the costs of services rendered by employees classified as administrative or project management of the loan as a direct cost only when you assign them to the types of services described here. Their salaries shall be limited to 3 percent or less of the project loan amount.
- We consider employee benefits relating to labor a direct cost of construction projects. The following items may be included as employee benefits:
  - F.I.C.A. employer's share (Social Security)
  - Retirement benefits
  - Hospital, health, dental and other welfare insurance
  - Life insurance
  - Industrial and medical insurance
  - Vacation
  - Holiday
  - Sick leave
  - Military leave and jury duty
- You must calculate employee benefits as a percentage of direct labor dollars.
- You must base the computation of predetermined percentage rates you apply to current labor costs on the average of total employee benefits and total labor costs for the prior fiscal year, adjusted by known current year variations.
- Other than work identified above, no costs associated with labor performed by the borrower's employees, including force account work, are eligible for financing assistance.
- Contract engineering, planning, design, legal, and financial planning services. The DOH reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.
- Contract construction work.
- Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county-owned equipment, at the rental rates established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations. However, you must charge such costs on a uniform basis to equipment used for all projects regardless of the funding source. Cities with a population of 8,000 or less not using this type of fund may use the same rates the state Department of Transportation uses.
- Direct materials and supplies.

- Other direct costs incurred for materials or services acquired for a specific project are eligible costs and may include, but are not limited to items such as:
  - Telephone charges
  - Reproduction and photogrammetry costs
  - Video and photography for project documentation
  - Computer usage
  - Printing and advertising
  - Other project related costs include:
    - Competitive Bidding
    - Audit
    - Property Coverage Insurance
    - Prevailing wages
    - Attorney fees
    - Environmental Review
    - Archaeological Survey
    - Monitoring Plan
    - Inadvertent or Unanticipated Discovery Plan
- You may design projects to accommodate reasonable growth. This is generally the 20-year projection included in the system's Water System Plan or Small Water System Management Program.

## Attachment 4-C: Ineligible Activities and Costs

- Water rights, except for the water rights a public water system purchased through consolidation owns.
- Laboratory fees for monitoring.
- Operation and maintenance expenses (ex: reservoir cleaning, coating, and painting).
- Portable generators, tools, vehicles and other “rolling stock.”
- Indirect salaries, wages, and benefits for water system employees whose work falls outside of the scope of project construction.
- General Liability insurance.
- Projects primarily for future population growth and water system expansion.
- Projects solely for preconstruction activities.
- Projects solely for studies or assessments.
- Restructuring (purchasing) costs incurred by privately owned systems.
- Point of use treatment devices for community systems and most non-community systems.
- Acquisition, construction, or rehabilitation of dams or raw water reservoirs.
- Individual projects for multiple water systems submitted as one application.
- Projects in which fire protection is the primary focus.
- Force account work.

## Attachment 4-D: American Iron and Steel Certification

**Washington State Department of Health  
DRINKING WATER STATE REVOLVING FUND**

### **AMERICAN Iron and Steel CERTIFICATION**

<b>Legal Name:</b>	
<b>Project Name:</b>	
<b>Contract Number:</b>	<b>Reimbursement Voucher Request #</b>

I hereby certify that all of the iron and steel products used and referenced in the attached Reimbursement Voucher for cost reimbursement are in full compliance with the American Iron and Steel requirements as mandated in Part 1: Special Terms and Conditions; Paragraph 1.37 (Municipal Borrowers) or Paragraph 1.42 (Non-municipal Borrowers) of the loan agreement with DOH.

“Iron and steel products” mean the following products made primarily of iron and 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 (as defined in Part 1; 1.1 Definitions).

I further certify that the costs of all of the iron and steel products produced in the United States were incurred while undertaking and administering approved project activities according to Attachment I: Scope of Work and Attachment V: DWSRF Eligible Project Costs of the loan agreement.

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

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

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

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

# Section 5 Requirements and Procedures for Procuring Professional Services

## 5.1 Overview

You may use your own staff for engineering and design work (see page 21 salaries and wages). Borrowers already under contract with an engineering or architectural consultant may continue to use that consultant for their project if they were originally hired through a competitive process. Alternatively, borrowers that need to hire engineering or architectural consultants must use a competitive selection process. You can demonstrate compliance with this requirement by using the following guideline to secure professional services.

## 5.2 Consultant Roster (not applicable to non-municipal clients)

A local government or municipality may use a Consultant Roster (loans under \$300,000) to demonstrate a competitive selection process for consultants. You can find information about the roster on the Municipal Research Services Center of Washington website at [mrscrosters.org](http://mrscrosters.org).

## 5.3 Advertise

To demonstrate a competitive selection process by advertising, publish the request for professional services in a general circulation newspaper. You must publish the advertisement at least once a week for two weeks and allow at least 14 calendar days from the last publication date for respondents to prepare and submit their proposals. The announcement should state the general scope and nature of the project or work and explain how to contact you for additional information.

### Evaluating Proposals and Statement of Qualifications

The borrower must have a documented system for reviewing proposals and statements of qualifications submitted in response to the published and distributed advertisement. The system must include the use of selection criteria established prior to solicitation, evaluation of cost and rates, and be thorough, uniform and well documented.

### Select the Firm Most Advantageous to the Project

1. Borrowers must document why they selected the chosen firm and indicate why it is the most qualified for the job. You may use the Request for Proposals method to select the firm with the proposal most advantageous to the project considering all factors or use the Request for Statement of Qualifications method to find the most qualified firm. If you use the latter method, you must conduct contract negotiations to determine the fair and reasonable price of services.
2. Borrowers should negotiate a contract with the most qualified firm for architectural and engineering services at a price they determine to be fair and reasonable. In deciding, borrowers should consider the estimated value of the services to be performed and the scope and complexity of the project. If you are unable to negotiate a satisfactory contract with the firm

selected at a price you determine to be fair and reasonable, you shall terminate negotiations with that firm and select other firms ([RCW 39.80.040](#)).

## 5.4 Check for Federal Exclusion

Any professional service paid from this federal fund source must have a current Beta.sam.gov check documented in your files.

Before signing a professional services contract, borrowers must verify that the complete names of both the selected firm and the owner or president are not in the Federal Excluded Parties List System ([Beta.sam.gov](#)) for Ineligible Professionals and Debarred Contractors. You also must provide your DWSRF contract manager with a computer printout documenting the firm and the owner or president are not excluded. You may verify contractor or subcontractor eligibility at [Beta.sam.gov](#).

## 5.5 Prepare the Contract

Prepare the contract agreement. The contract should include the following provisions:

### General Requirements

- Effective date
- Authority and source of funds
- Conditions and terms under which the agreement can be terminated
- Errors and Omissions (engineering firms only). Engineering firm must be licensed to do business in Washington State; be in compliance with the Board of Professional Registration requirements, insured with proper errors and omissions insurance and/or bonding
- Conflict of interest provisions
- Access to records & records retention clauses

### Scope of Services

- Detailed description of the extent and character of work to be performed
- Time of performance and completion of contract services, including milestones, if any
- Specifications of materials or other services to be provided by both parties

### Method of Compensation

- Provisions for compensation for services
- Maximum amount payable under the contract
- Fee and payment schedules, if appropriate

## 5.6 Monitor Performance

The borrower should establish a system to monitor the performance of its engineer, architect or consultant. At a minimum, the system should provide for reconciling the bills against applicable



documentation and receiving at the minimum, a monthly update on the project status, problems, etc. The scope of work can provide the basis for monitoring and evaluating the performance of the engineer, architect or consultant by specifically identifying performance measures.

## **5.7 Record Keeping and Reporting**

Borrowers must maintain records to identify the procurement method used and why you selected it; the rationale used for selecting the contract type; reasons for selecting and rejecting bidders or qualified firms; and the basis for the contract cost or price. You must keep a copy of the advertisement published in the paper and records of Disadvantaged Business Enterprises you invited to submit proposals or qualifications.

# Section 6 Environmental and Cultural Reviews

## 6.1 Overview

As the primacy agency for the DWSRF Program, DOH leads the review processes for the state environmental review process (SERP) and the National Historic Preservation Act (cultural review process), also referred to as Section 106. Although the SERP and the Section 106 are two distinctive processes, DOH will coordinate both reviews as much as possible. SERP is essentially a checklist of all environmental regulations, which encompasses the state Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA).

All federally funded projects must undergo an environmental review and cultural review. Both reviews identify and analyze potential impacts a project may have on environmental, historical, and cultural resources. These reviews can take from three to eighteen months and sometimes longer if any of the following apply:

1. New ground will be disturbed.
2. Project will impact or is near:
  - Endangered species.
  - Native American reservation.
  - Contaminated soils.
  - Historic structures.
  - Body of water.
  - Environmental sensitive area (e.g., wetlands).
  - Cultural resources.
  - Historical Districts.
3. Requested documentation is not provided in a timely manner.

**Borrowers will not move forward with any preconstruction ground-disturbing activities (such as, drilling test wells, completing geo-tech work, grading, clearing), or construction activities until both the SERP and 106 processes are complete and DOH issues a final completion letter.** If ground-disturbing activities occur before you receive the final completion letter, you jeopardize the DWSRF loan funding.

To ensure compliance with DWSRF requirements, municipalities that serve as the lead agency for SEPA are required to submit all documentation (EIS, DNS, Categorical Exemption Publication Notices, etc.) to DOH for final approval. In addition, state statute WAC 197-11-305(2) Categorical Exemptions does not pertain to federally funded projects. Water systems must document the exemption and complete a public comment period for all projects determined to be Categorically Exempted.

The borrower must adhere to a proper government-to-government relationship for the cultural review. As such, DOH must contact the tribes and the Department of Archaeology and Historic Preservation. DOH will notify you when a cultural resources survey is necessary. You must hire a qualified archaeologist to conduct the survey and submit a draft of the survey to DOH for final approval.

## 6.2 Projects Receiving Additional State or Federal Funding

To comply with DWSRF requirements, borrowers must follow the more stringent environmental and cultural review process. You must inform DOH of additional funding sources and submit any necessary compliance documentation completed to date; otherwise, any steps of the process not adequately documented must undergo another review.

Any documentation more than five years old is not valid, and subsequently another review is required. DOH will coordinate the reviews with other funding agencies.

## 6.3 Cultural and Environmental Review Timetable

Activity	Responsibility	Timeframe
Execute DWSRF Contract	DOH & Borrower	Starting Point
Evaluate Project <ul style="list-style-type: none"> <li>• Schedule site visit</li> <li>• Research Project Area at DAHP</li> </ul>	DOH	Ongoing <sup>1</sup>
Make Section 106 Determination <ul style="list-style-type: none"> <li>• “No Historic Properties Affected” -OR-</li> <li>• “Potential Historic Adverse Effect”               <ul style="list-style-type: none"> <li>○ complete survey, monitoring plan, and/or inadvertent discovery plan</li> <li>○ additional consultation with DAHP and Tribes</li> </ul> </li> </ul>	DOH  Borrower	Ongoing <sup>1</sup>  3-6 months <sup>2</sup>  6-18 months <sup>2</sup>
Forward Determination to DAHP and Tribes	DOH	30 days
Review Concurrence Letter(s)	DOH	15 days
Make or Receive SEPA/NEPA Determination <ul style="list-style-type: none"> <li>(a) Categorical Exemption/Exclusion</li> <li>(b) SEPA Checklist/Environmental Impact Statements (EIS)</li> </ul>	Borrower/DOH/Other Regulatory Agencies	Ongoing <sup>2</sup>
Public Comment Period <ul style="list-style-type: none"> <li>1. Publish Section 106 and/or SEPA Findings</li> </ul>	Borrower	30 days <sup>3</sup>
Forward Final Completion Letter	DOH	15 days

<sup>1</sup> Revised project scope or other relative information may result in another review.

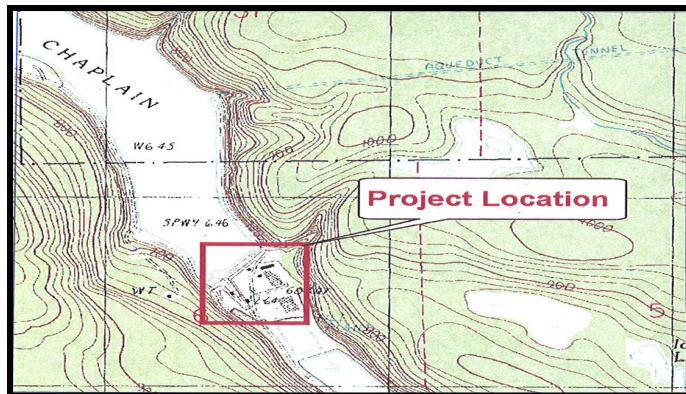
<sup>2</sup> Timeframe depends on the significance of cultural/historic resources in vicinity of the project area.

<sup>3</sup> Public comment period may run concurrently. If done separately, a 30-day public review is required for each process.

## 6.4 Things That May Hinder Your Progress

The following items may delay progress on the project's environmental or cultural review:

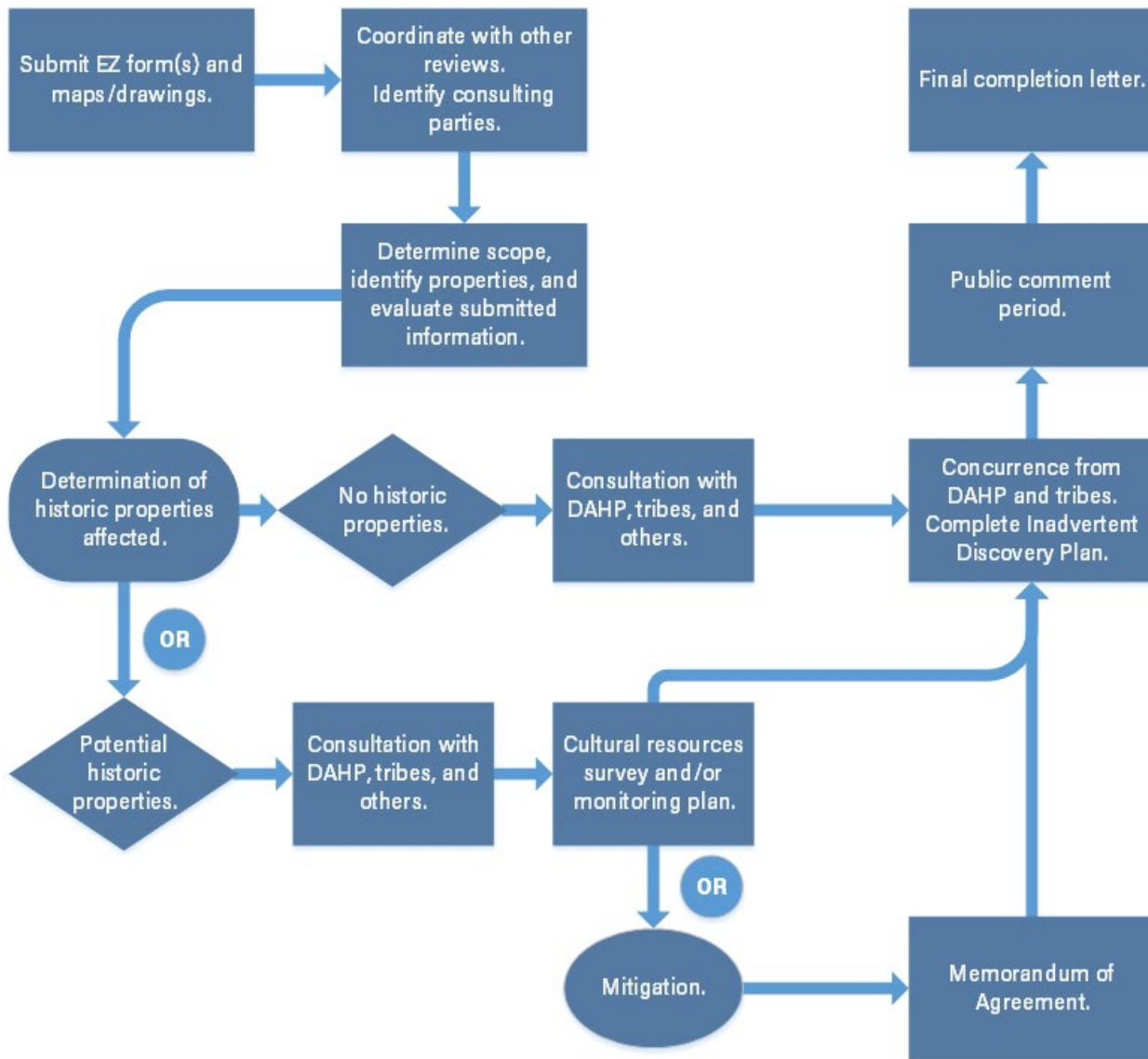
- A) Project Review Sheet (EZ-1 Form) is incomplete or contains incorrect information
  - Project location is not clearly identified
  - Project description is not detailed enough
  - Township, Range, and Section is incorrect
- B) The assumption that the cultural review is complete on submittal of the EZ-1 Form is not correct. The EZ-1 Form is used to **initiate** the cultural review and further actions are required (See *Cultural Review Flow Chart*).
- C) Not submitting the EZ-2 Form when the project will modify or demolish a structure or building. DOH will notify you if the Department of Archeology and Historic Preservation requires additional actions.
- D) Not submitting a 7.5 Series USGS Quad map with the EZ-1 Form to identify the project area (See below map as an example).
- E) Revising the project scope of work or acquiring additional relevant information may result in another cultural resource review process.



For answers to questions, or to initiate the environmental or cultural review, contact [Scott Kugel](#), 360-480-7617, SERP and Section 106 lead.

Find more information on our [DWSRF website](#).

## 6.5. Cultural Review Flow Chart



The SERP/106 review process officially begins on execution of a DWSRF contract.

# Section 7 Requirements and Procedures for Procuring Construction Contracts

## 7.1 Overview

This section guides you the process for procuring construction contractors. **Your jurisdiction must understand local procedures and adhere to the most stringent of the federal and state regulations.** This section outlines a competitive bid process applicable to DWSRF construction projects that must competitively bid the construction project through a sealed bid process or small purchase procedure.

This section also covers information about labor standard provisions that apply to construction projects over \$2,000. For additional information on labor standards, see Section 8.

Most borrowers procure construction contracts by sending an Invitation for Bid (IFB) to interested contractors. The IFB contains all the information the contractor will need to bid on a project. Once the bidder completes and submits the IFB, if the lowest responsible bid, becomes the basis for the contract between the contractor and the grantee.

## 7.2 Non-Municipals: Small Purchase Procedures for Limited Public Works Projects

Borrowers may use small purchase procedures when they don't expect public works projects to exceed \$250,000 (federal limit). You may not use small purchase procedures to procure engineering or architectural services. If you use a small purchase procurement, you must get price or rate quotations or proposals from at least three qualified sources. You must make the effort to seek at least one quotation or proposal from a certified Minority Business Enterprise (MBE) or from a certified Woman Business Enterprise (WBE). If the jurisdiction established a lower ceiling for small purchases, you must follow the lower ceiling. Document all steps taken, quotations or proposals received, and outreach efforts you made. You don't have to advertise requests for quotes, proposals, or so on, in a general circulation newspaper.

## 7.3 Small Works Roster (not applicable to non-municipal clients)

The small works statute [RCW 39.04.155](#) allows participating public agencies to use a small works roster system to award contracts for small projects with a dollar limit. Federal laws allow you to use this roster as part of small purchase procedure. DWSRF will accept your small works roster as long as you use the more restrictive of state and federal guidelines. Currently, the federal cap for using a small works roster is \$350,000. Your jurisdiction may have a more restrictive requirement. The MRSC website has more information about the specific limits that jurisdictions have for using this procurement methodology at [mrsc.org](#).

## 7.4 Advertise for Bids or Invitations for Bids (IFB)

Prior to advertising, send a copy of the draft bid advertisement to your DWSRF contract manager for review and approval.

At a minimum, a bid advertisement should include the following items:

- Title of project.
- Nature and scope of work.
- Location to obtain plans and specifications documents.
- Cost, if any, to obtain a set of plans and specifications documents.
- The place, date, and time that the bids are due.
- Statement that the borrower retains the right to reject any and all bids.
- List of the funding sources for the project, including the DWSRF funds. (See statement below)
- Requirement that the higher of prevailing state or federal wages must be paid. (See statement below)
- Statement indicating that the borrower is an Equal Opportunity Employer. (See statement below)
- Statement that general contractors and all subcontractors must meet DWSRF requirements or provisions.
- Statement requiring that all contractors be licensed to conduct business in Washington State.

### **The following statements must be included in the advertisement.**

"All work performed on this project will be subject to the higher of the prevailing state or federal wage rates."

"The (City/County) of \_\_\_\_\_ is an Equal Opportunity and Affirmative Action Employer."

"This project is (funded/partially funded) through the Washington State Drinking Water State Revolving Fund program with federal funds from the Environmental Protection Agency."

"Small, Minority- and Women-owned firms are encouraged to submit bids."

See Attachment 7-A: Example of Advertisement for Construction Contract Bids.

You must advertise bids once a week for two weeks in a general circulation newspaper for the project area. You must give general contractors enough time to research specifications and submit responsible proposals. You must allow at least 14 calendar days for advertising. You can't open bids prior to the 15<sup>th</sup> day.

Please note that EPA Forms 6100-2, 6100-3 and 6100-4 have been suspended. However, the suspension of these forms does not affect the requirements to employ the use of the six good faith efforts and maintain proper documentation supporting those efforts.

## 7.5 Disadvantaged Business Enterprise (DBE) Utilization Requirements (temporarily suspended)

You should give small, minority and women-owned firms the maximum opportunity to compete for and obtain bid documents for DWSRF-funded projects. The level of participation by small, minority and women-owned firms should be consistent with their availability within the professional community involved. For more information on DBE, please visit [epa.gov/osbp/dbe\\_fair](http://epa.gov/osbp/dbe_fair).

## 7.6 Fair Share Objective Goals (suspended)

A fair share objective is a goal based on the capacity and availability of qualified, certified Minority Business Enterprises (MBEs) and Women’s Business Enterprises (WBEs) in the relevant geographic market. As mandated by EPA, all general contractors and subcontractors must comply with the requirements of the EPA’s Program for Utilization of Small, Minority, and Women’s Business Enterprises (40 CFR, Part 33) in procurement under the DWSRF program. The goals for the utilization of disadvantaged businesses are as follows:

Construction	10% MBE	6% WBE
Supplies	8% MBE	4% WBE
Equipment	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE

All contracts with the general contractors and subcontractors must include and accept the fair share objective/goals stated above and attest to the fact they are purchasing the same or similar construction, supplies, services, and equipment, in the same or similar relevant geographic buying market as the Washington Office of Minority Women Business goals.

**IMPORTANT:** You can only count MBEs and WBEs certified by the U.S. Environmental Protection Agency (EPA), Small Business Administration (SBA), Washington State Department of Transportation, or by state, local, tribal, or private entities with certification criteria that matches EPA’s, toward the MBE and WBE utilization goal.

## 7.7 Six Good Faith Efforts

At a minimum, borrowers must follow the six good faith efforts listed below to ensure maximum participation among the DBEs.

1. To the fullest extent practical, use outreach and recruitment activities to make DBEs aware of contracting opportunities. This includes placing the DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs and arrange periods for contracts and delivery schedules, where the requirements permit, that encourage and facilitate DBEs to participate in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for at least 30 calendar days before the bid or proposal closing



date. Post the advertisement on the state Office of Minority and Women’s Business Enterprises (OMWBE) website at [omwbe.wa.gov](http://omwbe.wa.gov) and a Plan Center.

3. 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.
4. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
5. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce.
6. If the general contractor awards contracts to subcontractors, the subcontractor must also agree to fulfill the five good faith efforts listed above.

Borrowers must retain documentation showing they have followed the six good faith efforts above.

There are three options for the documentation:

- Provide an affidavit of publication of competitive bid that includes the following language at the least: “Small, Minority-and-Women-Owned businesses are encouraged to submit bids.”
- Provide a copy of bid packet submittal to a Plan Center.
- Post bid advertisement on the Washington State Office of Minority and Women Business Enterprise (OMWBE) website at [omwbe.wa.gov](http://omwbe.wa.gov).

## 7.8 Preventing Unfair DBE Practices

There are a number of provisions set by EPA (40 CFR, 33.302) to prevent unfair practices that adversely affect DBEs:

- General contractors must pay DBE subcontractors for satisfactory performance no more than 30 days from the time they receive reimbursement from borrowers.
- General contractors must notify borrowers prior to any DBE termination for convenience.
- If a DBE general contractor or subcontractor fails to complete work under the contract for any reason, the Six Good Faith Efforts must be employed in soliciting a replacement.
- Borrowers and general contractors must employ the Six Good Faith Efforts even if they achieved their fair share objectives.
- If DBE subcontractors are employed, borrowers must ensure that the following forms are completed and submitted appropriately.

EPA Form 6100-2 DBE Subcontractor Participation Form

EPA Form 6100-3 DBE Subcontractor Performance Form

EPA Form 6100-4 DBE Subcontractor Utilization Form

We strongly encourage the borrower to request and retain copies of all the submitted forms on file. We included copies of these forms in attachments 7G-I. Alternatively, to download these forms in PDF format, please visit [pwb.wa.gov/financial-assistance/Drinking-Water](http://pwb.wa.gov/financial-assistance/Drinking-Water).

## 7.9 Bidders List

Borrowers must require all firms that bid or quote on subcontracts to submit the following information (including both DBE and non-DBE firms) with their bid proposals. You must keep the bidders list until the loan project period expires and the recipient is no longer receiving EPA funding under the loan. You must obtain the following information from all prime and subcontractors:

- Bidders name with point of contact.
- Bidders mailing address, telephone number, and email address.
- The procurement on which the entity bid or quoted, and when.
- Bidders status as an MBE/WBE or non-MBE/WBE.

The DWSRF program exempts borrowers that receive EPA funds totaling \$250,000 or less in a given fiscal year from the bidders list requirement. You must submit a copy of the bidders list to your DWSRF contract manager.

## 7.10 Reporting the Use of MBE and WBE Contractors

Borrowers must include data about their use of local minority and women contractors as part of their reporting to DOH.

## 7.11 Develop the Advertisement / Invitation for Bid with Scope of Work

Borrowers are required to use a competitive bid process when choosing a general contractor for DWSRF funded projects, following the guidelines listed below.

## 7.12 Contents of the Bid Specifications

Borrowers shall ensure that provisions for each of the following DWSRF requirements are included in their bid package. Additionally, these requirements must be included in the contract between the borrower and its selected general contractor, as well as in all subsequent contracts between the general contractor and all its subcontractors. See Attachment 7-C: Bid Checklist.

The bid specifications must include the following information and materials:

- Access to Records/Records Retention Clause
- Land and Right-of-Way/Acquisition of Property Provisions
- Other Prohibited Interests/Conflict of Interest Provision
- Contract Security/Payment and Performance Bond Requirements

- Federal Labor Standards Requirements
- Title VI of the Civil Rights Act of 1964
- Age Discrimination Act of 1975, as Amended
- Section 504 of the Rehabilitation Act of 1973, as Amended
- Executive Order 11246, as Amended
- State Nondiscrimination Clause
- Americans with Disabilities Act of 1990
- State Prevailing Wage Requirements (RCW 39.12)
- Federal Prevailing Wage Rates
- DBE Forms 6100-2, 6100-3, and 6100-4
- DBE Utilization Requirements
- Fair Share Objective Goals
- Six Good Faith Efforts
- American Iron & Steel requirement

All provisions required in the prime contract are also required for subcontractors, including labor standards requirements.

Borrowers must send a checklist of all the documents that were included in the bid packet to your DWSRF contract manager. See Attachment 7-C Bid Checklist.

## 7.13 Obtaining Prevailing Wage Rates

The federal Davis-Bacon Act requires contractors to pay workers no less than the prevailing wage rate for a given category of work. A similar state law requires contractors to pay workers prevailing state wage rates (RCW 39.12). Thus, borrowers must obtain both the federal and state prevailing rates and place them in project bid specifications. EPA issued guidelines for DWSRF compliance with Davis-Bacon Provisions and Wage Rate Requirements. Please see [sam.gov](http://sam.gov). Borrowers must further stipulate that contractors and subcontractors pay workers the higher of the rates for each job classification involved in the project.

To obtain the federal prevailing wage rates, borrowers must prepare a written request that provides:

- A description of the project indicating the type of construction work to be performed.
- The location of the project (city, county, and state).
- Proposed dates of advertising for bids and opening of bids.
- Email address if wage rates are to be emailed to borrower.

Email this request to your DWSRF contract manager.

You can expect to receive the federal wage rates (Non-Municipal entities only) by email within two working days after you submit the request. If the borrower or borrower's consultant has access to current federal wage decisions through the internet, you must submit a copy of the applicable federal wage decisions to your DWSRF contract manager prior to incorporating the federal wage decisions into the Invitation for Bid (IFB) for verification of correct wage decision.

Both the current federal and state prevailing wage decisions must be included in the IFB.

The borrower may request the Washington State prevailing wage rates from:

Department of Labor and Industries  
Prevailing Wage Program  
406 Legion Way SE  
PO Box 44540  
Olympia, WA 98504-4540  
Phone (360) 902-5335  
[lni.wa.gov/TradesLicensing/PrevWage/WageRates/default](http://lni.wa.gov/TradesLicensing/PrevWage/WageRates/default)

## 7.14 Check Federal Wage Rate (Ten-Day Bid Check)

Ten days before the scheduled bid opening, borrowers must check with their DWSRF contract manager to ensure there are no modifications to their federal wage decisions. If the federal wage decision is still current, the bid opening may proceed on schedule. If modifications were issued, you must provide the new federal wage decisions to bid package holders in the form of an addendum to the bid document. You must confirm the 10-day bid check between the jurisdiction and your DWSRF contract manager.

If the jurisdiction doesn't feel there is enough time to issue an IFB amendment before the scheduled bid opening, your IFB does not have to include federal wage decision modifications issued less than 10 days prior to bid opening.

If you award the contract within 90 days, the wage decision locks in at bid opening. If you don't award a contract within 90 days, you must update the wage decision with your DWSRF contract manager.

## 7.15 License, Bonding, and Insurance for Contractors

The contractor must be licensed, bonded, and insured in Washington State. Contractors are not required to have payment or performance bonds, which exceed normal bonding requirements. However, this type of bonding can reduce the borrower's exposure to risk by ensuring liability is covered. We encourage you to have payment or performance bonds for loan agreements over \$100,000. A performance bond guarantees that the borrower will complete the contract according to its terms, including price and time. In case of default, the owner receives the amount of the bond, which is usually the amount of the construction contract. A payment bond guarantees that subcontractors and suppliers receive the money they are due from the principal contractor, which reduces the possibility of liens against the project. We recommend that borrowers ensure that the bonding company and the insurance company recognize them and the DWSRF Program as interested parties to be notified if the contractor terminates the bond or insurance.

It is important for the contract to specify that the contractor will notify the borrower if it terminates the bond. Borrowers must notify their DWSRF contract manager if payment or performance bonds are terminated for any reason.

## 7.16 American Iron and Steel Provision

Congress passed a law January 17, 2014, that requires water systems to use U.S. steel and iron products for projects funded in part or in full by a Drinking Water State Revolving Fund (DWSRF) loan.

Contractors must submit an affidavit of certification (Attachment 4-D American Iron and Steel Certification) with construction reimbursement requests to demonstrate compliance with the American Iron and Steel requirement.

### **What types of iron and steel products are required?**

The act defines iron and steel products as, "... 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."

### **How do we verify that our iron and steel products are American?**

To ensure compliance with the AIS requirement, DOH must include specific AIS contract language in the assistance agreement. We may also conduct site visits during construction and review documentation the loan recipient gathered to demonstrate proof of compliance. Recipients must be able to verify and document that all iron and steel products purchased as part of the construction project were produced in the United States.

### **Can I apply for a waiver to this requirement?**

We will grant waivers on a product-by-product basis. EPA is preparing guidance on a national waiver that may apply to upcoming projects. DOH is also exploring the possibility of a waiver for projects that were in process when Congress passed the American Iron and Steel Provision.

In the meantime, you may be able to get a waiver if the EPA administrator decides:

- The requirements are inconsistent with the public interest.
- The U.S. doesn't produce iron and steel products in sufficient and reasonably available quantities and of a satisfactory quality.
- Including U.S. iron and steel products will increase the cost off the overall project by more than 25 percent.

We are available to help you with your waiver requests. If a waiver will be required for an iron or steel product used in your project, the best time to obtain a waiver is during design of the project. These waivers may affect the applicability of American Iron and Steel requirements.

### **If this increases the cost of my project, can I get additional funds?**

DWSRF loan cycle recipients that don't meet the exemptions listed above may request additional funding when American Iron and Steel requirements cause the bid to exceed previously estimated construction costs. We may provide additional SRF loan funds if they are available.

### **Where can I get more information?**

U.S. EPA, Region 10, Drinking Water State Revolving Fund:  
Richard Green, [green.richard@epamail.epa.gov](mailto:green.richard@epamail.epa.gov), or 206-553-8504

## **7.17 Develop the Contract Document**

Borrowers must incorporate all the clauses and provisions that were in the construction IFB packet into the construction contract. The prime contractor also must pass all provisions required in the prime contract on to all subcontractors, including the Labor Standards Provisions.

## **7.18 Receive Sealed Bids**

Borrowers should log all bids received with the time and date of receipt and keep them in a secure place.

A borrower located in a rural area of the state who has difficulty soliciting bids for construction projects, along with advertising for competitive bid in the local newspaper, may solicit bids directly from general contractors as part of the bidding process.

## **7.19 Conduct Bid Opening**

Borrowers must open bids in public at the time and place stated in the advertisement. You can delay the bid opening, but you must notify all the bidders in advance. If you delay a bid opening, all bidders should have the opportunity to withdraw their bids or to resubmit them just before the new bid opening date and time (cost of equipment or materials could increase). You should conduct the public bid opening in a business-like manner. You must read each bid aloud during the meeting and determine the apparent low bidder. You must maintain a description of the bid review and tabulation process in your project files.

If you receive no bids, or the received bids are too costly, re-advertise the bid ad in a wider geographic area. We encourage borrowers to maintain a list of reputable general contractors that have done good work for them in the past or have bid previous projects in order to alert them of the bid request.

## **7.20 Select the Lowest Responsible Bidder**

The bids received should show in detail the estimated total cost of the work, a unit price for each component of the project, its overall individual cost, and the estimated completion schedule for each phase. The lowest responsible bidder must:

- Be licensed to work in Washington State.
- Have the ability, capacity, and skill to perform the work described in the contract scope of work and comply with requirements within the indicated timeframes.

- Have good character, integrity, reputation, judgment, experience, and efficiency.
- Be able to perform within the time specified.
- Demonstrate successful performance of previous construction contracts or services and demonstrate compliance with laws relating to the loan contract or services.

## 7.21 Check Contractor Eligibility

Before awarding the contract, jurisdictions must verify that the complete names of both the selected firm, and its owner or president are not on the Federal Exclusion list for Ineligible Professionals and Debarred Contractors. Further, the jurisdiction must provide your DWSRF contract manager with a computer printout documenting the firm and owner/president do not appear on the Federal Exclusion list. Borrowers also must ensure that any subcontractors associated with the DWSRF project are not on the Federal Excluded Parties List. You may verify contractor and subcontractor eligibility using the [Beta.sam.gov](https://beta.sam.gov) website.

## 7.22 Award the Contract

The borrower must award the contract by the timeline stated in the bid specs or reject all bids. If the award is more than 90 days from the bid opening, you will need to update the federal wage decision. You must award the contract to the lowest responsible bidder with a bid that conforms to all material terms and conditions of the Invitation for Bids.

**You must issue a Notice to Proceed within 18 months of contract execution.**

## 7.23 Negotiating the Bid Price

You may negotiate a bid price, based on agreed changes to the plans and specifications in the bid documents, with a low responsible bidder under the following conditions:

- All bids exceed the available funds, as certified by the appropriate fiscal officer.
- The apparent low responsible bid does not exceed the available funds by 5 percent on projects valued under \$1 million, or the greater of \$50,000 or 2.5 percent for projects valued between \$1 million and \$5 million.
- The negotiated adjustment will bring the bid price within the amount of available funds.

## 7.24 Execute the Contract

After you award the contract, you must complete and execute contract documents and applicable bonding and insurance. Contract documents must include all items contained in the bid package, the executed contract, bid proposal, contractor certifications, and bond and insurance forms.

## 7.25 Conduct Preconstruction Conference

Prior to starting construction, all parties should attend a preconstruction conference to go over the project details and federal requirements. See Section 9.2 for details.

## 7.26 Send Notice of Contract Award to DOH

Within 10 days after contract award and signing, the borrower must submit a DWSRF Notice of Contract Award and Notice to Proceed Form to the DWSRF contract manager (Attachment 7-B: Notice of Contract Award and Notice to Proceed). The borrower must sign the form, which identifies the borrower, project name and location, contract number, contractor, award date, contract amount, bid solicitation date, number of bids received, name and addresses of MBE and WBE businesses solicited, Notice to Proceed issue date, and start of construction date.

## 7.27 Maintain Procurement Records

Maintain documentation of the procurement process in project files for the life of the loan plus six years.

## 7.28 List of Reference Materials

- Attachment 7-A: Example of Advertisement for Construction Contract Bids
- Attachment 7-B: Notice of Contract Award and Notice to Proceed
- Attachment 7-C: Bid Checklist
- Attachment 7-D: Bid Spec Insert for Municipal Borrowers
- Attachment 7-E: Bid Spec Insert for Non-municipal Borrowers
- Attachment 7-F: Davis-Bacon Flow Chart



## Attachment 7-A: Example of Advertisement for Construction Contract Bids

City of Devin

Business Development Building

Bid Date, September 1, 2016

Estimated Cost of Project: \$1,200,000.00

### INVITATION FOR BIDS

Sealed bids will be received by the City of Devin Public Works Office, located at 130 SE Cascade Avenue, PO Box 413, Devin, WA 98684, until 2 P.M., September 21, 2016, for the general contract for construction of a water reservoir. The project consists of constructing a 180-foot tall water reservoir and removal of a 100-foot-tall elevated tank.

Bidding documents for the project are prepared by Delco Engineering, Inc., P.S.

Availability of Bidding Documents: Bona fide general contractors may obtain the contract documents at the office of Delco Engineering, Inc., P.S., located at 1313 West Clark, Nimbi, WA 99301, (509) 454-4402 on payment of \$75 per set. Copies of the contract documents may be examined at the following locations: Portland Plan Center, 1125 SE Madison, Portland OR; Associated General Contractors, 1200 Westlake North, Seattle, WA; 528 N. 20th, Yakima, WA; Spokane Construction Council, E. 102 Boone Street, Spokane, WA; Tri-City Construction Council, 34 Vista Way, Kennewick, WA; Associated Women Contractors, 921 South Elm, Seattle WA.

Bid Security: A certified or bank cashier's check for 5 percent of the bid amount, payable to the City of Devin, or bid bond executed by a licensed bonding company is required with each bid.

Rejection of Bids: The city shall have the right to reject any or all bids not accompanied by bid security or data required by the bidding document or a bid in any way incomplete or irregular.

The City of Devin is an equal opportunity and affirmative action employer. Disadvantaged Business Enterprises (Small, Minority- and Women-Owned Businesses) are encouraged to submit bids. All work performed on the project will be subject to the higher of the prevailing state or federal wage rates.

The bids will be open at 2 P.M., September 21, 2016, at the offices of Devin Public Works Department, located at 130 SE Cascade Avenue, Devin WA. For more information, call Shawn Gomez at 509-427-5484.

This project is fully or partially funded through the Washington State Drinking Water State Revolving Fund Program with federal funds from the U.S. Environmental Protection Agency. General contractors and all subcontractors must meet DWSRF requirements and provisions.

## Attachment 7-B: Notice of Contract Award and Notice to Proceed

### NOTIFICATION OF CONTRACT AWARD AND START OF CONSTRUCTION

---

AGENCY: \_\_\_\_\_ CONTRACT  
NUMBER: \_\_\_\_\_

DATE OF NOTICE TO PROCEED: \_\_\_\_\_

CONTRACT AWARD DATE: \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_ CONTRACT  
AMOUNT: \_\_\_\_\_

PROJECT LOCATION: \_\_\_\_\_

GENERAL CONTRACTOR: \_\_\_\_\_

DATE BID SOLICITATION PUBLISHED\*: \_\_\_\_\_

BID OPENING DATE: \_\_\_\_\_ NUMBER OF BIDS RECEIVED: \_\_\_\_\_

NAMES/ADDRESSES OF DISADVANTAGED BUSINESS ENTERPRISE SOLICITED: \_\_\_\_\_

APPLICABLE FEDERAL WAGE DECISION NUMBER\*\*: \_\_\_\_\_

MODIFICATIONS\*\*: \_\_\_\_\_

PRECONSTRUCTION CONFERENCE DATE: \_\_\_\_\_

CONSTRUCTION START DATE: \_\_\_\_\_

SUBMITTED BY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ TITLE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\*Please attach copy of published bid solicitation advertisement. \*

\*\*Federal Funded Contracts (CDBG & DWSRF) \*\*

PLEASE NOTE: Federally funded projects must pay the higher of federal or state prevailing wages.

## Attachment 7-C: Bid Checklist

The bid documents must include the following information and materials.

- Identify source of federal assistance
- Identify Jurisdiction
- Contact person and phone number
- Date, time and place of public bid opening
- Basis for rejecting bids
- Any factors, in addition to lowest price, which will determine the lowest, responsible bidder, or responsive bid
- Includes Washington State license requirement
- Clear, accurate description of the technical requirements for materials, products, or services (specifications)
- Plans and other pertinent attachments

### Federal Requirements

#### Disadvantaged Business Enterprise

- General Compliance (40CFR Part 33)
- Fair Share Goals
- Nondiscrimination Provision
- Preventing Unfair DBE Practices
- EPA Forms 6100-2, 6100-3, & 6100-4 for Disadvantaged Business Enterprises
- Bidders List
- Specify that a five percent (5%) bid guarantee is required
- Bond requirements (for municipal borrowers only)
  - Specify if a 100% Performance Bond is required on contracts of \$100,000 +
  - Specify if a 100% Payment Bond is required on contract of \$100,000 +

#### Labor Standards Provisions (Attachment 7-D or 7-E)

- Applicable Federal Wage Decision
- Applicable State Wage Decision
- Equal Opportunity and Affirmative Action Provisions (referenced in the General Terms and conditions of the contract)
- American Iron and Steel Requirement

# Attachment 7-D: Bid Spec Insert for Municipal Borrowers (Pages 47-74)

## WASHINGTON STATE DEPARTMENT OF HEALTH DRINKING WATER STATE REVOLVING FUND (DWSRF)

### SPECIFICATIONS INSERT MUNICIPAL

The following clauses will be incorporated into construction contracts receiving financial assistance from the Washington State Department of Health Drinking Water State Revolving Fund. In the event of conflict within the contract, these clauses shall take precedence.

#### Required Bid Submittals

---

The following submittals must be submitted with the bid proposal:

- ➔ Complete Bidders List

#### Compliance with State and Local Laws

---

The contractor shall ensure compliance with all applicable federal, state, and local laws, requirements, and ordinances as they pertain to the design, implementation, and administration of the approved project.

#### Civil Rights

---

All contracts must include and comply with the following:

##### **Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d**

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

##### **Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794**

No otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

##### **The Age Discrimination Act of 1975, 42 U.S.C. § 6102**

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving financial assistance.

### **Equal Employment Opportunity, Executive Order No. 11246 (1965)**

Through a series of Executive Orders, and a decision by the Equal Employment

Opportunity Commission, the federal government has established a national policy designed to battle discrimination based on race, color, sex, religion, and national origin in federal assistance programs and to enhance hiring, training, and promotion opportunities for minorities and women in construction programs financed, in part, by federal dollars.

If a contract exceeds \$10,000, the contractor shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60.

Contractor's compliance with Executive Order 11246 shall be based on implementation of the Equal Opportunity Clause, and specific affirmative active obligations required by the Standard Federal Equal Employment Opportunity Construction Contract Specifications, as set forth in 41 CFR Part 60-4.

### **Must be included in all contracts:**

#### **Equal Opportunity Clause (41 CFR part 60-1.4(b))**

---

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. If the contractor doesn't comply with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts according to procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding on each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **Federal Equal Employment Opportunity Construction Contract Specifications**

---

(Executive Order 11246 and 41 CFR part 60-4.3)

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
  - d. "Minority" includes:
    - i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    - ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

- iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the contractor is participating (pursuant to 41 CFR 60–4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the plan area (including goals and timetables) shall be according to that plan for those trades that have unions participating in the plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the plan goals and timetables.
4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where they perform the work. Goals periodically appear in the Federal Register notice form. You can obtain such notices from any Office of Federal Contract Compliance Programs or from federal procurement contracting officers. The contractor is expected to make uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, nor the regulations promulgated pursuant thereto.
6. To count the nonworking training hours of apprentices and trainees in meeting the goals, the contractor must employ such apprentices and trainees during the training period, and make a commitment to employ them at the completion of their training, subject to the availability of

employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative action's to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based on its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities where the contractor assigns employees to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and the action taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the contractor may have taken.
  - d. Provide immediate written notification to the director of the Federal Contract Compliance Program when the union or unions the contractor has a collective bargaining agreement with doesn't refer to the contractor, a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
  - e. Develop on-the-job training opportunities or participate in training programs for the area, which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially programs the Department of Labor funds or approves. The contractor shall provide notice of these programs to the sources compiled under 7b above.
  - f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and asking them to help the contractor meet its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper or annual report; by reviewing the policy with all management personnel and all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.



- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees that have any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel, such as superintendents or general foremen, before initiating construction work at any job site. The contractor must make and maintain a written record identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women, and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60–3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Continually monitoring all personnel and employment related activities to ensure seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect. Ensure that the EEO policy and the contractor's obligations under these specifications are carried out.
- n. Ensure that all facilities and company activities are unsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to ensure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8. We encourage contractors to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor community, or other similar group where the contractor is a member and participant, may be asserted as fulfilling one or more of its obligations under 7a through 7p of these specifications. As such, the contractor must actively participate in the group, make every effort to ensure the group has a positive impact on the employment of minorities and women in the industry, and ensure the contractor's minority and female workforce participation reflects the concrete benefits of the program. In addition, the contractor must make a good faith effort to meet individual goals and timetables and provide access to documentation that demonstrates the effectiveness of actions the group takes on the contractor's behalf. However, the contractor is obligated to comply and failure of such a group to fulfill an obligation shall not be a defense for noncompliance.
9. A single goal for minorities and a separate single goal for women were established. The contractor, however, must provide equal employment opportunity and take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a disparate manner. For example, even if the contractor achieved a goal for women in general, it may be in violation of the Executive Order if it under utilizes a specific minority group of women.
10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The contractor shall not enter into any Subcontract with any person or firm debarred from government contracts pursuant to Executive Order 11246.
12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as the standards prescribed in paragraph 7 of these specifications, to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the director of the Federal Contract Compliance Program shall proceed according to 41 CFR 60-4.8.
14. The contractor shall designate a responsible official to monitor all employment related activity to carry out the company EEO policy, to submit reports relating to the provisions hereof as the government may require, and to keep records. Records for each employee must include the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the

indicated trade, rate of pay, and locations where the work was performed. The contractor must maintain records in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, we won't require contractors to maintain separate records.

15. Nothing herein provided shall be construed as a limitation on the application of other laws, which establish different standards of compliance, or on the application of requirements for hiring local or other area residents (those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).



## Reporting Requirements (EEO-1)

---

On or before September 30 of each year, a contractor subject to Title VII of the Civil Rights Act of 1964, as amended, that has 100 or more employees, must file an "Employer Information Report EEO-1" with the EEOC or its delegate. Instructions on how to file are on the EEOC website at [eeoc.gov/employers/eeo1survey/howtofile.cfm](https://www.eeoc.gov/employers/eeo1survey/howtofile.cfm). The contractor shall retain a copy of the most recent report filed.

## Segregated Facilities (41 CFR part 60-1.8)

---

The contractor must provide facilities for employees in a manner that prevents segregation on the basis of race, color, religion, sex, or national origin. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensuring that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. This obligation extends to all contracts containing the equal opportunity clause regardless of the amount of the contract. The term "facilities," as used in this section, means waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, wash rooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. Separate or single-user restrooms and necessary dressing or sleeping areas shall be provided to ensure privacy between the sexes.

### a. Provision

While performing this contract, the contractor must comply with all federal and state nondiscrimination laws, including, but not limited to Chapter 49.60 RCW, Washington's Law against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act. If the contractor fails or refuses to comply with any applicable nondiscrimination law, regulation, or policy, DOH may rescind, cancel, or terminate this contract in whole or in part, and declare the contractor ineligible for further contracts. The contractor shall, however, be given reasonable time to cure this noncompliance.

The contractor must also include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services listed in Attachment I: Scope of Work.

“The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under U.S. Environmental Protection Agency financial agreements. If the contractor fails to carry out these requirements, it is a material breach of this contract, which may result in contract termination.

### American Iron and Steel Provision

Congress passed a law January 17, 2014, that requires water systems to use U.S. steel and iron products for projects funded in part or in full by a Drinking Water State Revolving Fund (DWSRF) loan.

The act defines iron and steel products as, “...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.”

### Prohibition Statement

While the contract is in effect, the contractor and its employees may not engage in severe forms of trafficking in persons, procure a commercial sex act, or use forced labor (Section 106 of the Trafficking Victims Protection Act of 2009, as amended). The contractor shall require this prohibition statement in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services listed in Attachment I: Scope of Work.

If the contractor or any of its employees is determined to have violated the terms of this section, this contract may be terminated.

### Prevailing Wage

The work performed under this contract is subject to the wage requirements of the Davis-Bacon Act. The contractor and subcontractors must conform to wage requirements prescribed in the federal Davis-Bacon and Relate Acts. These acts require them to pay laborers and mechanics employed on contracts funded in whole or in part by SRF appropriations in excess of \$2,000, prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. Attachment 1A or 1B to this specification insert, and an up-to-date wage determination **must** be included in full into **any** contract and in any subcontract in excess of \$2,000. You can find wage determinations at [www.wdol.gov](http://www.wdol.gov).

### Certification Regarding Suspension, Debarment, Ineligibility or Voluntary Exclusion

1. The contractor, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the contractor is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.

2. The contractor shall provide immediate written notice to DOH if at any time it learns that its certification was erroneous when submitted or became erroneous due to changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may ask DOH for help obtaining a copy of those regulations.
4. The contractor agrees it shall not knowingly enter into any lower tier covered transaction with a person proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The contractor further agrees by signing this agreement, that it will include the clause titled, "Certification Regarding Suspension, Debarment, Ineligibility Or Voluntary Exclusion," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the contractor must ensure that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. The contractor acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or cause DOH to pursue legal remedies, including suspension and debarment.
8. The contractor agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to the DOH on request. The recipient or contractor must run a search in [www.Beta.sam.gov](http://www.Beta.sam.gov) and print a copy of completed searches to document proof of compliance.

This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

### **Disadvantaged Business Enterprises (Temporarily suspended)**

---

Small, minority and women-owned firms should be afforded the maximum opportunity to compete for and obtain bid documents for DWSRF-funded projects. The level of participation by small, minority and women-owned firms should be consistent with their general availability within the professional community involved.

### **General Compliance (40 CFR Part 33).**

---

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

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

---

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

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

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

---

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

1. Ensuring Disadvantaged Business Enterprises are made aware of contracting opportunities to the full extent practicable through outreach and recruitment activities. For tribal, state and local and government recipients, this will include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources. You can find Qualified Women and Minority business enterprises online at [www.omwbe.wa.gov](http://www.omwbe.wa.gov) or by contacting the Washington State Office of Minority and Women's Enterprises at 360-704-1181.
2. Making information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for at least 30 calendar days before the bid or proposal closing date.
3. Considering in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For tribal, state and local government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
4. Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
5. Using services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce.

6. If the prime contractor awards subcontracts, requiring the subcontractors to take the six good faith efforts in paragraphs 1 through 5 above.

### **Fair Share Objective Goal (40 CFR Part 33 Subpart D).**

---

A fair share objective is a goal based on the capacity and availability of qualified, certified Minority Business Enterprises (MBEs) and Women’s Business Enterprises (WBEs) in the relevant geographic market. As mandated by EPA, all general contractors and subcontractors must comply with the requirements of the EPA’s Program for Utilization of Small, Minority, and Women’s Business Enterprises (40 CFR, Part 33) in procurement under the DWSRF program. The goals for the utilization of disadvantaged businesses are as follows:

Construction	10% MBE	6% WBE
Supplies	8% MBE	4% WBE
Equipment	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE

All general contractors and subcontractors must accept the fair share objective/goals stated above and attest to the fact they are purchasing the same or similar construction, supplies, services, and equipment, in the same or similar relevant geographic buying market as the Washington Office of Minority Women Business goals.

The DWSRF program exempts borrowers that receive a total of \$250,000 or less in EPA funds in a given fiscal year from the Fair Share Objective requirements.

**IMPORTANT:** Only MBEs and WBEs certified by EPA, SBA, DOT, or by state, local, tribal or private entities whose certification criteria match EPA’s can be counted towards the MBEs and WBEs utilization goal.

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

---

The contractor shall provide EPA Form 6100-2 DBE Subcontractor Participation Form to all DBE subcontractors. Subcontractors may submit EPA Form 6100-2 Subcontractor Participation Form to the EPA Region 10 DBE coordinator in order to document issues or concerns with their usage or payment for a subcontract. The contractor shall require all DBE subcontractors to complete EPA Form 6100-3 DBE Subcontractor Performance Form. The contractor shall complete EPA Form 6100-4 DBE Subcontractor Utilization Form.

The contractor shall submit EPA Form 6100-4 and all completed EPA Form 6100-3 forms with the bid proposal.

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

---

All bidders shall submit the following information for all firms that bid or quote on subcontracts (including both DBE and non-DBE firms) with their bid proposal.

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



### **Contract Administration Provisions (40 CFR part 33.302).**

---

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

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



### **Third Party Beneficiary**

---

The Washington State Department of Health Drinking Water State Revolving Fund is providing partial funding for this project. All parties agree that Washington State shall be, and is hereby, named as an express third-party beneficiary of this contract, with full rights as such.

### **Access to the Construction Site and to Records**

---

The contractor shall provide Washington State Department of Health and U.S. Environmental Protection Agency personnel safe access to the construction site and to the contractor's records.

The contractor shall maintain accurate records and accounts to facilitate the owner's audit requirements and shall ensure that all subcontractors maintain auditable records.

These project records shall be separate and distinct from the contractor's other records and accounts.

All such records shall be available to the owner and to Washington State Department of Health and EPA personnel for examination. The contractor must retain all records pertinent to this project for three years after the final audit.

### **Attachments:**

---

1. Wage Rate Requirements for Subrecipients
  - a. Attachment 1A for municipal borrowers
2. Current Wage Rate Determination (Verified by Contract Manager)



3. Certification Of Non-segregated Facilities
4. Notice To Labor Unions Or Other Organization Of Workers: Non-Discrimination In Employment
5. American Iron and Steel Requirements – The Use of American Iron and Steel



## WAGE RATE REQUIREMENTS FOR SUBRECIPIENTS

---

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon Act responsibilities when the act applies to EPA awards of financial assistance with respect to government recipients and subrecipients. If a subrecipient has questions about when the act applies, how to obtain correct wage determinations, act provisions, or compliance monitoring, it may contact DOH.

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

Under the FY 2013 Continuing Resolution, Davis-Bacon prevailing wage requirements apply to construction, alteration, and repair of treatment works carried out in whole or in part with assistance from a state water pollution control revolving fund and to any construction project carried out in whole or in part by assistance from a drinking water treatment revolving loan fund. If a subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the state recipient before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Before issuing requests for bids, proposals, quotes or other methods for soliciting contracts, subrecipients shall obtain the wage determination for the locality where a covered activity subject to DB will take place. Subrecipients must submit the wage determination to Department of Health before inserting it into a solicitation or contract, or issuing task orders, work assignments or similar instruments to existing contractors unless the state recipient provides other directions. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring subcontractors to follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the subrecipient shall monitor [www.wdol.gov](http://www.wdol.gov) weekly to ensure that the wage determination contained in the solicitation remains current. The subrecipient shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days before the closing date, the subrecipient may ask the state recipient whether there is reasonable time to notify interested contractors of the modified wage determination. The state recipient will provide a report of its findings to the subrecipient.

(ii) If the subrecipient does not award the contract within 90 days after closing the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the state recipient obtains, at the subrecipient's request, an extension of the 90 day period from DOL (29 CFR 1.6(c)(3)(iv)). The subrecipient shall monitor [www.wdol.gov](http://www.wdol.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.

(b) If the subrecipient 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 subrecipient shall insert the appropriate DOL wage determination from [www.wdol.gov](http://www.wdol.gov) into the ordering instrument.

(c) Subrecipients shall review all subcontracts subject to DB that prime contractors enter into to verify that the prime contractor required its subcontractors to include the applicable wage determinations.

(d) If DOL determines that the subrecipient failed to incorporate a wage determination or used a wage determination that clearly doesn't apply to the contract or ordering instrument, it may issue a revised wage determination after the subrecipient awarded the contract or issued an ordering instrument (29 CFR 1.6(f)). If this occurs, the subrecipient must either terminate and issue a revised contract or ordering instrument, or use a change order to incorporate DOL's wage determination into the contract or ordering instrument retroactive to the beginning. . The subrecipient must compensate its contractor for any wage increases resulting from DOL's revised wage determination.

# ATTACHMENT 1A

## LABOR STANDARDS PROVISIONS

### MUNICIPAL BORROWERS

#### Contract and Subcontract provisions.

(a) The recipient must ensure that subrecipient(s) insert the following clauses in full in any contract in excess of \$2,000 entered for the actual construction, alteration 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 according to 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 2013 Continuing Resolution:

(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.

Subrecipients may obtain wage determinations from the U.S. Department of Labor at [www.dol.gov](http://www.dol.gov).

(ii)(A) The subrecipient(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 subrecipient(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 subrecipient(s) to the state award official. The state award official will transmit the request, 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) If the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(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 DB 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 subrecipient(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 subrecipient, 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 subrecipient 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 website at [dol.gov/whd/forms/wh347instr](https://dol.gov/whd/forms/wh347instr) 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 subrecipient(s) for transmission to the state or EPA if requested by the 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 subrecipient(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 subcontractor's 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. If the Office of Apprenticeship Training, Employer and Labor Services, or a state Apprenticeship Agency it recognizes, withdraws approval of an apprenticeship program, the

contractor will no longer be permitted to use 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 according to 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. IF 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 Subrecipient(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 subrecipient 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 40 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 40 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 (a)(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 (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

- (3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA award official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any monies 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 (b)(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.
- (b) 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 subrecipient 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 subrecipient 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 subrecipient 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)(6), all interviews must be conducted in confidence. The subrecipient 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 subrecipient 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. Subrecipients 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.

Subrecipients shall, "immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

- (c) The subrecipient 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 subrecipient 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 subrecipient 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. Subrecipients 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 subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.
- (d) The subrecipient 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) Subrecipients 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 [dol.gov/contacts/whd/america2](https://dol.gov/contacts/whd/america2).

## **ATTACHMENT 2**

### **FEDERAL & STATE WAGE RATE DETERMINATIONS**

[DWSRF assistance recipient to insert applicable wage determinations here. Your DWSRF contract manager must verify your wage determination.]



**ATTACHMENT 4**  
**NOTICE TO LABOR UNIONS OR OTHER ORGANIZATION OF WORKERS: NON-DISCRIMINATION IN EMPLOYMENT**

TO: \_\_\_\_\_  
(name of union or organization of worker)

The undersigned currently holds contract(s) with \_\_\_\_\_  
(name of applicant)

involving funds or credit of the U.S. Government or (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 according to Section 202 of 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:

EMPLOYMENT, UPGRADING, TRANSFER OR DEMOTION

RECRUITMENT AND ADVERTISING

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.

The undersigned will post copies of this notice in conspicuous places available to employees or applicants for employment.

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

\_\_\_\_\_  
(Date)

## **ATTACHMENT 5**

### **AMERICAN IRON AND STEEL PROVISION**

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

#### **MUST BE INCLUDED IN ALL CONTRACTS (PRIME AND SUB-CONTRACTORS):**

This provision applies to projects for the construction, alteration, maintenance, or repair of a public water system as defined in the Safe Drinking Water Act (42 U.S.C 300j-12). This provision does not apply if the Department of Health approved the engineering plans and specification for the project prior to January 17, 2014.

The contractor acknowledges to and for the benefit of the project owner and Washington State that she or he understands that the Drinking Water State Revolving Loan Fund is paying for the goods and services under this agreement. DWSRF contains provisions, commonly known as “Buy American;” that requires all iron and steel products used in the project be produced in the United States (American Iron and Steel Requirements). The act defines iron and steel products as, “...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.”

The contractor hereby represents and warrants to and for the benefit of the project owner and the state that:

- a) The contractor has reviewed and understands the American Iron and Steel Requirements,
- 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 Requirements, unless a waiver of the requirements 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 Requirements, as may be requested by the project owner or the state.

Notwithstanding any other provisions of this agreement, any failure to comply with this paragraph by the contractor shall permit the project owner or state to recover as damages against the contractor any loss, expense or cost (including without limitation attorney’s fees) incurred by the project owner or state resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or part, from the state or any damages owed to the state by the project owner). While the contractor has no direct contractual obligation with the state, as a lender to the project owner for the funding of its project, the project owner and the contractor agree that the state is a third-party beneficiary and neither this paragraph nor any other provision of the agreement necessary to give this paragraph force or effect shall be amended or waived without the prior written consent of the state.

## Attachment 7-E: Bid Spec Insert for Non-municipal Borrowers (Pages 75-103)

### WASHINGTON STATE DEPARTMENT OF HEALTH DRINKING WATER STATE REVOLVING FUND (DWSRF)

#### SPECIFICATIONS INSERT NONMUNICIPAL

The following clauses will be incorporated into construction contracts receiving financial assistance from the Washington State Department of Health Drinking Water State Revolving Fund. In the event of conflict within the contract, these clauses shall take precedence.

#### Required Bid Submittals

---

The following submittals are required to be submitted with the bid proposal:

- Complete Bidders List

#### Compliance with State and Local Laws

---

The contractor shall assure compliance with all applicable federal, state, and local laws, requirements, and ordinances as they pertain to the design, implementation, and administration of the approved project.

#### Civil Rights

---

##### **Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d**

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

##### **Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794**

No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance . . .

##### **The Age Discrimination Act of 1975, 42 U.S.C. § 6102**

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving financial assistance.

##### **Equal Employment Opportunity, Executive Order No. 11246 (1965)**



Through a series of Executive Orders, and a decision by the Equal Employment Opportunity Commission, the federal government has established a national policy designed to battle discrimination based on race, color, sex, religion, and national origin in federal assistance programs and to enhance hiring, training, and promotion opportunities for minorities and women in construction programs financed, in part, by federal dollars.

If a Contract exceeds \$10,000, the contractor shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60.

Contractor's compliance with Executive Order 11246 shall be based on implementation of the Equal Opportunity Clause, and specific affirmative active obligations required by the Standard Federal Equal Employment Opportunity Construction Contract Specifications, as set forth in 41 CFR Part 60-4.

### **Equal Opportunity Clause (41 CFR part 60-1.4(b))**

---

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. If the contractor doesn't comply with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government

contracts or federally assisted construction contracts according to procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding on each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.



## **Federal Equal Employment Opportunity Construction Contract Specifications**

---

(Executive Order 11246 and 41 CFR part 60-4.3)

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
  - d. "Minority" includes:
    - i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin).
    - ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race).
    - iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands).
    - iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals

for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the contractor is participating (pursuant to 41 CFR 60–4.5) in a U.S. Department of Labor-approved Hometown Plan in the area covered, either individually or through an association, its affirmative action obligations on all work in the plan area (including goals and timetables) must follow that plan for those trades that have unions participating in the plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good faith performance by other contractors or Subcontractors toward a goal in an approved plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the plan goals and timetables.
4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based on its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned

- to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the contractor may have taken.
  - d. Provide immediate written notification to the director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
  - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.
  - f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
  - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record

shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

- h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
  - i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
  - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively

participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The contractor shall not enter into any Subcontract with any person or firm debarred from government contracts pursuant to Executive Order 11246.
12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed according to 41 CFR 60-4.8.
14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation on the application of other laws which establish different standards of compliance or on the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

## Reporting Requirements (EEO-1)

---

On or before September 30 of each year, a contractor that is subject to Title VII of the Civil Rights Act of 1964, as amended, and that has 100 or more employees, shall file with the EEOC or its delegate an "Employer Information Report EEO-1". Instructions on how to file are available on the EEOC's website at [eeoc.gov/employers/eeo1survey/howtofile](http://eeoc.gov/employers/eeo1survey/howtofile). The contractor shall retain a copy of the most recent report filed.

## Segregated Facilities (41 CFR part 60-1.8)

---

The contractor shall ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensuring that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. This obligation extends to all contracts containing the equal opportunity clause regardless of the amount of the contract. The term "facilities," as used in this section, means waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, wash rooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees; Provided, That separate or single-user restrooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes.

### **b. Provision**

During the performance of this contract, the contractor shall comply with all federal and state nondiscrimination laws, including, but not limited to Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the contractor's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled, or terminated in whole or in part, and the contractor may be declared ineligible for further contracts with the DOH. The contractor shall, however, be given a reasonable time in which to cure this noncompliance.

The contractor must also include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services listed in Attachment I: Scope of Work.

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

## American Iron and Steel

Congress passed a law January 17, 2014, that requires water systems to use U.S. steel and iron products for projects funded in part or in full by a Drinking Water State Revolving Fund (DWSRF) loan.

The act defines iron and steel products as, "...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."

## Prohibition Statement

---

Pursuant to Section 106 of the Trafficking Victims Protection Act of 2009, as amended, the contractor and its employees may not engage in severe forms of trafficking in persons during the period of time the contract is in effect, procure a commercial sex act during the period of time the contract is in effect, or use forced labor during the performance of this contract. The contractor shall require this prohibition statement in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services listed in Attachment I: Scope of Work.

If the contractor or any of its employees is determined to have violated the terms of this section, this contract may be terminated.

## Prevailing Wage

---

The work performed under this contract is subject to the wage requirements of the Davis-Bacon Act. The contractor shall conform to the wage requirements prescribed by the federal Davis-Bacon and Relate Acts, which require that all laborers and mechanics employed by contractors and subcontractors performing on contracts funded in whole or in part by SRF appropriations in excess of \$2,000 pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits, and determined by the Secretary of Labor, for corresponding classes of laborers and mechanics employed on similar projects in the area. Attachment 1A or 1B to this specification insert, and an up to date wage determination **must** be included in full into **any** contract and in any subcontract in excess of \$2,000. Wage determinations can be found at [www.wdol.gov](http://www.wdol.gov).

## Certification Regarding Suspension, Debarment, Ineligibility or Voluntary Exclusion

---

1. The contractor, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the contractor is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The contractor shall provide immediate written notice to the Department if at any time the contractor learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules



implementing Executive Order 12549. You may contact the department for assistance in obtaining a copy of those regulations.

4. The contractor agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The contractor further agrees by signing this agreement, that it will include this clause titled "Certification Regarding Suspension, Debarment, Ineligibility or Voluntary Exclusion" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the contractor is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. The contractor acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. The contractor agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to DOH on request. Recipient or contractor must run a search in [www.Beta.sam.gov](http://www.Beta.sam.gov) and print a copy of completed searches to document proof of compliance.

This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

### **Disadvantaged Business Enterprises**

---

Small, minority and women-owned firms should be afforded the maximum opportunity to compete for and obtain bid documents for projects funded by the DWSRF program. The level of participation by small, minority and women-owned firms should be consistent with their general availability within the professional community involved.

### **General Compliance (40 CFR Part 33).**

---

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

### **Nondiscrimination Provision (40CFR Appendix A to Part 33).**

---

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

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

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

---

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

1. Ensuring Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For tribal, state, and local government recipients, this will include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources. Qualified Women and Minority business enterprises may be found on the Internet at [www.omwbe.wa.gov](http://www.omwbe.wa.gov) or by contacting the Washington State Office of Minority and Women’s Enterprises at 360-704-1181.
2. Making information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30calendar days before the bid or proposal closing date.
3. Considering in the contracting process whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For tribal, state and local government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
4. Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
5. Using services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
6. If the prime contractor awards subcontracts, requiring the subcontractors to take the six good faith efforts in paragraphs 1 through 5 above.

### **Fair Share Objective Goal (40 CFR Part 33 Subpart D).**

---

A fair share objective is a goal based on the capacity and availability of qualified, certified Minority Business Enterprises (MBEs) and Women’s Business Enterprises (WBEs) in the relevant geographic market. As mandated by EPA, all general contractors and subcontractors must comply with the requirements of the EPA’s Program for Utilization of Small, Minority, and Women’s Business Enterprises

(40 CFR, Part 33) in procurement under the DWSRF program. The goals for the utilization of disadvantaged businesses are as follows:

Construction	10% MBE	6% WBE
Supplies	8% MBE	4% WBE
Equipment	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE

All general contractors and subcontractors must accept the fair share objective/goals stated above and attest to the fact they are purchasing the same or similar construction, supplies, services, and equipment, in the same or similar relevant geographic buying market as the Washington Office of Minority Women Business goals.

Under the DWSRF program, borrowers receiving a total of \$250,000 or less in EPA funds in a given fiscal year are exempted from the Fair Share Objective requirements.

**IMPORTANT:** Only MBEs and WBEs that are certified by EPA, SBA, DOT, or by state, local, tribal, or private entities whose certification criteria match EPA's can be counted towards the MBEs and WBEs utilization goal.

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

The contractor shall provide EPA Form 6100-2 DBE Subcontractor Participation Form to all DBE subcontractors. Subcontractors may submit EPA Form 6100-2 Subcontractor Participation Form to the EPA Region 10 DBE coordinator in order to document issues or concerns with their usage or payment for a subcontract. The contractor shall require all DBE subcontractors to complete EPA Form 6100-3 DBE Subcontractor Performance Form. The contractor shall complete EPA Form 6100-4 DBE Subcontractor Utilization Form.

The contractor shall submit EPA Form 6100-4 and all completed EPA Form 6100-3 forms with the bid proposal.

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

All bidders shall submit the following information for all firms that bid or quote on subcontracts (including both DBE and non-DBE firms) with their bid proposal.

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.

### **Contract Administration Provisions (40 CFR Part 33.302).**

The contractor shall comply with the contract administration provisions of 40 CFR, Part 33.302.

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

### **Third Party Beneficiary**

---

Partial funding of this project is being provided through the Washington State Department of Health Drinking Water State Revolving Fund. All parties agree that Washington State shall be, and is hereby, named as an express third-party beneficiary of this contract, with full rights as such.

### **Access to the Construction Site and to Records**

---

The contractor shall provide for the safe access to the construction site and to the contractor's records by Washington State Department of Health, and Environmental Protection Agency (EPA) personnel.

The contractor shall maintain accurate records and accounts to facilitate the owner's audit requirements and shall ensure that all subcontractors maintain auditable records.

These project records shall be separate and distinct from the contractor's other records and accounts.

All such records shall be available to the owner and to Washington State Department of Health and EPA personnel for examination. The contractor must retain all records pertinent to this project for three years after the final audit.

## Attachments:

---

1. Wage Rate Requirements For Subrecipients
  - a. Attachment 1A for Non-municipal borrowers
2. Current Wage Rate Determination (Verified by Contract Manager)
3. Certification Of Non-segregated Facilities
4. Notice To Labor Unions or Other Organization of Workers: Nondiscrimination In Employment
5. EPA Form 6100-2 (DBE Subcontractor Participation Form)
6. EPA Form 6100-3 (DBE Subcontractor Performance Form) for all DBE subcontractors
7. EPA Form 6100-4 (DBE Subcontractor Utilization Form)
8. American Iron and Steel Requirements – The Use of American Iron and Steel



## WAGE RATE REQUIREMENTS FOR SUBRECIPIENTS

---

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 FY2013 Continuing Resolution with respect to subrecipients that are not governmental entities. If a subrecipient 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.

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

Under the FY 2013 Continuing Resolution, 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 subrecipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the subrecipient must discuss the situation with the recipient state before authorizing work on that site.

### 2. Obtaining Wage Determinations.

(a) Subrecipients must obtain proposed wage determinations for specific localities at [www.wdol.gov](http://www.wdol.gov). After the subrecipient obtains its proposed wage determination, it must submit the wage determination to Department of Health DWSRF contract manager for approval before inserting the wage determination into a solicitation, contract, or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments unless subsequently directed otherwise by the state award official).

(b) Subrecipients 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 subrecipient shall monitor [www.wdol.gov](http://www.wdol.gov) on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The subrecipients 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 subrecipients 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 subrecipient.

- (ii) If the subrecipient 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 subrecipient, obtains an extension of the 90 day period from DOL (29 CFR 1.6(c)(3)(iv)). The subrecipient shall monitor [www.wdol.gov](http://www.wdol.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 subrecipient 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 subrecipient shall insert the appropriate DOL wage determination from [www.wdol.gov](http://www.wdol.gov) into the ordering instrument.

(d) Subrecipients 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 subrecipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the subrecipient 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 subrecipient 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 subrecipient's contractor must be compensated for any increase in wages resulting from the use of DOL's revised wage determination.

# ATTACHMENT 1B

## LABOR STANDARDS PROVISIONS

### NONMUNICIPAL BORROWERS

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

(a) The recipient shall ensure that the subrecipient(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 according to 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 2013 Continuing Resolution, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working on the work site 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 if 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.

Subrecipients may obtain wage determinations from the U.S. Department of Labor at [www.dol.gov](http://www.dol.gov).

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which are 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 subrecipient(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 subrecipient(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) If the contractor, laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(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, on 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 subrecipient(s) shall on 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 subrecipient, 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 subrecipient 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 at [dol.gov/whd/forms/wh347instr](https://dol.gov/whd/forms/wh347instr). The prime contractor is responsible for submitting copies of payrolls from all subcontractors. Contractors and subcontractors must maintain the full social security number and current address of each covered worker, and provide them to the subrecipient(s) for transmission to the state or EPA on request from EPA, the state, the contractor, or the Wage and Hour Division of the Department of Labor for an investigation or compliance audit 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 subrecipient(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 on 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 subcontractor's 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 according to 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 according to that determination. If 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 use 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 according to 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. If 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 according to procedures of the U.S 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 subrecipient(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 subrecipient 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 40 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 40 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 \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 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 subrecipient shall on the request of the EPA award official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any monies 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 (b)(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 (b)(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 subrecipient 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 subrecipient 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 subrecipient 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)(6), all interviews must be conducted in confidence. The subrecipient 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 subrecipient 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. Subrecipients 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. Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The subrecipient 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 subrecipient 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 subrecipient 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. Subrecipients 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 subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient 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 according to the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients 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 [dol.gov/whd/america2](https://www.dol.gov/whd/america2).

## **ATTACHMENT 2**

### **FEDERAL & STATE WAGE RATE DETERMINATIONS**

[DWSRF assistance recipient to insert applicable wage determinations here. Wage determination is to be verified by Contract Manager.]





**ATTACHMENT 4**  
**NOTICE TO LABOR UNIONS OR OTHER ORGANIZATION OF WORKS: NON DISCRIMINATION IN EMPLOYMENT**

**NOTICE TO LABOR UNIONS OR OTHER ORGANIZATION OF WORKERS: NON-DISCRIMINATION IN EMPLOYMENT**

TO: \_\_\_\_\_  
(name of union or organization of worker)

The undersigned currently holds contract(s) with \_\_\_\_\_  
(name of applicant)

involving funds or credit of the U.S. Government or (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 according to Section 202 of 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:

EMPLOYMENT, UPGRADING, TRANSFER OR DEMOTION

RECRUITMENT AND ADVERTISING

RATES OF PAY OR OTHER FORMS OF COMPENSATION

SELECTION FOR TRAINING INCLUDING APPRENTICESHIP, LAYOFF OR TERMINATION

This notice is furnished 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 applicants for employment.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(contractor or subcontractor(s))

\_\_\_\_\_  
(Date)

## **Attachment 5**

### **American Iron and Steel Provision**

Must be included in all contracts (PRIME AND SUB-CONTRACTORS):

This provision applies to projects for the construction, alteration, maintenance, or repair of a public water system as defined in the Safe Drinking Water Act (42 U.S.C 300j-12). This provision does not apply if the Department of Health approved the engineering plans and specification for the project were prior to January 17, 2014.

The contractor acknowledges to and for the benefit of the project owner and the state of Washington that it understands the goods and services under this agreement are being funded with monies made available by the Drinking Water State Revolving Loan Fund which contains provision commonly known as “Buy American;” that requires all iron and steel products used in the project be produced in the United States (American Iron and Steel Requirements). The act defines iron and steel products as, “...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.”

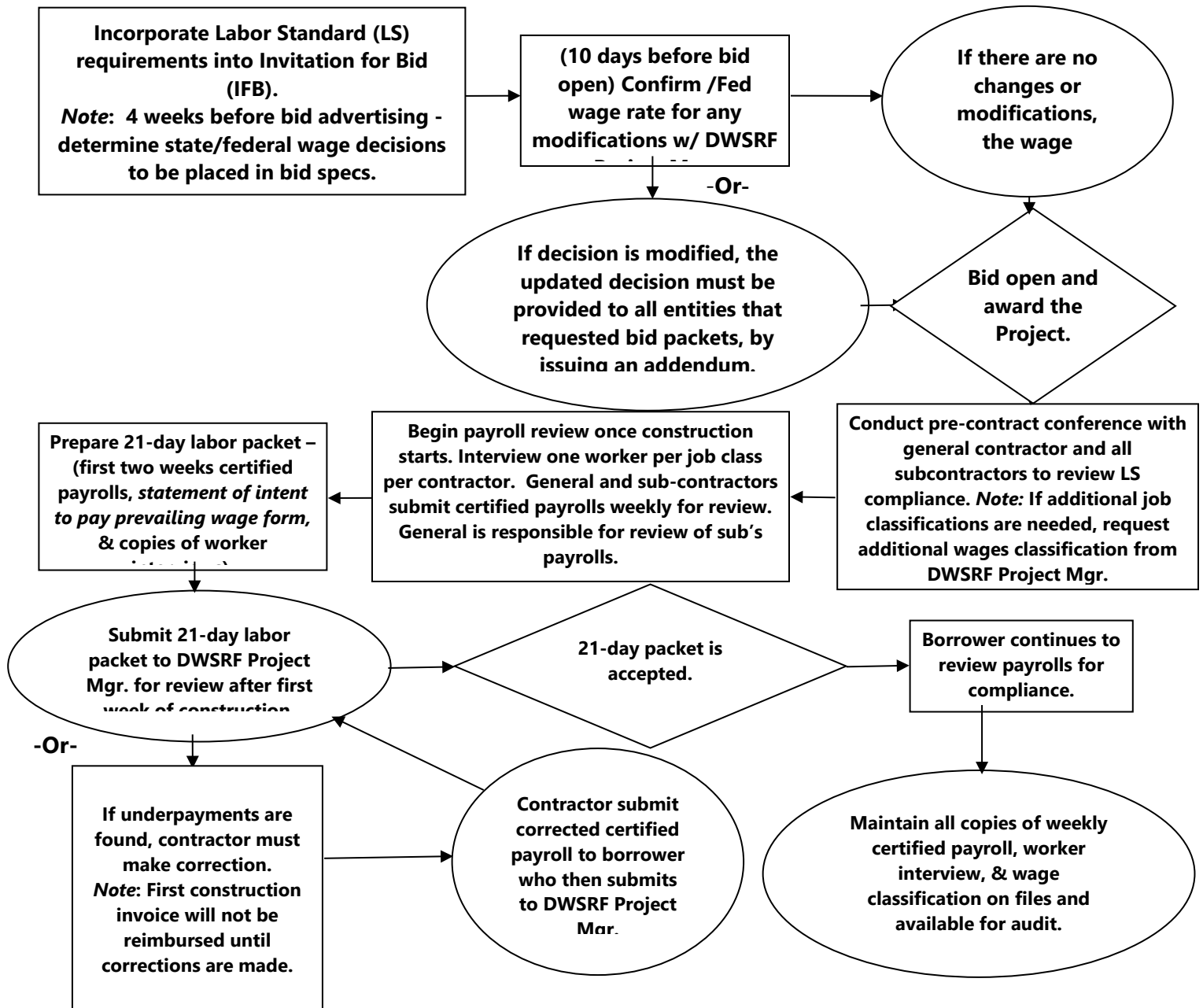
The contractor hereby represents and warrants to and for the benefit of the project owner and the state that:

- a) The contractor reviewed and understood the American Iron and Steel Requirements,
- 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 Requirements, unless a waiver of the requirements 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 Requirements, as may be requested by the project owner or the state.

Notwithstanding any other provisions of this agreement, any failure to comply with this paragraph by the contractor shall permit the project owner or state to recover as damages against the contractor any loss, expense or cost (including without limitation attorney’s fees) incurred by the project owner or state resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or part, from the state or any damages owed to the state by the project owner). While the contractor has no direct contractual obligation with the state, as a lender to the project owner for the funding of its project, the project owner and the contractor agree that the state is a third-party beneficiary and neither this paragraph nor any other provision of the agreement necessary to give this paragraph force or effect shall be amended or waived without the prior written consent of the state.

## Attachment 7-F: Davis-Bacon Flow Chart

**Disclaimer:** This is a summarization of the Davis-Bacon process and does not guarantee compliance with all requirements. Borrowers, prime contractors, and sub-contractors are responsible for compliance with all the rules and guidelines as required by the Davis-Bacon Act as enacted in the laws. DOH expressly disclaims any warranty related to the compliance with the Davis-Bacon requirements and will accept no responsibility for any consequences arising from the use or reliance on this Flow Chart.



# Section 8 Meeting “Your” Investment Grade Efficiency Contract Requirement

## 8.1 Investment Grade Efficiency Audit

### Seven steps for your Investment Grade Energy Audit

1. Investigate all areas of energy and water use in your water system that coincides with your DWSRF scope of work.
2. Identify systems (processes and buildings) with sufficient consumption to make significant savings possible. The cost of the savings must be paid back within six years, otherwise it isn't considered cost effective for our DWSRF process.
3. Use all available information, to determine the theoretical energy requirement and actual energy consumptions of those systems. Available information includes half-hourly data, gas and fossil fuel use profile, degree-day heating and cooling data, water consumption, building structure, occupancy, location, ventilation and internal dissipation, natural light, and production data.
4. Determine the energy efficiency of each system component. Divide the theoretical energy requirement by the actual energy consumption
5. Identify all significant viable energy and carbon reduction opportunities within the inefficient systems, which may require the use of energy analyzers, data-loggers and other measuring equipment. This may involve:
  - i. Checking the combustion efficiency of all significant combustion plants
  - ii. Assessing standing and other losses
  - iii. Investigating the operation and capabilities of any Building Energy Management Systems
  - iv. Considering the scope for building fabric improvements and the resulting opportunities for the specification of smaller and thus more cost-effective plants
  - v. Identifying where beneficial additional management effort should be directed, the measures necessary for improving staff performance, and additional sub-metering, and other related matters
6. Analyze the potential of renewable energy opportunities and technologies.
7. Report on all of the above. Provide an accurate assessment of the potential energy and carbon reductions along with details of the specific measures required for implementation, illustrative costs, and payback periods. Keep your report in your files for future audits. A copy does not have to be submitted to the Department of Health

For guidance on how to proceed with a preliminary audit, or to learn more about this requirement, call Roger Wigfield, Energy Program Manager at the Department of Enterprise Services, at (360) 407-9371 or email [roger.wigfield@des.wa.gov](mailto:roger.wigfield@des.wa.gov).

# Section 9 Managing Construction Projects

## 9.1 Overview

Borrowers undertaking a DWSRF-funded construction project must have a contract management system in place to ensure contractors perform according to contract terms, conditions, specifications and applicable state and federal requirements. This system includes conducting the preconstruction conference, review of contractor and subcontractor compliance with Labor Standards, on-site inspections, review of change order requests, project closeout, release of retainage and record keeping.

## 9.2 Conduct the Preconstruction Conference

After awarding and signing the construction contract and before the contractor is issued a Notice to Proceed, the borrower, or its representative, is responsible for holding a preconstruction conference for the general contractor and subcontractors, engineers and other professional service providers and other interested parties. The preconstruction conference should cover the following:

- Responsibilities of the engineer, borrower, contractor and any other agencies or parties contributing to or involved in the project.
- Discuss general contract provisions, including specifications, Notice to Proceed, completion schedule, guarantees and warranties for materials, workmanship, change orders, etc.
- Review project inspection and reporting responsibilities of the engineer and borrower.
- Describe Labor Standards requirements, prevailing wage rates, apprentices and trainees, fringe benefits, weekly payroll, on-site employee interviews and additional classification requests.
- Requirements for final acceptance of work, special testing and/or site cleanup.
- Distribute necessary forms such as certified payroll, posters, prevailing wage rates to the contractor and subcontractors.

Maintain a record of the preconstruction conference in the project file and send a copy to your DWSRF contract manager.

## 9.3 Request Additional “Trade” Classifications and Wage Rates

If the work classification(s) needed does not appear on a federal wage decision, borrowers will need to request an additional classification and wage rate (even if it appears on the state wage decision). It is recommended the process be started early during the preconstruction conference. The borrower and prime contractor for the project should identify the classification needed and recommend a wage rate through your DWSRF contract manager.

Requests can be approved if:

- The requested classification is used by construction contractors in the area of the project (usually defined as the county where the project is located).

- The work that will be performed by the requested classification is not already performed by another classification that is already on the wage decision. (In other words, if there already is an Electrician classification and wage rate on the wage decision, another Electrician classification and rate cannot be requested.)
- The proposed wage rate, including bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- If the prime contractor and laborers and mechanics to be employed in the classification (if known), and the borrower agree on the classification and wage rate (including fringe benefits where appropriate).

Requests must be made in writing through the borrower, including a completed Conformance Request SF 1444 Form (Attachment 9-A). The request should identify the missing work classification and recommend a wage rate for the classification. Send the packet to your DWSRF contract manager for review and submission to the U.S. Department of Labor (DOL) for approval.

DOL's response will be forwarded to the borrower notifying what classification and rate should be used. Requesting additional classification does not hold up the payroll process. It may however result in correcting underpayments if DOL is not in agreement with the request.

## 9.4 Issue Notice of Contract Award and Notice to Proceed

Once the preconstruction conference is conducted, the borrower can issue the Notice to Proceed to the contractor. The notice conveys the authorization to the contractor to begin work on the project.

**Note:** *Construction costs cannot be reimbursed until the borrower has received notice from **your** DWSRF contract manager that DOH approves construction.*

## 9.5 Conduct Payroll Reviews

The Federal Copeland Act requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions such as payroll taxes, deductions the worker authorizes in writing, or those provided by court order. The Act also requires contractors to maintain payroll records and submit weekly certified payroll (attachment 9-C) and statement of compliance to the borrower certifying wages paid and deductions made. The appropriate wage rates are those determined pursuant to the Federal Davis-Bacon related acts and the state Prevailing Wage Act (RCW 39.12) by the U.S. Department of Labor and the state Department of Labor and Industries, respectively. Borrowers must stipulate in the advertisement for bid and contract that contractors and subcontractors pay workers the higher of the prevailing state or federal rates for each job classification involved in the project. Further, if the rate is not shown in the federal wage decision, an additional classification must be obtained from the U.S. Department of Labor through your DWSRF contract manager.

Borrowers must also review payrolls to determine if workers on the construction project have received appropriate rates of overtime compensation. The Contract Work Hours and Safety Act requires that laborers and mechanics receive overtime compensation at a rate of not less than one and one-half times their regular hourly wage after they have worked 40 hours in one week on DWSRF funded projects.

Weekly payroll records must be reviewed by the borrower for the following:

- a. Payrolls were submitted on time.
- b. The federal certified payroll form (WHD) were filled out completely including on the initial payroll, the name, identifying number, address, and job classification for each employee.
- c. All self-employed owners, who have no employees, are designated as an employee, and are reported on the certified payroll of the general contractor (or subcontractor if hired by them). Fill out the form the same as for employees and enter "self-employed" and contracting license number where the payroll asks for deductions.
- d. If the owner of the company has employees and performs work on the project covered by federal wage decisions, the owner is listed as an employee on the certified payroll he submits for his employees. Fill out the form the same as for employees and enter "self-employed, owner or owner/operator".
- e. The wages and fringe benefits listed on the certified payroll for each job classification agree with those identified on the statement of intent to pay prevailing wages at the higher of state or federal wages.
- f. The payrolls include all the classifications being utilized even if not listed on the statement of intent to pay prevailing wages.
- g. Payrolls only include permissible deductions.
- h. When fringe benefits are being paid into a benefit plan, block 4(a) on the back of the certified payroll form must be checked. If fringe benefits are being paid in cash, 4(b) must be checked.
- i. Apprentices or trainees listed on the certified payroll are working under state or federal Bureau of Apprenticeship and Training agreements. Copies of those certifications should be included with payrolls.
- j. The payroll form is signed.

## 9.6 Conduct On-Site Reviews

The borrower, or its representative, must provide for visits to the construction site to determine that:

- a) Wage determinations and Davis-Bacon poster are posted at the job site.
- b) Employees are working within the proper job classification.

## 9.7 Conduct Employee Interviews

The borrower or its representative (not the prime contractor or subcontractors) must conduct employee interviews (see Attachment 9-B: Employee Interview Form) with at least one employee in each classification per contractor to determine the following:

- a) Employees are being paid the amounts/rates stated on the payrolls.
- b) Employees are being properly compensated for overtime hours.

- c) Employees are receiving their full wages and fringe benefits and are not being subjected to coercion or kickback tactics by the contractor or subcontractors.
- d) Contractors and subcontractors are using and paying apprentices and trainees appropriately.

## 9.8 Submit 21 Day Labor Packet

For each prime and subcontractor performing work on-site during the first two weeks of construction, the borrower should provide a copy of the following documents to your DWSRF contract manager within 21 days after the contractors starts construction:

- a) Statement of Intent to Pay Prevailing Wages
- b) Certified Payroll for the first two week pay period
- c) Employee interview forms for the first two weeks

The purpose for submitting the above information to your DWSRF contract manager is to assure that any underpayments are detected early, and appropriate corrections made early while easy to implement. **You must provide the 21-day labor packet to your DWSRF contract manager and resolve any underpayments before your DWSRF contract manager will pay the construction reimbursement request.**

**Borrowers must ensure that their contractor/sub-contractors are paying the correct rate of pay. If your DWSRF contract manager discovers underpayments when reviewing the 21-day labor package, she will notify you to work with the prime contractor to make restitution and then submit a corrected certified payroll to her for approval.**

## 9.9 Resolve Overtime Violations

If the prime contractor or subcontractors do not compensate a worker appropriately for overtime, the borrower needs to notify your DWSRF contract manager and work with the prime contractor to resolve the overtime violations.

If the violation is less than \$10 per worker, the violation does not have to be reported. If the violation is \$10 or more per worker, the prime contractor must make payment or ensure subcontractors make payments and then submit a corrected certified payroll and a copy of the workers' checks to the borrower. Any time the violation is \$10 to \$999, the borrower must send written notification to the DWSRF contract manager. If the violation is \$1,000 or more, the borrower must submit a Labor Standards Enforcement Report to the DWSRF contract manager who will coordinate the violation with the Department of Labor or EPA.

## 9.10 Resolve Other Underpayments

If a mathematical error, misclassifications, or other error that results in the underpayment of wage or fringe benefits occurs, the prime contractor or subcontractor must make restitution and submit a corrected certified payroll showing the underpayment made to the worker. A signed Statement of Compliance must be attached to the corrected certified payroll.



## 9.11 Conduct Technical Inspections

During construction, the borrower is responsible for monitoring contractor/subcontractor progress and compliance with technical requirements of the project. Typically, this monitoring process is the responsibility of the project engineer, consulting engineer or architect; however, the borrower should designate someone locally with oversight responsibility. The purpose of the technical monitoring process is to ensure that the project is constructed as planned, within budget and estimated timeframes, and within specified quality and quantity standards.

## 9.12 Maintain Project Records

The borrower is required to maintain project records that document all financial, monitoring and inspection transactions, and progress reviews that occur during the life of the project. Borrowers must maintain copies of weekly certified payrolls and any corrected certified payrolls, copies of correspondence and resolution of overtime violations, and copies of employee interviews in the project files for the life of the loan as defined by the contract plus six years.

## 9.13 Project Completion Requirements and Certified Report

When the project is complete, the borrower must submit the DOH *Construction Completion Report* to the DOH regional engineer. You must submit a copy of the *Construction Completion Report* or the approval letter from the DOH regional engineer to your DWSRF contract manager, before closing out the project.

To complete the closeout process, the borrower also must submit a *Project Completion Request* to the DWSRF contract manager. The request begins the process to close out the project. Your DWSRF contract manager will issue a Project Completion amendment for the borrower to sign.

# Attachment 9-A: Request for Authorizing Additional Classification & Rate

(Also available at: [www.wdol.gov/docs/Sf1444.pdf](http://www.wdol.gov/docs/Sf1444.pdf))

<b>REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE</b>		CHECK APPROPRIATE BOX <input type="checkbox"/> SERVICE CONTRACT <input type="checkbox"/> CONSTRUCTION CONTRACT		OMB No.: <b>9000-0089</b> Expires: <b>02/28/96</b>
Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0089), Washington, DC 20503.				
<b>NOTE: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16 AND SUBMIT THE REQUEST, IN QUADRUPPLICATE, TO THE CONTRACTING OFFICER</b>				
1. TO: ADMINISTRATOR, Employment Standards Administration WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, D.C. 20210		2. FROM: (REPORTING OFFICE)		
3. CONTRACTOR			4. DATE OF REQUEST	
5. CONTRACT NUMBER	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF APPLICABLE) (SCA ONLY)
10. SUBCONTRACTOR (IF ANY)				
11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)				
12. LOCATION (CITY, COUNTY AND STATE)				
13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION				
NUMBER:		DATED:		
a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLES(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY)		b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS	
<i>(Use reverse or attach additional sheets, if necessary)</i>				
14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)		15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE		
16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE		TITLE	CHECK APPROPRIATE BOX-REFERENCING BLOCK 13.	
			<input type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE	
<b>TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SCA) OR FAR 22.406-3 (DBA))</b>				
<input type="checkbox"/> THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.				
<input type="checkbox"/> THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.				
<i>(Send copies 1, 2, and 3 to Department of Labor)</i>				
SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE		TITLE AND COMMERCIAL TELEPHONE NO.	DATE SUBMITTED	

NSN 7540-01-268-0631  
Previous edition is usable

**DEPARTMENT OF LABOR**

**STANDARD FORM 1444** (REV. 12-90)  
Prescribed by GSA-FAR (48 CFR) 53.222(f)

# Attachment 9-B: Employee Interview Form

LABOR STANDARDS INTERVIEW						
CONTRACT NUMBER			EMPLOYEE INFORMATION			
NAME OF PRIME CONTRACTOR			LAST NAME	FIRST NAME	MI	
NAME OF EMPLOYER			STREET ADDRESS			
SUPERVISOR'S NAME			CITY	STATE	ZIP CODE	
LAST NAME	FIRST NAME	MI	WORK CLASSIFICATION		WAGE RATE	
ACTION					CHECK BELOW	
					YES	NO
Do you work over 8 hours per day?						
Do you work over 40 hours per week?						
Are you paid at least time and a half for overtime hours?						
Are you receiving any cash payments for fringe benefits required by the posted wage determination decision?						
WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?						
HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?			TOOLS YOU USE			
DATE OF LAST WORK DAY BEFORE INTERVIEW (YYMMDD)						
DATE YOU BEGAN WORK ON THIS PROJECT (YYMMDD)						
THE ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE						
EMPLOYEE'S SIGNATURE					DATE (YYMMDD)	
INTERVIEWER	SIGNATURE		TYPED OR PRINTED NAME		DATE (YYMMDD)	
INTERVIEWER'S COMMENTS						
WORK EMPLOYEE WAS DOING WHEN INTERVIEWED			ACTION <i>(if explanation is needed, use comments section)</i>		YES	NO
			IS EMPLOYEE PROPERLY CLASSIFIED AND PAID?			
			ARE WAGE RATES AND POSTERS DISPLAYED?			
FOR USE BY PAYROLL CHECKER						
IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?						
<input type="checkbox"/> YES <input type="checkbox"/> NO						
COMMENTS						
CHECKER						
LAST NAME		FIRST NAME		MI	JOB TITLE	
SIGNATURE					DATE (YYMMDD)	
AUTHORIZED FOR LOCAL REPRODUCTION Previous edition not usable			<b>STANDARD FORM 1445</b> (REV. 12-96) Prescribed by GSA - FAR (48 CFR) 53.222(g)			

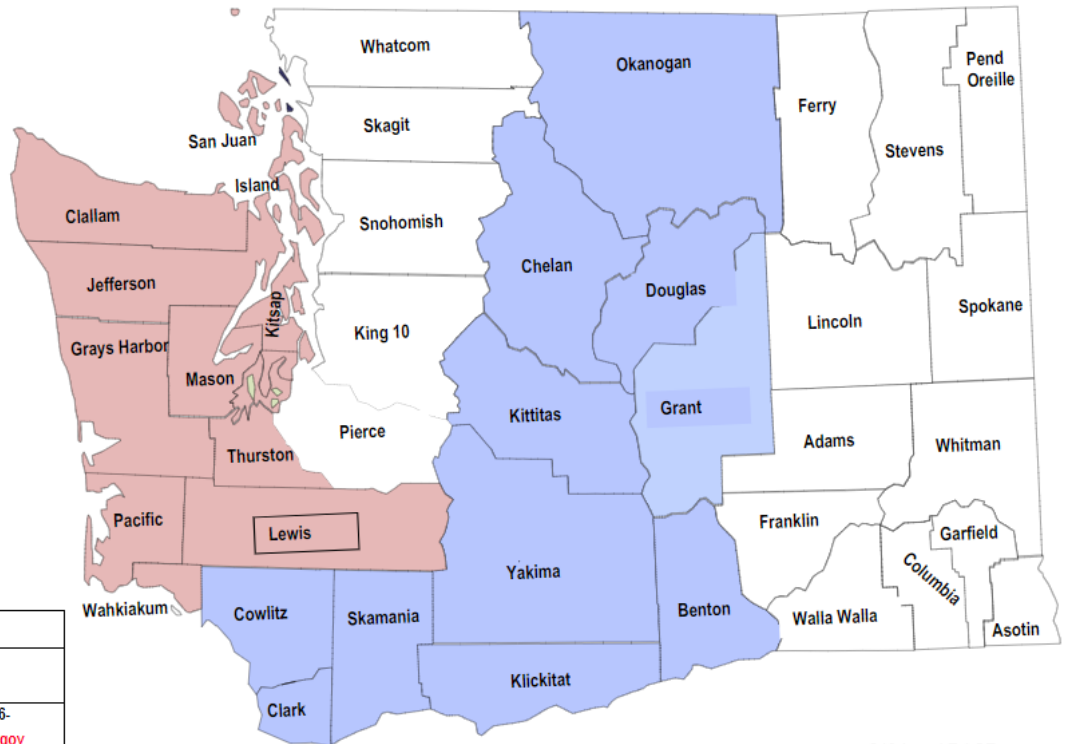




# Drinking Water

WA State Dept. of Health

Effective August 5, 2022



Project Managers	
	Eloise Rudolph – 360-236-3124 <a href="mailto:Eloise.Rudolph@doh.wa.gov">Eloise.Rudolph@doh.wa.gov</a>
	Brittany Cody – Pinkney- 360-236- <a href="mailto:Brittany.Cody-Pinkney@doh.wa.gov">Brittany.Cody-Pinkney@doh.wa.gov</a>
	Dennis Hewitt– 360-236-3017 <a href="mailto:Dennis.Hewitt@doh.wa.gov">Dennis.Hewitt@doh.wa.gov</a>

243 Israel Rd SE  
PO Box 47822  
Olympia, WA 98504-7822  
**(360) 236-3100**  
**(360) 236-2252 FAX**

# Glossary

<b>A-19 Reimbursement Voucher</b>	The form used to request payment for DWSRF expenses incurred.
<b>Circular A-133</b>	A federal audit required of all borrowers who draw over \$500,000 in their fiscal year.
<b>Competitive Bid Process</b>	All construction activities must be contracted out to the lowest responsible bidder through a competitive bidding process.
<b>Construction Completion Report</b>	A form submitted to the Washington State Department of Health by the project engineer certifying that the project is complete.
<b>Unique Entity Identifier (UEI)</b>	A unique nine-character identification number.
<b>Department of Archaeology and Historic Preservation (DAHP)</b>	Washington State Department of Archaeology and Historic Preservation, which reviews cultural resource activities for federal and state funded projects.
<b>Department of Labor and Industries (L&amp;I)</b>	Washington State Department of Labor and Industries.
<b>Electronic Funds Transfer (EFT)</b>	We encourage DWSRF borrowers to sign up for EFT, which will transfer funds to their accounts electronically rather than through a mailed state warrant.
<b>Environmental Review</b>	State Environmental Review Process (SERP) or the National Environmental Policy Act (NEPA). The Washington State Department of Health determines which process will be used and approves the completion of the process. Process must be complete prior to starting construction.
<b>Environmental Protection Agency (EPA)</b>	U.S. Environmental Protection Agency.
<b>Federal Excluded Parties List</b>	Federal suspension and debarment actions prevent companies and individuals from participating in government contracts, subcontracts, loans, grants, and other assistance programs. The Federal Excluded Parties List is available at <a href="https://beta.sam.gov">Beta.sam.gov</a> .
<b>Executed Contract</b>	A contract is considered "executed" once the document is signed by the borrower and the DOH.
<b>Invitation for Bid (IFB)</b>	Bid packet containing all the pertinent information the contractor will need to bid on a project.
<b>Lowest Responsible Bidder</b>	A term used to determine the successful contractor for a construction project that has been competitively bid.

<b>Investment Grade Efficiency Audit (IGEA)</b>	The primary purpose of the IGEA is to assure that infrastructure projects using electricity, motors, or pumps evaluate the efficiency of the equipment being considered.
<b>NEPA</b>	National Environmental Policy Act.
<b>Office of Drinking Water</b>	Washington State Department of Health’s (DOH) Office of Drinking Water.
<b>Prevailing Wages</b>	Hourly wage and usual benefits paid in the largest city, in each county, to the majority of workers, laborers, and mechanics as determined by the U.S. Department of Labor and by the Washington State Department of Labor and Industries for each trade and occupation employed in the performance of public work.
<b>Project Report and Related Construction Documents</b>	Prior to starting construction, DOH requires DWSRF borrowers to submit a Project Report and Construction Documents for approval to the DOH regional engineer.
<b>Section 106 Cultural/Historical Review</b>	The federal requirement that, prior to construction, any impacts to cultural resources be minimized or mitigated. DOH approves the completion of the process. No construction draw reimbursements can be made until this process is completed.
<b>SEPA</b>	State Environmental Policy Act.
<b>Statewide Vendor Number (SWV)</b>	A vendor number established through the Washington State Office of Financial Management.
<b>Federal Exclusion List</b>	Federal Exclusions List identifies individuals that can no longer participate in government contracts, subcontracts, loans, grants, and other assistance programs. Searches on contractors who have been excluded from federal contracts can be conducted at <a href="https://beta.sam.gov">Beta.sam.gov</a> .
<b>System Award Management (SAM)</b>	Beta.sam.gov is a federal government website that consolidates the capabilities in CCR/Federal Registration, ORCA, and EPLS. Future phases of SAM will add the capabilities of other systems used in federal procurement and awards processes.

**Buy America Build America Requirements**

DWSRF construction projects must comply with the Buy America Build America provisions. Projects started prior to May 14, 2022, may be exempt. Visit the EPA website for more information on the BABA requirements and the waiver process at [epa.gov/cwsrf/build-america-buy-america-baba](https://epa.gov/cwsrf/build-america-buy-america-baba).