FEDERAL REQUIREMENTS

FOR

CWSRF LOAN APPLICANTS

DECEMBER 2014

FEDERAL REQUIREMENTS FOR

CWSRF PROJECTS

For any CWSRF loan, the Applicant is required to certify that it has complied, or will comply, with all the federal regulations listed herein as "Cross-cutter" regulations which have been determined as applying to the CWSRF loan program.

The Applicant must insert a copy of the "CWSRF Boilerplate - Federal Requirements for Consultants and Contractors" as provided, into all consultant and construction contracts and subcontracts.

A. CROSS-CUTTER REGULATIONS

1. ENVIRONMENTAL AUTHORITIES:

a. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974, 16 USC 469a-1

Should the discovery of potential archaeological or historical resources occur during construction, all work in the area of the find shall stop and the construction management consultant shall be called in to evaluate the situation and make recommendations to the State Historic Preservation Officer, Department of Land and Natural Resources, State of Hawaii. The Historic Preservation Officer will determine what will be necessary for construction to proceed.

b. CLEAN AIR ACT, 42 USC 7401

The recipient must determine the direct and indirect emissions from the proposed treatment works project and its impact on air quality. This analysis must determine if the project conforms to the State Implementation Plan (SIP).

c. COASTAL BARRIERS RESOURCES ACT, 16 USC 3501

This Act does not apply to the State of Hawaii at this time.

d. COASTAL ZONE MANAGEMENT ACT, 16 USC 1451

CWSRF assistance recipients should consult with the coastal zone management program to ensure that the project will be consistent with the state program. Certification must be approved by the coastal zone agency prior to CWSRF assistance.

e. ENDANGERED SPECIES ACT, 16 USC 1531

CWSRF assistance recipients must determine whether any endangered or threatened species or critical habitat exists within the locale of the proposed project.

f. ENVIRONMENTAL JUSTICE, EXECUTIVE ORDER 12898

CWSRF assistance recipients shall attempt to identify and address disproportionately high and adverse human health or environmental effects of this project on minority populations and low-income populations.

g. FARMLAND PROTECTION POLICY ACT, 7 USC 4201

CWSRF assistance recipients must determine whether the proposed project will have an effect on significant agricultural lands.

h. FISH AND WILDLIFE COORDINATION ACT, 16 USC 661

CWSRF assistance recipients should seek the assistance of wildlife officials to determine the effect the proposed project may have on wildlife and its habitat.

i. FLOODPLAIN MANAGEMENT, EXECUTIVE ORDER 11988 (1977), AS AMENDED BY EXECUTIVE ORDER 12148 (1979)

CWSRF assistance recipients must determine if the proposed project will be located in or affect a floodplain. Projects within floodplains must document flood protection mitigation and design measures.

j. NATIONAL HISTORIC PRESERVATION ACT, 16 USC 470

CWSRF assistance recipients must determine whether historic properties that are included or are eligible for inclusion on the National Register are in the project area.

k. PROTECTION OF WETLANDS, EXECUTIVE ORDER 11990 (1977), AS AMENDED BY EXECUTIVE ORDER 12608 (1997)

CWSRF assistance recipients must determine whether their proposed project will be in or will affect a wetland, and whether an alternative will be necessary.

l. SAFE DRINKING WATER ACT, 42 USC 300f

CWSRF assistance recipients must determine if their proposed project will affect a sole source aquifer, and whether further investigations will be necessary.

m. WILD AND SCENIC RIVERS ACT, 16 USC 1271

This Act is not applicable to the State of Hawaii at this time.

n. ESSENTIAL FISH HABITAT CONSULTATION PROCESS UNDER THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT, 16 USC 1801

CWSRF assistance recipients must determine whether a proposed project may adversely affect Essential Fish Habitat (EFH). The National Marine Fisheries Service will make maps and/or other information on the locations of EFH available as well as provide information on ways to promote conservation of EFH, in order to facilitate this assessment.

2. ECONOMIC POLICY AUTHORITIES:

a. ADMINISTRATION OF THE CLEAN AIR ACT AND THE WATER POLLUTION CONTROL ACT WITH RESPECT TO FEDERAL CONTRACTS OR LOANS, EXECUTIVE ORDER 11738

This Executive Order prohibits assistance to facilities that are not in compliance with either the Clean Water Act or the Clean Air Act unless the purpose of the assistance is to remedy the cause of the violation.

b. DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966, PUB. L. 89-754, AS AMENDED BY 42 USC 3331

CWSRF assistance recipients should submit information describing a proposed project's effect on local development plans to the CWSRF agency.

c. PROCUREMENT PROHIBITIONS, EXECUTIVE ORDER 11738, SECTION 306 OF THE CLEAN AIR ACT

The recipient of Federal assistance must certify that it will not procure goods, services or materials from suppliers who are on the EPA's list of Clean Air Act violators.

d. PROCUREMENT PROHIBITIONS, SECTION 508 OF THE CLEAN WATER ACT

The recipient of Federal assistance must certify that it will not procure goods, services or materials from suppliers who are on the EPA's list of Clean Water Act violators.

3. SOCIAL POLICY AUTHORITIES:

a. AGE DISCRIMINATION ACT OF 1975, 42 USC 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 subjected to discrimination under any program or activity receiving Federal financial assistance.

b. CIVIL RIGHTS ACT OF 1964, TITLE VI, 42 USC 2000d

No person in the United States shall, on the grounds 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.

c. EQUAL EMPLOYMENT OPPORTUNITY, EXECUTIVE ORDER 11246, AS AMENDED

This Executive Order requires all recipients of Federal contracts to include certain non-discrimination and "affirmative action" provisions in all contracts. The provisions commit the contractor or subcontractor to maintain a policy of non-discrimination in the treatment of employees, to make this policy known to employees, and to recruit, hire and train employees without regard to race, color, sex, religion and national origin.

d. MINORITY BUSINESS ENTERPRISE DEVELOPMENT, EXECUTIVE ORDER 12432

This executive order sets forth in more detail the responsibilities of Federal agencies for the monitoring, maintaining of data and reporting on the use of minority enterprises.

e. NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE, EXECUTIVE ORDER 11625

This Executive Order directs Federal agencies to promote and encourage the use of minority business enterprises in projects utilizing federal funds.

f. NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY AND NATIONAL PROGRAM FOR WOMEN'S BUSINESS ENTERPRISE, EXECUTIVE ORDER 12138

This Executive Order directs each department or agency empowered to extend Federal financial assistance to any program or activity to issue regulations requiring the recipient of such assistance to take appropriate

affirmative action in support of women's business enterprises and to prohibit actions or policies which discriminate against women's business enterprises on the grounds of sex.

g. REHABILITATION ACT OF 1973, 29 USC 794

No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

h. SECTION 13 OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, 33 USC 1251

No person in the United States shall, on the grounds of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under... the federal Water Pollution Control Act...

i. SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1998, PUB. L. 100-590, SECTION 129

This Amendment directs Federal agencies to promote and encourage the use of small business enterprises in projects utilizing federal funds.

j. DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND AGENCIES APPROPRIATIONS ACT, 1993, PUB. L. 102-389

The Administrator of the Environmental Protection Agency shall, hereafter to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans and contracts for wastewater treatment and for leaking underground storage tanks, be made available to businesses or other organizations owned or controlled by socially and economically disadvantaged individuals within the meaning of Section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

k. DISADVANTAGED BUSINESS ENTERPRISE RULE, 2008, 40 CFR Part 33

This Rule sets forth in detail the responsibilities of entities receiving an identified loan under a financial assistance agreement capitalizing a revolving loan fund, for the monitoring, maintaining of data and reporting of the use of disadvantaged business enterprises (DBEs). The Applicant shall fully comply with 40 CFR Part 33, entitled "Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency (EPA) Financial Assistance Agreements" and ensure that all contracts funded by a CWSRF loan include a term or condition requiring compliance with 40 CFR Part 33.

The Applicant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Applicant 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 Applicant 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.

l. DAVIS BACON ACT, TITLE 29, PART 5, CODE OF FEDERAL REGULATIONS

The recipient of Federal assistance shall comply with all labor standards covered under this act including but not limited to:

(1) Inclusion of the applicable Wage Determination General Decision No. and Modification No. in the executed contract;
(2) Payment of the prevailing wage rate;
(3) Posting of prevailing wage rates and Davis-Bacon poster at the work site where it can be easily seen by the workers;
(4) Maintaining weekly certified payroll records for a period of three years; and
(5) Performing labor standards interviews during the course of construction in accordance with Standard Form 1445.

4. MISCELLANEOUS AUTHORITIES:

a. DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12549

Prior to the award of a consultant or construction contract, the Applicant (County) shall fully comply with Subpart C of 40 CFR Part 32, entitled "Responsibilities of Participants Regarding Transactions" and ensure that any lower tier covered transaction and subsequent lower tier transaction, includes a term or condition requiring compliance with Subpart C. The Applicant shall certify that the General Contractor, Consultant, sub-consultants, subcontractors and suppliers are not on the Excluded Parties List. The Applicant acknowledges that failing to disclose the information required under 40 CFR 32.335 may result in the delay or negation of payment, or pursuance of legal remedies, including suspension and debarment. The Applicant may access the Excluded Parties List System at http://epls.arnet.gov.

b. UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION POLICIES ACT, PUB. L. 91-646 (1971), AS AMENDED BY 42 USC 4601-4655

The Act establishes a policy for fair and equitable treatment of persons who are displaced from their homes, farms or businesses to make way for a federally-assisted project.

c. PRESERVATION OF OPEN COMPETITION AND GOVERNMENT NEUTRALITY TOWARDS CONTRACTOR'S LABOR RELATIONS ON FEDERAL AND FEDERALLY FUNDED CONSTRUCTION PROJECTS, EXECUTIVE ORDER 13202 (2001), AS AMENDED BY EXECUTIVE ORDER 13208 (2001)

CWSRF assistance recipients must ensure that bid specifications, project agreements, and other controlling documents for construction contracts awarded after February 17, 2001 do not require or prohibit agreements with labor organizations. Further, CWSRF assistance recipients and any construction manager acting upon their behalf must not otherwise discriminate against bidders, offerors, contractors, or subcontractors for entering into, or refusing to enter into, agreements with labor organizations.

B. AMERICAN IRON AND STEEL (AIS) SECTION 608 OF THE CLEAN WATER ACT (CWA):

Funds made available from a State water pollution control revolving fund established under this title may not be used for a project for the construction, alteration, maintenance, or repair of treatment works unless all of the iron and steel products used in the project are produced in the United States.

See attached *AIS Guidance*.

C. REQUIRED FEDERAL FORMS AND INFORMATION:

1. The following EPA forms shall be submitted by the loan recipient to the Department of Health Wastewater Branch for each CWSRF project:

   a. EPA Form 5700-52A (MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Financial Assistance)

   b. EPA Form 6100-4 (Disadvantaged Business Enterprise Program – DBE Subcontractor Utilization Form) to be completed by the Consultant or Contractor and submitted with bid or proposal package.

   c. EPA Form 6100-3 (Disadvantaged Business Enterprise Program – DBE Subcontractor Performance Form) to be completed by all DBE sub-consultants or subcontractors and submitted with bid or proposal package.

2. The following information must be included in the loan recipient's contract specifications:

   a. The current and appropriate Wage Decision and Modification number must be obtained from the United States Department of Labor (DOL), and included in the contract specifications. The Wage Decision and Modification Number must be that which was in effect on the date up to 10 days before bid opening and no later than 90 days after bid opening. The appropriate Wage Decision may be obtained at: http://www.access.gpo.gov/davisbacon/index.html

   b. Davis Bacon Requirements (See attached)

"CWSRF BOILERPLATE"

FEDERAL REQUIREMENTS

FOR

CONSULTANTS AND CONTRACTORS

DECEMBER 2014

"CWSRF BOILERPLATE"

FEDERAL REQUIREMENTS

FOR

CONSULTANTS AND CONTRACTORS

To the Consultant, Contractor or Sub-contractor of a CWSRF loan funded project:

All CWSRF projects must comply with all the federal regulations listed herein which have been determined as applying to the SRF loan program.

A. CROSS-CUTTER REGULATIONS

1. ENVIRONMENTAL AUTHORITIES:

a. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974, 16 USC 469a-1

Should the contractor discover potential archaeological or historical resources during construction, all work in the area of the find shall stop and the construction management consultant shall be called in to evaluate the situation and make recommendations to the State Historic Preservation Officer, Department of Land and Natural Resources, State of Hawaii. The Historic Preservation Officer will determine what will be necessary for construction to proceed.

2. SOCIAL POLICY AUTHORITIES:

a. AGE DISCRIMINATION ACT OF 1975, 42 USC 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 subjected to discrimination under any program or activity receiving Federal financial assistance.

b. CIVIL RIGHTS ACT OF 1964, TITLE VI, 42 USC 2000d

No person in the United States shall, on the grounds 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.

c. EQUAL EMPLOYMENT OPPORTUNITY, EXECUTIVE ORDER 11246, AS AMENDED

The contractor, subcontractor, or consultant for any SRF project shall maintain a policy of non-discrimination in the treatment of employees, shall make this policy known to employees, and shall recruit, hire and train employees without regard to race, color, sex, religion and national origin.

d. SECTION 13 OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, 33 USC 1251

No person in the United States shall, on the grounds of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under... the federal Water Pollution Control Act...

e. REHABILITATION ACT OF 1973, 29 USC 794

No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

f. MINORITY BUSINESS ENTERPRISE DEVELOPMENT, EXECUTIVE ORDER 12432

This executive order sets forth in more detail the responsibilities of Federal agencies for the monitoring, maintaining of data and reporting on the use of minority enterprises.

g. NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE, EXECUTIVE ORDER 11625

This Executive Order directs Federal agencies to promote and encourage the use of minority business enterprises in projects utilizing federal funds.

h. NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY AND NATIONAL PROGRAM FOR WOMEN'S BUSINESS ENTERPRISE, EXECUTIVE ORDER 12138

This Executive Order directs each department or agency empowered to extend Federal financial assistance to any program or activity to issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprises and to prohibit actions or policies which

discriminate against women's business enterprises on the grounds of sex.

i. SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1998, PUB. L. 100-590, SECTION 129

This Amendment directs Federal agencies to promote and encourage the use of small business enterprises in projects utilizing federal funds.

j. DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND AGENCIES APPROPRIATIONS ACT, 1993, PUB. L. 102-389

The Administrator of the Environmental Protection Agency shall, hereafter to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans and contracts for wastewater treatment and for leaking underground storage tanks, be made available to businesses or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of Section 8(a)(5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

k. DISADVANTAGED BUSINESS ENTERPRISE RULE, 2008, 40 CFR Part 33

Prior to the award of a consultant or construction contract, the Contractor or Consultant shall fully comply with 40 CFR Part 33, entitled “Participation by Disadvantaged Business Enterprises in Procurement under Environmental Protection Agency (EPA Financial Assistance Agreements)”. The Consultant or Contractor shall notify the County prior to termination of a Disadvantaged Business Enterprise (DBE) subconsultant or subcontractor for convenience by the Contractor. In addition, the Consultant or Contractor shall employ the six good faith efforts listed in 40 CFR 33.301 when soliciting a replacement subconsultant or subcontractor.

The Consultant or Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant or 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 Consultant or 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.

l. DAVIS BACON ACT, TITLE 29, PART 5, CODE OF FEDERAL REGULATIONS

The consultant or construction contractor shall comply with the labor standards provided under this act, including but not limited to:

(1) Payment of the prevailing wage rate;
(2) Posting of prevailing wage rates and Davis-Bacon poster at the work site where it can be easily seen by the workers;
(3) The following Wage Determination General Decision and Modification numbers apply to this contract:

Wage Determination General Decision No.: (loan recipient to fill in)

Modification No.: (loan recipient to fill in)

The consultant or construction contractor understands that labor standards interviews will be conducted during the course of construction in accordance with Standard Form 1445.

3. MISCELLANEOUS AUTHORITIES:

a. DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12549

Prior to the award of a construction or consultant contract, the Contractor or Consultant shall fully comply with Subpart C of 40 CFR Part 32, entitled "Responsibilities of Participants Regarding Transactions" and ensure that any lower tier covered transaction and subsequent lower tier transaction, includes a term or condition requiring compliance with Subpart C. The Contractor shall certify that his subcontractors and suppliers are not on the Excluded Parties List when the bid proposals are submitted. The Consultant shall certify that his sub-consultants are not on the Excluded Parties List. The Contractor or Consultant acknowledges that failing to disclose the information required under 40 CFR 32.335 may result in the delay or negation of payment, or pursuance of legal remedies, including suspension and debarment. The Contractor or Consultant may access the Excluded Parties List System at http://epls.arnet.gov.

B. AMERICAN IRON AND STEEL (AIS) SECTION 608 OF THE CLEAN WATER ACT (CWA):

Funds made available from a State water pollution control revolving fund established under this title may not be used for a project for the construction, alteration, maintenance, or repair of treatment works unless all of the iron and steel products used in the project are produced in the United States.

See attached *AIS Guidance*.

C. REQUIRED FEDERAL FORMS AND INFORMATION:

1. The following EPA forms shall be submitted by the Consultant or Contractor to the recipient (County) for each CWSRF project:

   a. EPA Form 5700-52A (MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Financial Assistance)

   b. EPA Form 6100-4 (Disadvantaged Business Enterprise Program – DBE Subcontractor Utilization Form) to be completed by the Consultant or Contractor and submitted with bid or proposal package.

   c. EPA Form 6100-3 (Disadvantaged Business Enterprise Program – DBE Subcontractor Performance Form) to be completed by all DBE subconsultants or subcontractors and submitted with bid or proposal package.

   In addition, the following EPA shall be provided by the Consultant or Contractor to each Disadvantaged Business Enterprise subcontractor for each CWSRF project:

   EPA Form 6100-2 (Disadvantaged Business Enterprise Program – DBE Subcontractor Participation Form), which may be completed by each DBE subconsultant or subcontractor and submitted to:

   Mr. Joe Ochab
   Region 9 Small Business Program Coordinator
   U.S. Environmental Protection Agency
   75 Hawthorne Street (P-22)
   San Francisco, CA 94105
   phone: (415) 972-3761
   email: ochab.joe@epa.gov

2. The following information must be included in the contract specifications:

   a. Davis Bacon Requirements (see attached)

LABOR STANDARDS INTERVIEW

CONTRACT NUMBER	EMPLOYEE INFORMATION		
	LAST NAME	FIRST NAME	MI
NAME OF PRIME CONTRACTOR	STREET ADDRESS		
NAME OF EMPLOYER	CITY	STATE	ZIP CODE
SUPERVISOR'S NAME			
LAST NAME / FIRST NAME / MI	WORK CLASSIFICATION	WAGE RATE	

ACTION	CHECK BELOW YES	CHECK BELOW 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?

	TOOLS YOU USE	
HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?		
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 *(If explanation is needed, use comments section)*	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?

☐ YES ☐ NO

COMMENTS

CHECKER

LAST NAME	FIRST NAME	MI	JOB TITLE
SIGNATURE			DATE *(YYMMDD)*

OMB CONTROL NO. 2030-0020
APPROVED: 06/30/2014
APPROVAL EXPIRES: 06/30/2017

U.S. ENVIRONMENTAL PROTECTION AGENCY
MBE/WBE UTILIZATION UNDER FEDERAL GRANTS AND COOPERATIVE AGREEMENTS

PART I. (Reports are required even if no procurements are made during the reporting period.)

1A. FEDERAL FISCAL YEAR (Oct. 1-Sep 30) 20_____	1B. REPORTING PERIOD (Check ALL appropriate boxes) □ 1st (Oct-Dec) □ 2nd (Jan-Mar) □ 3rd (Apr-Jun) □ 4th (Jul-Sep) □ Semi-Annual (Oct-Mar) □ Semi-Annual (Apr-Sep) □ Annual □ Check if this is the last report for the project (Project completed).
1C. REVISION OF A PRIOR REPORT? Y or N Year: _____ Quarter: _____	BRIEFLY DESCRIBE THE REVISIONS YOU ARE MAKING:

2A. EPA FINANCIAL ASSISTANCE OFFICE ADDRESS (ATTN: DBE Coordinator)		3A. RECIPIENT NAME AND ADDRESS	
2B. EPA DBE COORDINATOR Name: E-mail:	2C. PHONE: Fax:	3B. RECIPIENT REPORTING CONTACT: Name: E-mail:	3C. PHONE: Fax:
4A. FINANCIAL ASSISTANCE AGREEMENT ID NUMBER (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.)		4B. FEDERAL FINANCIAL ASSISTANCE PROGRAM TITLE or CFDA NUMBER:	

5A. TOTAL ASSISTANCE AGREEMENT AMOUNT (SRF State Recipients, refer to Instructions for Completion of blocks 4A, 5A and 5C.) EPA Share: $_____ Recipient Share: $_____	5B. If NO procurement and NO accomplishments were made this reporting period (by the recipients, sub-recipients, loan recipients, and prime contractors), **CHECK** and **SKIP** to Block No. 7. (Procurements are all expenditures through contract, order, purchase, lease or barter of supplies, equipment, construction, or services needed to complete Federal assistance programs. Accomplishments, in this context, are procurements made with MBEs and/or WBEs. □

5C. Total Procurements This Reporting Period
(Only include amount not reported in any prior reporting period)

Total Procurement Amount $_____ (Include total dollar values awarded by recipient, sub-recipients and SRF loan recipients, **including MBE/WBE expenditures.**)

5D.

Were sub-awards issued under this assistance agreement? Yes___ No____ Were contracts issued under this assistance agreement ? Yes____ No___

5E. MBE/WBE Accomplishments This Reporting Period

Actual MBE/WBE Procurement Accomplished:
(Include total dollar values awarded by recipient, sub-recipients, SRF loan recipients and Prime Contractors.)

	Construction	Equipment	Services	Supplies	Total
$MBE:	_____	_____	_____	_____	_____
$WBE:	_____	_____	_____	_____	_____

6. COMMENTS: (If no MBE/WBE procurements were accomplished during the reporting period, please explain what steps you are taking to achieve the MBE/WBE Program requirements specified in the terms and conditions of the Assistance Agreement.)

7. NAME OF RECIPIENT'S AUTHORIZED REPRESENTATIVE	TITLE
8. SIGNATURE OF RECIPIENT'S AUTHORIZED REPRESENTATIVE	DATE

PART II. **MBE/WBE PROCUREMENTS MADE DURING REPORTING PERIOD**

EPA Financial Assistance Agreement Number: _____

1. Procurement Made By			2. Business Enterprise		3. $ Value of Procurement	4. Date of Procurement MM/DD/YY	5. Type of Product or Services[A] (Enter Code)	6. Name/Address/Phone Number of MBE/WBE Contractor or Vendor
Recipient	Sub-Recipient and/or SRF Loan Recipient	Prime	Minority	Women				

Type of product or service codes:

1 = Construction 2 = Supplies 3 = Services 4 = Equipment

Note: Refer to Terms and conditions of your Assistance Agreement to determine the frequency of reporting. Recipients are required to submit MBE/WBE reports to EPA beginning with the Federal fiscal year quarter the recipients receive the award, continuing until the project is completed.

Instructions:

A. General Instructions:

MBE/WBE utilization is based on 40 CFR Part 33. EPA Form 5700-52A must be completed by recipients of Federal grants, cooperative agreements, or other Federal financial assistance which involve procurement of supplies, equipment, construction or services to accomplish Federal assistance programs.

Recipients are required to report 30 days after the end of each federal fiscal quarter, semiannually, or annually, per the terms and conditions of the financial assistance agreement.

	Quarterly Reporting Due Date	Semiannual Reporting Due Date	Annual Reporting Due Date
Agreements awarded prior to May 27, 2008	January 30, April 30, July 30, October 30	N/A	October 30
Agreements awarded on or after May 27, 2008	N/A	April 30, October 30	October 30

MBE/WBE program requirements, including reporting, are material terms and conditions of the financial assistance agreement.

B. Definitions:

Procurement is the acquisition through contract, order, purchase, lease or barter of supplies, equipment, construction or services needed to accomplish Federal assistance programs.

A ***contract*** is a written agreement between an EPA recipient and another party (also considered "prime contracts") and any lower tier agreement (also considered "subcontracts") for equipment, services, supplies, or construction necessary to complete the project. This definition excludes written agreements with another public agency. This definition includes personal and professional services, agreements with consultants, and purchase orders.

A ***minority business enterprise*** **(MBE)** is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners. In order to qualify and participate as an MBE prime or subcontractor for EPA recipients under EPA's DBE Program, an entity must be properly certified as required by 40 CFR Part 33, Subpart B.

U.S. citizenship is required. Recipients shall presume that minority individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other groups whose members are found to be disadvantaged by the Small Business Act or by the Secretary of Commerce under section 5 of Executive order 11625. The reporting contact at EPA can provide additional information.

A ***woman business enterprise*** **(WBE)** is a business concern that is, (1) at least 51 percent owned by one or more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women and (2) whose daily business operations are managed and directed by one or more of the women owners. In order to qualify and participate as a WBE prime or subcontractor for EPA recipients under EPA's DBE Program, an entity must be properly certified as required by 40 CFR Part 33, Subpart B.

Business firms which are 51 percent owned by minorities or women, but are in fact managed and operated by non-minority individuals do not qualify for meeting MBE/WBE procurement goals. U.S. Citizenship is required.

Good Faith Efforts

A recipient is required to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under an EPA financial assistance agreement. These good faith efforts for utilizing MBEs and WBEs must be documented. Such documentation is subject to EPA review upon request:

1. Include of MBEs/WBEs on solicitation lists.
2. Assure that MBEs/WBEs are solicited once they are identified.
3. Divide total requirements into smaller tasks to permit maximum MBE/WBE participation, where feasible.
4. Establish delivery schedules which will encourage MBE/WBE participation, where feasible.
5. Encourage use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U.S. Small Business Administration to identify MBEs/WBEs.

6. Require that each party to a subgrant, subagreement, or contract award take the good faith efforts outlined here.

C. Instructions for Part I:

1a. Specify Federal fiscal year this report covers. The Federal fiscal year runs from October 1st through September 30th (**e.g. November 29, 2010 falls within Federal fiscal year 2011**)

1b. Check applicable reporting box, quarterly, semiannually, or annually. Also indicate if this is the last report for the project.

1c. Indicate if this is a revision to a previous year, half-year, or quarter, and provide a brief description of the revision you are making.

2a-c. Please refer to your financial assistance agreement for the mailing address of the EPA financial assistance office for your agreement.

The "EPA DBE Reporting Contact" is the DBE Coordinator for the EPA Region from which your financial assistance agreement was originated. For a list of DBE Coordinators please refer to the EPA OSBP website at www.epa.gov/osbp. Click on "Regional Contacts" for the name of your coordinator.

3a-c. Identify the agency, state authority, university or other organization which is the recipient of the Federal financial assistance and the person to contact concerning this report.

4a. Provide the Assistance Agreement number assigned by EPA. A separate report must be submitted for each Assistance Agreement.

***For SRF recipients**: In box 4a list numbers for ALL OPEN Assistance Agreements being reported on this form. Please note that although the New DBE Rule (which took effect May 27, 2008) revised the reporting frequency requirements from quarterly to semiannually, that change only applies to agreements awarded AFTER the New DBE Rule took effect. Therefore, SRF recipients may either continue to report activity for all Agreements on one form on a quarterly basis until the last award that was made prior to the New DBE Rule has been closed out; OR, the recipient may split the submission of SRF reports into quarterly reports for Agreements awarded prior the New DBE Rule, and semiannually for the awards made after the New DBE Rule.

4b. Refer back to Assistance Agreement document for this information.

5a. Provide the total amount of the Assistance Agreement which includes Federal funds plus recipient matching funds and funds from other sources.

***For SRF recipients only**: SRF recipients will not enter an amount in 5a. Please leave 5a blank.

5b. Self-explanatory.

5c. Provide the total dollar amount of **ALL** procurements awarded this reporting period by the recipient, sub-recipients, and SRF loan recipients, **including** MBE/WBE expenditures. For example: Actual dollars for procurement from the procuring office; actual contracts let from the contracts office; actual goods, services, supplies, etc., from other sources including the central purchasing/ procurement centers).

***NOTE**: To prevent double counting on line 5C, if any amount on 5E is for a subcontract and the prime contract has already been included on Line 5C in a prior reporting period, then report the amount going to MBE or WBE subcontractor on line 5E, but exclude the amount from Line 5C. To include the amount on 5C again would result in double counting because the prime contract, which includes the subcontract, would have already been reported.

5d. State whether or not sub-awards and/or subcontracts have been issued under the assistance agreement by indicating "yes" or "no".

5e. Where requested, also provide the total dollar amount of all MBE/WBE procurement awarded during this reporting period by the recipient, sub-recipients, SRF loan recipients, and prime contractors in the categories of construction, equipment, services and supplies. These amounts include Federal funds plus recipient matching funds and funds from other sources.

***For SRF recipients only**: In 5c please enter the total procurement amount for the quarter, or semiannual period, under all of your SRF Assistance Agreements. The figure reported in this section is **not** directly tied to an individual Assistance Agreement identification number. **(SRF state recipients report state procurements in this section)**

6. If there were no MBE/WBE accomplishments this reporting period, please briefly explain what

specific steps you are taking to achieve the MBE/WBE requirements specified in the terms and conditions of the Assistance Agreement.

7. Name and title of official administrator or designated reporting official.

8. Signature, month, day, and year report submitted.

D. Instructions for Part II:

For each MBE/WBE procurement made under this assistance agreement during the reporting period, provide the following information:

1. Check whether this procurement was made by the recipient, sub-recipient/SRF loan recipient, or the prime contractor.

2. Check either the MBE or WBE column. If a firm is both an MBE and WBE, the recipient may choose to count the entire procurement towards EITHER its MBE or WBE accomplishments. The recipient may also divide the total amount of the procurement (using any ratio it so chooses) and count those divided amounts toward its MBE and WBE accomplishments. If the recipient chooses to divide the procurement amount and count portions toward its MBE and WBE accomplishments, please state the appropriate amounts under the MBE and WBE columns on the form. **The combined MBE and WBE amounts for that MBE/WBE contractor must not exceed the "Value of the Procurement" reported in column #3**

3. Dollar value of procurement.

4. Date of procurement, shown as month, day, year. Date of procurement is defined as the date the contract or procurement was awarded, **not** the date the contractor received payment under the awarded contract or procurement, unless payment occurred on the date of award. **(Where direct purchasing is the procurement method, the date of procurement is the date the purchase was made)**

5. Using codes at the bottom of the form, identify type of product or service acquired through this procurement (e.g., enter 1 if construction, 2 if supplies, etc).

6. Name, address, and telephone number of MBE/WBE firm.

**This data is requested to comply with provisions mandated by: statute or regulations (40 CFR Part 30, 31, and 33); OMB Circulars; or added by EPA to ensure sound and effective assistance management. Accurate, complete data are required to obtain funding, while no pledge of confidentiality is provided.

The public reporting and recording burden for this collection of information is estimated to average l hour per response annually. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclosure or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB Control number in any correspondence. Do not send the completed form to this address.

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Utilization Form

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

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

I have identified potential DBE certified subcontractors	___ YES	___ NO
If yes, please complete the table below. If no, please explain:		

Subcontractor Name/ Company Name	**Company Address/ Phone/ Email**	**Est. Dollar Amt**	**Currently DBE Certified?**

Continue on back if needed

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

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

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Utilization Form

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	Print Name
Title	**Date**

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Performance Form

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

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

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services , Equipment or Supplies	Price of Work Submitted to the Prime Contractor

DBE Certified By: ___ DOT ___ SBA ___ Other: _____	Meets/ exceeds EPA certification standards? ___ YES ___ NO ___ Unknown

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

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

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Performance Form

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	Print Name
Title	**Date**

Subcontractor Signature	Print Name
Title	**Date**

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Participation Form

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

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

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

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

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

United States Environmental Protection Agency

OMB Control No: 2090-0030
Approved: 8/13/2013
Approval Expires: 8/31/2015

Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Participation Form

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

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

Subcontractor Signature	Print Name
Title	**Date**

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

AMERICAN IRON AND STEEL (AIS) GUIDANCE

Covered Iron and Steel Products

What is an iron or steel product?

For purposes of the CWSRF projects that must comply with the AIS requirement, an iron or steel product is one of the following made primarily of iron or steel that is permanently incorporated into the public water system or treatment works:

Lined or unlined pipes or fittings;
Manhole Covers;
Municipal Castings (defined in more detail below);
Hydrants;
Tanks;
Flanges;
Pipe clamps and restraints;
Valves;
Structural steel (defined in more detail below);
Reinforced precast concrete; and
Construction materials (defined in more detail below).

What does the term 'primarily iron or steel' mean?

'Primarily iron or steel' places constraints on the list of products above. For one of the listed products to be considered subject to the AIS requirements, it must be made of greater than 50% iron or steel, measured by cost. The cost should be based on the material costs.

Can you provide an example of how to perform a cost determination?

For example, the iron portion of a fire hydrant would likely be the bonnet, body and shoe, and the cost then would include the pouring and casting to create those components. The other material costs would include non-iron and steel internal workings of the fire hydrant (i.e., stem, coupling, valve, seals, etc). However, the assembly of the internal workings into the hydrant body would not be included in this cost calculation. If one of the listed products is not made primarily of iron or steel, United States (US) provenance is not required. An exception to this definition is reinforced precast concrete,
which is addressed in a later question.

If a product is composed of more than 50% iron or steel, but is not listed in the above list of items, must the item be produced in the US? Alternatively, must the iron or steel in such a product be produced in the US?

The answer to both question is no. Only items on the above list must be produced in the US. Additionally, the iron or steel in a non-listed item can be sourced from outside the US.

What is the definition of steel?

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel and other specialty steels.

What does 'produced in the United States' mean?

Production in the United States of the iron or steel products used in the project requires that all manufacturing processes, including application of coatings, must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives. All manufacturing processes includes processes such as melting, refining, forming, rolling, drawing, finishing, fabricating and coating. Further, if a domestic iron and steel product is taken out of the US for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the 7 material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin.

Are the raw materials used in the production of iron or steel required to come from US sources?

No. Raw materials, such as iron ore, limestone, scrap iron, and scrap steel, can come from non-US sources.

If an above listed item is primarily made of iron or steel, but is only at the construction site temporarily, must such an item be produced in the US?

No. Only the above listed products made primarily of iron or steel, permanently incorporated into the project must be produced in the US. For example trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

What is the definition of ‘municipal castings’?

Municipal castings are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel.

Examples of municipal castings are:
Access Hatches;
Ballast Screen;
Benches (Iron or Steel);
Bollards;
Cast Bases;
Cast Iron Hinged Hatches, Square and Rectangular;
Cast Iron Riser Rings;
Catch Basin Inlet;
Cleanout/Monument Boxes;
Construction Covers and Frames;
Curb and Corner Guards;
Curb Openings;
Detectable Warning Plates;
Downspout Shoes (Boot, Inlet);
Drainage Grates, Frames and Curb Inlets;
Inlets;
Junction Boxes;
Lampposts;
Manhole Covers, Rings and Frames, Risers; 8
Meter Boxes;
Service Boxes;
Steel Hinged Hatches, Square and Rectangular;
Steel Riser Rings;
Trash receptacles;
Tree Grates;
Tree Guards;
Trench Grates; and
Valve Boxes, Covers and Risers.

What is ‘structural steel’?

Structural steel is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees and zees. Other shapes include H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

What is a ‘construction material’ for purposes of the AIS requirement?

Construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”. This includes, but is not limited to, the following products: wire rod, bar, angles, concrete reinforcing bar, wire, wire cloth, wire rope and cables, tubing, framing, joists, trusses, fasteners (i.e., nuts and bolts), welding rods, decking, grating, railings, stairs, access ramps, fire escapes, ladders, wall panels, dome structures, roofing, ductwork, surface drains, cable hanging systems, manhole steps, fencing and fence tubing, guardrails, doors, and stationary screens.

What is not considered a ‘construction material’ for purposes of the AIS requirement?

Mechanical and electrical components, equipment and systems are not considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system.

The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials: pumps, motors, gear reducers, drives (including variable frequency drives (VFDs)), electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators), mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, HVAC (excluding ductwork), water heaters, heat exchangers, generators, cabinetry and housings (such as electrical boxes/enclosures), lighting fixtures, electrical conduit, emergency life systems, metal office furniture, shelving, laboratory equipment, analytical instrumentation, and dewatering equipment.

If the iron or steel is produced in the US, may other steps in the manufacturing process take place outside of the US, such as assembly?

No. Production in the US of the iron or steel used in a listed product requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

What processes must occur in the US to be compliant with the AIS requirement for reinforced precast concrete?

While reinforced precast concrete may not be at least 50% iron or steel, in this particular case, the reinforcing bar and wire must be produced in the US and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the US. The cement and other raw materials used in concrete production are not required to be of domestic origin.

If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are considered to be a construction material and must be produced in the US.

Construction Contract Language for AIS

Projects funded with monies from the Clean Water State Revolving Fund are subject to the American Iron and Steel (AIS) requirement as in Section 608 of the Clean Water Act. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that a) the Contractor has reviewed and understands the AIS requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the AIS requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with the AIS requirement, or information necessary to support a waiver of the AIS requirement, as may be requested by the Purchaser or the State. Failure to comply with the AIS requirement by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser).

Sample Certifications

The following information is provided as a sample letter of step certification for AIS compliance. Documentation must be provided on company letterhead.

Date
Company Name
Company Address
City, State Zip

Subject: American Iron and Steel Step Certification for Project (XXXXXXXXXX)

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

Item, Products and/or Materials:

1. Xxxx
2. Xxxx
3. Xxxx

Such process took place at the following location:

_____

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

Signed by company representative

The following information is provided as a sample letter of certification for AIS compliance. Documentation must be provided on company letterhead.

Date
Company Name
Company Address
City, State Zip

Subject: American Iron and Steel Certification for Project (XXXXXXXXX X)

I, (company representative), certify that the following products and/or materials shipped/provided to the subject project are in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. Xxxx
2. Xxxx
3. Xxxx

Such process took place at the following location:

_____

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

Signed by company representative

DAVIS BACON REQUIREMENTS

1. **Contract and Subcontract provisions.**

(a) The Recipient 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 the following clauses:

(1) Minimum wages.

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

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

The Recipient may obtain wage determinations from the U.S. Department of Labor’s web site, www.dol.gov.

(ii)(A) The Recipient, 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 Recipient 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 Recipient to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

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

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

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Recipient for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the Recipient.

(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. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they

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

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

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

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by 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 the Recipient, 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.

2. **Contract Provision for Contracts in Excess of $100,000.**

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

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

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Recipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work

performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(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.

(b) In addition to the clauses contained in Section 1, 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 Recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

3. Compliance Verification

(a) The Recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The Recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The Recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the Recipient should conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. The Recipient must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. The Recipient shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The Recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The Recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the Recipient shall 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. The Recipient 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 Recipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

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

(e) The Recipient must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/esa/contacts/whd/america2.htm.