

REQUIRED CONTRACT DOCUMENT PROVISIONS
DRINKING WATER SYSTEMS IMPROVEMENTS
REVOLVING LOAN FUND PROJECTS

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ADVERTISEMENT FOR BIDS

(Owner) (Address)
Separate Sealed Bids for the Construction of (detailed description) _____

will be received by _____ herein called the “owner” at the office
of _____ until _____ local time _____
and then at said office publicly opened and read aloud. (Date)

The PLANS, SPECIFICATIONS AND CONTRACT DOCUMENTS may be examined at the following locations:

1. _____
(City Clerk’s Office, Chancery Clerk’s or Loan Recipient’s Office)
2. _____
(Consulting Engineer’s Name, Office Address, Phone Number)
3. MSDH/DWSRF 570 E Woodrow Wilson Jackson MS (Call – (Project Manager) 601-576-7518

The BID SCHEDULE may be examined at the following locations:

- A. **Mississippi Procurement Technical Assistance Program (MPTAP)
Mississippi Development Authority, Minority & Small Business Development
Woolfolk Building
501 North West Street, Suite B 01
Jackson, MS 39201
Contact: Secret Luckett, 601-359-2700**
- B. Contract Procurement Center closest to your project area; contact person & phone number *

[Insert Paragraph for purchasing sets of Bid Documents as applicable]

Minority and women’s business enterprises are solicited to bid on this contract as prime contractors and are encouraged to make inquiries regarding potential subcontracting opportunities and equipment, material and/or supply needs.

This contract is funded in whole or in part by funds as is established in the Safe Drinking Water Act’s State Revolving Loan Funds (42 U.S.C. 300j-12); therefore, this project must comply with the American Iron and Steel requirements of the Act.

Any contract or contracts awarded under this invitation for bids are expected to be funded in whole or in part by anticipated funds from the Drinking Water Systems Improvements Revolving Loan Fund (DWSIRLF) Loan Program from the State of Mississippi. Neither the State of Mississippi, the Local Governments and Rural Water Systems Improvements Board, nor any of their employees is or will be a party to this invitation for bids or any resulting or related contracts. This procurement will be subject to all applicable sections of the Mississippi Code of 1972, Annotated, as they apply to local governments, in accordance with Appendix D of the DWSIRLF Program Regulations.

INSTRUCTIONS FOR BIDDERS

The following information must be included in the Instructions for Bidders:

American Iron and Steel Requirements: This contract is funded in whole or in part by funds as is established in the Safe Drinking Water Act’s State Revolving Loan Funds (42 U.S.C. 300j-12). 42 U.S.C. 300-12(a)(4) states:

- (A) funds made available by a State loan fund established pursuant to this section may not be used for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.
- (B) in this section, the term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.
- (C) Subparagraph (A) shall be waived in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the “Administrator”) finds that –
 - (i) Applying subparagraph (A) would be inconsistent with the public interest;
 - (ii) Iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality; or
 - (iii) Inclusion of iron and steel products in the United States will increase the cost of the overall project by more than 25 percent.

Minority Business and Women’s Business Utilization Requirements: Positive efforts as required in the Drinking Water Systems Improvements Revolving Loan Fund Program Regulations shall be made by BIDDERS to utilize minority owned and women-owned businesses as sources of construction, materials, supplies and services. Such efforts must allow these sources the maximum feasible opportunity to compete for subagreements and contracts. Documentation of efforts made to utilize minority and women-owned firms must be maintained by all BIDDERS.

The OWNER’s goal for minority-owned business participation as a percentage of construction cost is 3.1%. The OWNER’s goal for women-owned business participation is 1.1%.

The lowest qualified **BIDDER** must submit to the **OWNER** within 10 days after **BID** opening, proof of compliance with the Contract Provisions including required documentation regarding the use of minority and women’s businesses. (**Refer to “Section 4, Utilization of Disadvantaged Business Enterprises” of the “Supplemental General Conditions for Construction of the Drinking Water Systems Improvements Revolving Loan Fund Projects”**).

The Supplemental General Conditions provide a list of qualified minority and women's business enterprises for assisting contractors in their MBE/WBE solicitation efforts.

GENERAL REQUIREMENTS

The following documents/provisions must be included in the Contract Documents:

1. U. S. Citizenship Certification for Minority and Women Business Enterprises (enclosed).
2. Bid Form.
 - a. All DWSIRLF ineligible bid items shall be separated and labeled as such on the bid form, with such determinations being made in accordance with the DWSIRLF Regulations, Appendix A.
 - b. For lump sum type contracts a description must be given which identifies different scopes of work to be included in the lump sum bid.
3. Bid Bond Form.
4. Contract Agreement Form.
5. Payment Bond Form.
6. Performance Bond Form.
7. Contract time and liquidated damages provisions. The contract time shall be counted in calendar days, and normal weather shall be assumed and allowed for in the original contract time. Liquidated damages shall be at least \$200 per calendar day, unless otherwise approved.
8. General Conditions.

The contract documents shall include a set of general conditions that describes the general responsibilities of all parties. The general conditions shall:

- a. Allow the loan recipient to retain a certain percentage of the progress payments otherwise due the contractor until the building of the project is substantially complete, in accordance with state law;
- b. Require the contractor to obtain and maintain the appropriate insurance coverage, including flood insurance if applicable, and;
- c. Include an arbitration clause or acceptable procedure regarding the handling of claims, disputes and other matters in question arising out of, or related to, the agreement or the breach thereof, in accordance with state law.

- d. Include Notice of Award provisions and/or Form.
 - e. Include Notice to Proceed provisions and/or Form.
 - f. Include Certification Regarding Equal Employment Opportunity Form (enclosed).
 - g. Include change order provisions. The contract time or price may ONLY be changed by change order.
 - h. Include Certification Regarding Debarment, Suspension and Other Responsibility Matters (enclosed).
 - i. All necessary DBE Documents, certifications and forms
 - j. Contractors and subcontracts must submit certified payrolls to the loan recipient at least monthly. The owner must maintain payrolls records and make these available for inspection to ensure compliance with requirements of the Davis Bacon Act.
9. Supplemental General Conditions.

The contract documents shall include the "Supplemental General Conditions" (HDWI77) verbatim, as provided by the Department.

**U. S. CITIZENSHIP CERTIFICATION FOR DISADVANTAGED BUSINESS
ENTERPRISES**

I certify that _____
_____ is
MBE/WBE Company Name

a _____ owned business enterprise as defined in
Enter "Minority" or "Women"

Federal Regulations 40 CFR, Part 31. I further certify that I **am** a citizen of the United States of America (resident aliens are not eligible for minority or women owned business status under programs funded in part by DWSIRLF loans).

Signature of DBE Business Owner

Date

This form is required for a DBE firm that has not previously participated in a Drinking Water Systems Improvements Revolving Loan Fund funded project.

**CERTIFICATION BY PROPOSED PRIME OR SUBCONTRACTOR
REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

DWI-L-_____
(DWSIRLF Project Number)

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246, Part II, Section 203(b), (30 F.R. 12319-25). Any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clauses; and, if so, whether it has filed all compliance reports due under applicable instructions. Where this certification indicates that the prime or subcontractor has not filed a compliance report due under applicable instruction, such contractor shall be required to submit a compliance report.

THIS FORM ALONG WITH ITEMS LISTED IN SPECIAL NOTICE #1 IS TO BE SUBMITTED BY LOW BIDDER AND PROPOSED SUBCONTRACTORS WITH A PROCUREMENT VALUE OVER \$10,000 TO THE OWNER TEN (10) DAYS AFTER BID OPENING.

Prime or Subcontractor's Name: _____

Address: _____

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause. YES _____ NO _____

2. Compliance Reports were required to be filed in connection with such contract or subcontract. YES _____ NO _____

If YES, state what reports were filed and with what agency.

3. Bidder has filed all compliance reports due under applicable instructions YES _____ NO _____

4. If answer to item 3 is NO, please explain in detail on reverse side of this certification. The information above is true and complete to the best of my knowledge and belief. (A willfully false statement is punishable by law - U.S. Code, Title 18, Section 1001.)

NAME AND TITLE OF SIGNER (PLEASE TYPE)

SIGNATURE

DATE

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS**

Under Executive Order 12549 individuals or organizations debarred from participation in Federal Assistance Programs may not receive an assistance award under a federal program or subagreement thereunder for \$25,000 or more. Accordingly each recipient of a Drinking Water Systems Improvements Revolving Loan Fund loan or a contract (engineering or construction) awarded under a loan must complete the following certification (see 40 CFR 32.510).

The loan recipient must obtain this certification from all contractors (prime construction contractor and subcontractors/equipment/material suppliers). The Department will not approve the award of a contract for DWSIRLF participation until the loan recipient certifies that certification has been obtained from the successful bidder and his sub-contractors. Prime and subcontractor/equipment/material suppliers' certifications must be included with the executed contract documents submittal to the Department.

The prospective participant certifies to the best of their knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and (d) Have not within a three year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 U.S.C. Subsection 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Prime or Subcontractor's Name

Signature/Date

() I am unable to certify to the above statements. Attached is my explanation.

Davis Bacon and Related Acts

(a) The Recipient shall insure that the **loan recipient(s)** shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, 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.

Loan recipients may obtain wage determinations from the U.S. Department of Labor's web site, www.wdol.gov.

(ii)(A) The **loan recipient(s)**, on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The EPA award official shall approve 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 **loan recipient(s)** agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the **loan recipient(s)** to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action 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 **loan recipient(s)** do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the questions, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt 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 **loan recipient(s)**, shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe

benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the **loan recipient**, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the **loan 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 **loan recipient** (s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the **loan recipient** (s).

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

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

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

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

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

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

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

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or 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 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 **Loan recipient(s)**, State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

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

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

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

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

(a) Contract Work Hours and Safety Standards Act. The **loan recipient** shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFF 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 (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 forty 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 **loan recipient**, 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 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 (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 **loan 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 **Loan recipient** shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

- (a). The **loan 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 **loan recipient** must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.
- (b) The **loan 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 **loan recipient** must 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. **Loan recipients** 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. **Loan recipients** 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 **loan 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 **loan 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, the **loan recipient** must 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. **Loan recipients** must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the **loan recipient** shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.
- (d). The **loan 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) **Loan recipients** must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/esa/contacts/whd/america2.htm>.

American Iron and Steel Provisions

This contract is funded in whole or in part by funds as is established in the Safe Drinking Water Act's State Revolving Loan Funds (42 U.S.C. 300j-12). 42 U.S.C. 300-12(a)(4) states:

(A) funds made available by a State loan fund established pursuant to this section may not be used for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

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

(C) Subparagraph (A) shall be waived in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the "Administrator") finds that –

- (iv) Applying subparagraph (A) would be inconsistent with the public interest;
- (v) Iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality; or
- (vi) Inclusion of iron and steel products in the United States will increase the cost of the overall project by more than 25 percent.

Contractor Letterhead

Drinking Water Systems Improvements Revolving Loan Fund (DWSIRLF) Contractor/Subcontractor American Iron and Steel (AIS) Certification

Contractor/Sub Name: _____

Contractor Estimate: _____

I hereby certify that to the best of my knowledge and belief that all iron, steel and construction materials identified in the referenced estimate comply with the American Iron and Steel provisions as defined in 42 U.S.C. 300j-12(a)(4) of the Safe Drinking Water Act or the items are subject of a waiver of the requirements as approved by the Administrator of the Environmental Protection Agency (EPA). Additionally, manufacturer AIS certifications have been provided to the owner for all applicable material included in the referenced estimate.

I understand that a false statement on this certification will be grounds for rejection of payment and contract termination.

Signature of Prime or Subcontractor Representative

Date

Type (Print) Name of Prime or Subcontractor Representative

