

SUDBURY WATER DISTRICT  
EAST STREET WATER TREATMENT PLANT (WTP) PFAS TREATMENT  
DWSRF-11383  
ADDENDUM NO. 7

.....  
To be considered as part of the contract drawings and specifications for the East Street WTP PFAS Treatment Project, DWSRF-11383.

**CLARIFICATIONS**

**Q1:** 46 61 80 2.03 A.13 requires basket strainers. Basket strainers are typically only required for internal cone design or underdrains utilizing polypropylene components in case of nozzle failure; the external ring header's design incorporates robust septa therefore does not require basket strainers. **Please confirm these basket strainers are only required for the cone underdrain.**

**A1:** Basket strainers are required independent of underdrain type.

**Q2:** 6 61 80 2.03 D.3. calls for NSF-61 flanged Expansion Joints. These are typically used only when vessels and piping systems have not been shop fit. AV's systems are shop fit, meaning that we provide final fit up of all system piping and vessels in a shop environment to ensure field fit up is seamless and without the use of expansion joints. This pre-installation fit up eliminates any need for expansion joints within the systems' piping. **For this reason, can the expansion joints be removed as a required system component when system is shop fit?**

**A2:** Expansion joints shall be provided for connection between filter effluent and valve manifold.

**Q3:** Specification 46 61 80, Paragraph 2.03.A.2. – 36" manway can be provided as provided in the past for vessels however they will require a separate, outside means of moving the manway cover (davit cannot support the weight); also, a special torque wrench for the 1 1/2" bolts required to manage the bolts on the manway which is not easily obtained. Please confirm 36" manway must be included in the scope of supply.

**A3:** A 36" manway shall be supplied.

**Q4:** 2.03.A.2. – 18x24 flanged manway – just wanted to clarify that a yoke-style manway which pulls cover on interior of vessel against collar welded onto tank will be acceptable as an 18"x24" flanged manway is not available

**A4:** 18" x 24" yoke-style manway is acceptable.

**Q5:** 2.03.D.13 – Fittings for DPT described – is there a specification for the transmitter that will be used and who is responsible for supplying the transmitter?

**A5:** See Specification 40 91 00, Paragraph 2.04A.

**Q6:** 2.03.D.14 – Bray valves were supplied on the Raymond Road WTP in Sudbury in the past. Will it be possible to supply the same Bray valves as supplied on that project?

**A6:** Valves that comply with the requirements of Specification Section 40 05 23.13, Paragraph 2.01 BUTTERFLY VALVES will be acceptable. Bray hand operated butterfly valves shall be considered as an "equal" product.

**Q7:** Project requires compliance with BABA. Is the media to be supplied with the vessels included in this consideration?

**A7:** This project is EXEMPT from BABA requirements. Please see Addendum No. 3, Specifications No.1.

**Q8:** Can you please confirm the HPs listed under table 1.03 A.

3A is requiring a 100HP motor to be NOL.

8A is borderline with a 60HP motor should be a 75HP.

10 needs a 75HP to be NOL.

**A8:** See Specification edit #13 below. The flow capacity of each of the pumps has been revised in the revised paragraph 1.03A.

**Q9:** Section 43411 calls for three Vertical turbine pumps to be installed but none are shown on the drawings. Please provide the locations and details for the pump installations.

**A9:** See Drawing E202 and Specification 43 21 13

**Q10:** There are no details for any Vertical Turbine Pumps on the electrical drawings. Who is responsible for the electrical to power the three Vertical Turbine Pumps in section 43411

**A10:** See Drawing E202 and Specification 43 21 13

## **SPECIFICATIONS**

### 1. Table of Contents

**REPLACE:** Cast in Place Concrete spec Section number "03 03 00" with "03 30 00"

**REPLACE:** Gravity Ductile Iron Pipe spec Section number "33 31 13" with "33 31 13.19"

**REPLACE:** Seeding "32 91 19" with Seeding "32 92 19"

**REPLACE:** "Hydrants and Valves 33 12 12" with "Hydrants and Valves for Potable Water Work 33 12 22"

**REPLACE:** "Gravity Ductile Iron Pipe 33 31 13" with "Ductile Iron Gravity and Fittings for Sewer 33 31 13.19"

### 2. SECTION 00 41 13 Form for General Bid

**DELETE:** "Pursuant to M.G.L. CH. 62C, Sec 49A, I certify under the penalties of perjury that I have complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support."

**ADD:** "Pursuant to M.G.L.c.62C, s49A I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all State Taxes required under law."

### 3. SECTION 00 45 13 DCAM Prime/GC Update Statement

**See Replacement Attachment:** "00 45 13 - Update Statement General and GC", in its entirety.

4. SECTION 00 45 13.13 DCAM Sub-Bidder Update Statement

**See Replacement Attachment:** “00 45 13.13 - Update Statement SubBidder”, in its entirety.

5. SECTION 00 45 46 Diesel Retrofit Program

**See Replacement Attachment,** “00 45 46 - Diesel Retrofit Program”, in its entirety.

6. SECTION 00 52 00 Agreement

**DELETE:** “...(municipality)...”

**ADD:** “...(Sudbury Water District)...”

7. SECTION 00 73 00 Supplementary Conditions

**REPLACE:** Employer’s Liability “each accident \$100,000” with “each accident \$500,000”

8. SECTION 00 73 73.13 State Statutes and Regulations Commonwealth of Massachusetts

**REPLACE:** “Massachusetts Bureau of Municipal Facilities” with “Massachusetts Bureau of Water Resources Division of Municipal Services”

**REPLACE:** “Policy Memorandum CG-“ with Policy Memorandum PM-“

9. SECTION 00 73 73.43B Excerpts from Chapters 30, 82 and 149 of the Massachusetts General Laws

a. Section 40. DEFINITIONS

**ADD:** “Marking standards’, the methods by which a company designates its facilities in accordance with standards established by the Common Ground Alliance and the American Public Works Association.”

**ADD:** “Non-mechanical means’, excavation using any device or tool manipulated by human power, including air vacuum, air blowing or similar methods of excavation designed to minimize direct contact with utilities.”

b. Section 40A. EXCAVATIONS; NOTICE

**ADD:** “Any professional land surveyor working on a preliminary design for a new facility or renovation where excavation is necessary shall: (i) premark the proposed excavation; and (ii) provide initial notice to the system.”

c. Section 40B. DESIGNATION OF LOCATION OF UNDERGROUND FACILITIES

**ADD:** “A company shall conduct periodic audits to ensure: (i) the accuracy of the designated location and marking of its facilities; and (ii) its adherence to marking standards.”

d. Section 40E. VIOLATIONS OF SECS. 40A to 40E; PUNISHMENT

**ADD:** “The department of public utilities may require any person or company not in compliance with sections 40A to 40E, inclusive, to complete a "Dig Safe" training program in lieu of a fine for a first offense.”

10. SECTION 00 73 73.53 Attachment D – DEP Division of Municipal Services Policies

**See Replacement Attachment:** “00 73 73.53 - Policy Memorandum”, in its entirety.

11. SECTION 00 73 73.73 Davis Bacon Act Requirements

**See Replacement Attachment:** “00 73 73.73 - Davis Bacon Requirements”, in its entirety.

12. SECTION 43 21 13.13 Vertical Turbine Pumps

**DELETE:** Paragraph 1.03A in its entirety.

**ADD:** 1.03 PUMP SCHEDULE:

A. The following vertical turbine pumps shall be furnished and installed under this section:

| Pump      | Capacity<br>(gpm) | Total<br>Dynamic<br>Head (feet) | Maximum<br>Motor<br>Horsepower | Minimum<br>Field<br>Efficiency | Distance<br>(feet)* |
|-----------|-------------------|---------------------------------|--------------------------------|--------------------------------|---------------------|
| <b>3A</b> | <b>550</b>        | <b>375</b>                      | <b>75</b>                      | <b>70%</b>                     | <b>56' 2"</b>       |
| <b>8A</b> | <b>500</b>        | <b>341</b>                      | <b>60</b>                      | <b>70%</b>                     | <b>55</b>           |
| <b>10</b> | <b>350</b>        | <b>376</b>                      | <b>50</b>                      | <b>70%</b>                     | <b>55</b>           |

**PRIME UPDATE STATEMENTS ARE NOT PUBLIC RECORDS AND  
ARE NOT OPEN TO PUBLIC INSPECTION (M.G.L. C.149, §44D)**

**TO ALL BIDDERS AND AWARDING AUTHORITIES**

A COMPLETED AND SIGNED PRIME CONTRACTOR UPDATE STATEMENT MUST BE SUBMITTED WITH EVERY PRIME BID FOR A CONTRACT PURSUANT TO M.G.L. c.149, §44A AND M.G.L. c. 149A. ANY PRIME BID SUBMITTED WITHOUT AN APPROPRIATE UPDATE STATEMENT IS INVALID AND MUST BE REJECTED.

***Caution: This form is to be used for submitting Prime Contract bids. It is not to be used for submitting Filed Sub-Bids or Trade Sub-Bids.***

**AWARDING AUTHORITIES**

**If the Awarding Authority determines that the bidder does not demonstrably possess the skill, ability and integrity necessary to perform the work on the project, it must reject the bid.**

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**BIDDER'S AFFIDAVIT**

I swear under the pains and penalties of perjury that I am duly authorized by the bidder named below to sign and submit this Prime Contractor Update Statement on behalf of the bidder named below, that I have read this Prime Contractor Update Statement, and that all of the information provided by the bidder in this Prime Contractor Update Statement is true, accurate, and complete as of the bid date.

|  |                                |
|--|--------------------------------|
| Bid Date                                 | Print Name of Prime Contractor |
| Project Number<br>(or name if no number) | Business Address               |
| Awarding Authority                       | Telephone Number               |

**SIGNATURE⇒**

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**Bidder's Authorized Representative**

**INSTRUCTIONS**

## **INSTRUCTIONS TO BIDDERS**

- This form must be completed and submitted by all Prime contractors bidding on projects pursuant to M.G.L. c. 149, §44A and M.G.L. c. 149A.
- You must give complete and accurate answers to all questions and provide all of the information requested. **MAKING A MATERIALLY FALSE STATEMENT IN THIS UPDATE STATEMENT IS GROUNDS FOR REJECTING YOUR BID AND FOR DEBARRING YOU FROM ALL PUBLIC CONTRACTING.**
- **This Update Statement must include all requested information that was not previously reported on the Application used for your firm's most recently issued (not extended or amended) Prime Contractor Certificate of Eligibility. The Update Statement must cover the entire period since the date of your Application, NOT since the date of your Certification.**
- You must use this official form of Update Statement. Copies of this form may be obtained from the awarding authority and from the Division of Capital Asset Management and Maintenance Web Site: [www.mass.gov/DCAMM](http://www.mass.gov/DCAMM).
- If additional space is needed, please copy the appropriate page of this Update Statement and attach it as an additional sheet.
- See the section entitled "Bidding Limits" in the *Instructions to Awarding Authorities* for important information concerning your bidding limits.

## **INSTRUCTIONS TO AWARDING AUTHORITIES**

### ***Determination of Bidder Qualifications***

- It is the awarding authority's responsibility to determine who is the lowest eligible and responsible bidder. You must consider all of the information in the low bidder's Update Statement in making this determination. Remember: this information was not available to the Division of Capital Asset Management and Maintenance at the time of certification.
- The bidder's performance on the projects listed in Parts 1 and 2 must be part of your review. Contact the project references.
- **AWARDING AUTHORITIES ARE STRONGLY ENCOURAGED TO REVIEW THE LOW BIDDER'S ENTIRE CERTIFICATION FILE AT THE DIVISION OF**

CAPITAL ASSET MANAGEMENT AND MAINTENANCE. Telephone (617) 727-9320 for an appointment.

### ***Bidding Limits***

Single Project Limit: The total amount of the bid, including all alternates, may not exceed the bidder's Single Project Limit.

Aggregate Work Limit: The annual value of the work to be performed on the contract for which the bid is submitted, when added to the annual cost to complete the bidder's other currently held contracts, may not exceed the bidder's Aggregate Work Limit. Use the following procedure to determine whether the low bidder is within its Aggregate Work Limit:

Step 1 Review Update Statement Question #2 to make sure that all requested information is provided and that the bidder has accurately calculated and totaled the annualized value of all incomplete work on its currently held contracts (column 9).

Step 2 Determine the annual dollar value of the work to be performed on your project. This is done as follows:

(i) If the project is to be completed in less than 12 months, the annual dollar value of the work is equal to the full amount of the bid.

(ii) If the project will take more than 12 months to complete, calculate the number of years given to complete the project by dividing the total number of months in the project schedule by 12 (calculate to 3 decimal places), then divide the amount of the bid by the calculated number of years to find the annual dollar value of the work.

Step 3 Add the annualized value of all of the bidder's incomplete contract work (the total of column 9 on page 5) to the annual dollar value of the work to be

performed on your project. **The total may not exceed the bidder's Aggregate Work Limit.**

***Correction of Errors and Omissions in Update Statements***

Matters of Form: An awarding authority shall not reject a contractor's bid because there are mistakes or omissions of form in the Update Statement submitted with the bid, provided the contractor promptly

corrects those mistakes or omissions upon request of the awarding authority. [810 CMR 8.05(1)].

Correction of Other Defects: An awarding authority may, in its discretion, give a contractor notice of defects, other than mistakes or omissions of form, in the contractor's Update Statement, and an opportunity to correct such defects, provided the correction of such defects is not prejudicial to fair competition. An awarding authority may reject a corrected Update Statement if it contains unfavorable information about the contractor that was omitted from the Update Statement filed with the contractor's bid. [810 CMR 8.05(2)].

**PART 1 - COMPLETED PROJECTS**

LIST ALL PUBLIC AND PRIVATE *BUILDING* PROJECTS YOUR FIRM HAS COMPLETED SINCE THE DATE OF APPLICATION FOR YOUR MOST RECENTLY ISSUED (NOT EXTENDED OR AMENDED) DCAMM CERTIFICATE OF ELIGIBILITY. YOU MUST REPORT ALL REQUESTED INFORMATION NOT PREVIOUSLY REPORTED ON THAT DCAMM APPLICATION\*.

| PROJECT TITLE & LOCATION | WORK CATEGORY | CONTRACT PRICE | START DATE | DATE COMPLETED |
|--------------------------|---------------|----------------|------------|----------------|
|                          |               |                |            |                |
|                          |               |                |            |                |
|                          |               |                |            |                |
|                          |               |                |            |                |
|                          |               |                |            |                |
|                          |               |                |            |                |

Attach additional sheets if necessary

\* If your firm has been terminated from a project prior to completion of the work or has failed or refused to complete its work under any contract, full details and an explanation must be provided. See Part 3 of this Update Statement.



PROVIDE THE FOLLOWING REFERENCE INFORMATION FOR EACH COMPLETED PROJECT LISTED ON THE PREVIOUS PAGE.

| PROJECT TITLE | COMPANY NAME | CONTACT PERSON | TELEPHONE |
|---------------|--------------|----------------|-----------|
|               | OWNER:       |                |           |
|               | DESIGNER:    |                |           |
|               | GC:          |                |           |
|               | OWNER:       |                |           |
|               | DESIGNER:    |                |           |
|               | GC:          |                |           |
|               | OWNER:       |                |           |
|               | DESIGNER:    |                |           |
|               | GC:          |                |           |
|               | OWNER:       |                |           |
|               | DESIGNER:    |                |           |
|               | GC:          |                |           |
|               | OWNER:       |                |           |
|               | DESIGNER:    |                |           |
|               | GC:          |                |           |

Is your company or any individual who owns, manages or controls your company affiliated with any owner, designer or general contractor named above, either through a business or family relationship?  YES  NO

Are any of the contact persons named above affiliated with your company or any individual who owns, manages or control your company, either through a business or family relationship?  YES  NO

If you have answered YES to either question, explain. \_\_\_\_\_

**PART 2 - CURRENTLY HELD CONTRACTS**

LIST ALL PUBLIC AND PRIVATE BUILDING AND NON-BUILDING *CONSTRUCTION* PROJECTS YOUR COMPANY HAS UNDER CONTRACT ON THIS DATE REGARDLESS OF WHEN OR WHETHER THE WORK COMMENCED.

| 1                        | 2             | 3                   | 4                      | 5              | 6              | 7   | 8                                       | 9  |
|--------------------------|---------------|---------------------|------------------------|----------------|----------------|---|---|--|
| PROJECT TITLE & LOCATION | WORK CATEGORY | START AND END DATES | ON SCHEDULE (yes / no) | CONTRACT PRICE | % NOT COMPLETE | \$ VALUE OF WORK NOT COMPLETE (col. 5 X col. 6) | NO. OF YEARS REMAINING (see note below) | ANNUALIZED VALUE OF INCOMPLETE WORK (col. 7 ÷ col. 8) (divided by) |
|                          |               |                     |                        |                |                |   |   |  |
|                          |               |                     |                        |                |                |   |   |  |
|                          |               |                     |                        |                |                |   |   |  |
|                          |               |                     |                        |                |                |   |   |  |
|                          |               |                     |                        |                |                |   |   |  |

ANNUALIZED VALUE OF ALL INCOMPLETE CONTRACT WORK (Total of Column 9)

\$ \_\_\_\_\_

- Column 8
- If less than one year is left in the project schedule, write 1.
  - If more than 12 months are left in the project schedule, divide the number of months left in the project schedule by 12 (calculate to three decimal places).

PROVIDE THE FOLLOWING REFERENCE INFORMATION FOR EACH CURRENTLY HELD PROJECT LISTED ON THE PREVIOUS PAGE.

| PROJECT TITLE | COMPANY NAME | CONTACT PERSON | TELEPHONE |
|---------------|--------------|----------------|-----------|
|               | OWNER:       |                |           |
|               | DESIGNER:    |                |           |
|               | GC:          |                |           |
|               | OWNER:       |                |           |
|               | DESIGNER:    |                |           |
|               | GC:          |                |           |
|               | OWNER:       |                |           |
|               | DESIGNER:    |                |           |
|               | GC:          |                |           |
|               | OWNER:       |                |           |
|               | DESIGNER:    |                |           |
|               | GC:          |                |           |
|               | OWNER:       |                |           |
|               | DESIGNER:    |                |           |
|               | GC:          |                |           |

Is your company or any individual who owns, manages or controls your company affiliated with any owner, designer or general contractor named above either through a business or family relationship?  YES  NO

Are any of the contact persons named above affiliated with your company or any individual who owns, manages or control your company, either through a business or family relationship?  YES  NO

If you have answered YES to either question, explain. \_\_\_\_\_

For **Parts 3 and 4**, if you answer YES to any question, please provide on a separate page a complete explanation. You must report all requested information not previously reported on your most recent DCAMM Application for Prime Certificate of Eligibility. Information must supplement all judicial and administrative proceedings involving bidder's firm, which were instituted or concluded (adversely or otherwise) since your firm's Application for your most recently issued (not extended or amended) Certificate of Eligibility. Include all details [project name(s) and location(s), names of all parties involved, relevant dates, etc.].

**PART 3 – GENERAL PERFORMANCE**

Part 3 of the Update Statement corresponds to Section 5 of the Prime Application. The numbering below refers back to the numbered questions in the application for your reference.

**Prime Application Section 5 - General Performance**

|  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| 5.A. Has your Company been terminated prior to completion of a Contract?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.B. Has your Company failed or refused to perform or complete any of its Scope of Work under any Contract prior to substantial completion?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.C. Has your Company and/or any principal, officer, or individual with a Financial Interest in your Company filed for bankruptcy?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.D. Has a surety for your Company taken over or been asked to complete your Scope of Work under any Contract?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.E. Has a payment or performance bond been invoked against your Company on any Contract?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.F. Has any surety for your Company made payment under a payment bond to a vendor or supplier or other party on any Contract?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.G. Has any subcontractor filed a demand for direct payment on any of your Contracts?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.H. Has a lawsuit been filed by any of your subcontractors or suppliers to enforce a mechanic's lien in connection with any of your Contracts?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.I. Has there been a death of any Company employee or other person in connection with (or as the result of) performing your Company's Scope of Work on any of your Contracts?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.J. Has any Company employee or other person suffered an injury while performing any tasks within the Scope of Work on any of your Contracts resulting in his/her inability to return to work for a period in excess of one year? | <input type="checkbox"/> | <input type="checkbox"/> |

**PART 4 – LEGAL OR ADMINISTRATIVE PROCEEDINGS; COMPLIANCE WITH LAWS**

Part 4 of the Update Statement corresponds to section 6 of the Prime Application. The numbering below refers back to the numbered questions in the application for your reference.

**Prime Application Section 6 -Legal or Administrative Proceedings; Compliance with Laws**

The term “administrative proceeding” as used in this Prime Contractor Update Statement includes (i) any action taken or proceeding brought by a governmental agency, department or officer to enforce any law, regulation, code, legal, or contractual requirement, except for those brought in state or federal courts, or (ii) any action taken by a governmental agency, department or officer imposing penalties, fines or other sanctions for failure to comply with any such legal or contractual requirement.

The term “anyone with a financial interest in your firm” as used in this Section “I”, shall mean any person and/or entity with a 5% or greater ownership interest in the applicant’s firm.

|  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| 6.A. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to the procurement or performance of any of your Contracts?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.B. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to a violation of any state or federal construction procurement laws?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.C. Have any criminal charges involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to the procurement or performance of any of your Contracts (e.g., fraud, graft, embezzlement, forgery, bribery, falsification or destruction of records or receipt of stolen property)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.D. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to a violation of state ethics laws (in Massachusetts: M.G.L. Chapter 268A)?  | <input type="checkbox"/> | <input type="checkbox"/> |

**Section 6 - Legal or Administrative Proceedings; Compliance with Laws (continued)**

|  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| 6.E. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to a violation of any state or federal law regulating hours of labor, unemployment compensation, minimum wages, prevailing wages, overtime pay, equal pay, child labor or worker’s compensation?          | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.F. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to a violation of any state or federal law prohibiting discrimination in hiring and/or employment?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.G. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled for violation of any state or federal law regulating labor relations, including collective bargaining agreements, employee welfare benefit plans, employee pension benefit plans, other ERISA and non-ERISA plans? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.H. Have any proceedings by a local, state, or federal agency been brought, concluded, or settled relating to decertification, debarment or suspension of your Company and/or any principal or officer or individual with a Financial Interest in your Company from construction contracting?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.I. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to a violation of state or federal environmental laws?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.J. Has your Company been fined or sanctioned by OSHA and/or any other state or federal agency for violations of any laws or regulations related to occupational health or safety?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.K. Has your Company ever (i) failed to meet applicable workforce and/or diversity program goals, benchmarks or other requirements, and/or (ii) been sanctioned, fined and/or penalized for non-compliance with workforce policies and/or diversity programs (e.g., for MBEs, WBEs, SDBOs and DBEs) and/or failure to maintain and/or submit required reports, such as certified payrolls.                                      | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.L. Other than previously reported in the above questions, have any Judicial Actions or Administrative Proceedings or investigations involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled by any local, state or federal agency relating to the procurement or performance of any construction contract?                            | <input type="checkbox"/> | <input type="checkbox"/> |

**PART 5 - SUPERVISORY PERSONNEL**

List all supervisory personnel, such as project managers and superintendents, who will be assigned to the project if your firm is awarded the contract. **Attach the resume of each person listed below.**

| NAME | TITLE OR FUNCTION |
|------|-------------------|
|      |                   |
|      |                   |
|      |                   |
|      |                   |

**PART 6 - CHANGES IN BUSINESS ORGANIZATION OR FINANCIAL CONDITION**

Have there been any changes in your company’s business organization (**including changes in ownership, mergers, or asset/stock sales**), financial condition or bonding capacity since the date your current Certificate of Eligibility was issued?  Yes  No

**If YES, attach a separate page providing complete details.**

**PART 7 – LIST OF COMPLETED CONSTRUCTION PROJECTS SUBMITTED TO THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE.**

**Attach here a copy of the list of completed construction projects which was submitted with your firm’s DCAMM Application for your most recently issued (not extended or amended) DCAMM Certificate of Eligibility. The Attachment must include a complete copy of the entire Projects Table – “Completed Projects” and the final page – “Certification” (Signature Page) containing the signature and date that the Completed Projects list was submitted to the Division of Capital Asset Management and Maintenance.**



**SUB-BIDDERS' UPDATE STATEMENTS ARE NOT PUBLIC RECORDS AND  
ARE NOT OPEN TO PUBLIC INSPECTION (M.G.L. C.149, §44D)**

## Sub-Bidder Update Statement

### TO ALL SUB-BIDDERS, TRADE CONTRACTORS AND AWARDING AUTHORITIES

A COMPLETED AND SIGNED SUB-BIDDER UPDATE STATEMENT MUST BE SUBMITTED WITH EVERY FILED SUB-BID PURSUANT TO M.G.L. c.149, §44F AND EVERY TRADE SUB-BID PURSUANT TO M.G.L. c. 149A. ANY FILED SUB-BID OR TRADE SUB-BID SUBMITTED WITHOUT AN APPROPRIATE SUB-BIDDER UPDATE STATEMENT IS INVALID AND MUST BE REJECTED.

***Caution: This form is to be used for submitting Filed Sub-Bids and Trade Sub-Bids Only***

### AWARDING AUTHORITIES

**If the Awarding Authority determines that the Sub-Bidder is not competent to perform the work as specified on the project, it should reject the bid.**

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### SUB-BIDDER'S AFFIDAVIT

I swear under the pains and penalties of perjury that I am duly authorized by the bidder named below to sign and submit this Sub-Bidder Update Statement on behalf of the bidder named below, that I have read this Sub-Bidder Update Statement, and that all of the information provided by the bidder in this Sub-Bidder Update Statement is true, accurate, and complete as of the bid date.

---

Bid Date

---

Print Name of Sub-Bidder or Trade Contractor

---

Project Number  
(or name if no number)

---

Business Address

---

Awarding Authority

---

Telephone Number

**SIGNATURE⇒**

---

**Bidder's Authorized Representative**



## INSTRUCTIONS

### INSTRUCTIONS TO SUB-BIDDERS

- This form must be completed and submitted by all Filed Sub-Bidders bidding on projects pursuant to M.G.L. c. 149, §44F and Trade Contractors bidding on projects pursuant to M.G.L. c. 149A.
- You must give complete and accurate answers to all questions and provide all of the information requested. **MAKING A MATERIALLY FALSE STATEMENT IN THIS SUB-BIDDER UPDATE STATEMENT IS GROUNDS FOR REJECTING YOUR BID AND FOR DEBARRING YOU FROM ALL PUBLIC CONTRACTING.**
- **This Sub-Bidder Update Statement must include all requested information that was not previously reported on the Application used for your company's most recently issued (not extended or amended) Sub-Bidder Certificate of Eligibility. The Sub-Bidder Update Statement must cover the entire period since the date of that Application, NOT since the date of your Certification.**
- You must use this official form of Sub-Bidder Update Statement. Copies of this form may be obtained from the awarding authority or from the DCAMM Web Site:  
[www.mass.gov/DCAMM/certification](http://www.mass.gov/DCAMM/certification).
- If additional space is needed, please copy the appropriate page of this Sub-Bidder Update Statement and attach it as an additional sheet.

### INSTRUCTIONS TO AWARDING AUTHORITIES

#### ***Determination of Sub-Bidder Qualifications***

- It is the awarding authority's responsibility to determine each responsible bidder. You must consider all of the information in the bidder's Sub-Bidder Update Statement in making this determination. Remember: this information was not available to the Division of Capital Asset Management and Maintenance at the time of certification.
- The Sub-Bidder's performance on the projects listed in Parts 1 and 2 must be part of your review. Contact the project references.
- Awarding Authorities are strongly encouraged to review the Sub-Bidder's entire certification file at the Division of Capital Asset Management and Maintenance, telephone (857) 204-1305 or via email at [certification.DCAMM@mass.gov](mailto:certification.DCAMM@mass.gov) for an appointment.

#### ***Correction of Errors and Omissions in Sub-Bidder Update Statements***

Matters of Form: An awarding authority shall not reject a Sub-Bidder's bid because there are mistakes or omissions of form in the Sub-Bidder Update Statement submitted with the bid pursuant to M.G.L. c.149, §44D, provided the Sub-Bidder promptly corrects those mistakes or omissions upon request of the awarding authority. [810 CMR 8.13(1)]

Correction of Other Defects: An awarding authority may, in its discretion, give a Sub-Bidder notice of minor defects and omissions as to form in the Sub-Bidder's Update Statement and provide an opportunity to correct its Sub-Bidder Update Statement. However, the Sub-Bidder shall not be allowed to make corrections to a Sub-Bidder Update Statement if material information about the Sub-Bidder was omitted from the Sub-Bidder Update Statement filed with the Sub-Bidder's bid. The Awarding Authority shall advise DCAMM of any material omissions in a Sub-Bidder's Update Statement. [810 CMR 8.13(2)]

**PART 1 - COMPLETED PROJECTS**

List All Public And Private Projects Of \$20,000 or more your company has completed since the date of application for your most recently issued (not extended or amended) Sub-Bidder Certificate Of Eligibility\*.

| PROJECT TITLE & LOCATION | WORK CATEGORY | CONTRACT PRICE | START DATE | DATE COMPLETED |
|--------------------------|---------------|----------------|------------|----------------|
|                          |               |                |            |                |
|                          |               |                |            |                |
|                          |               |                |            |                |
|                          |               |                |            |                |
|                          |               |                |            |                |
|                          |               |                |            |                |

Attach additional sheets if necessary

\* If your company has been terminated from a project prior to completion of the work or has failed or refused to complete its work under any contract, full details and an explanation must be provided. See Part 3 of this Sub-Bidder Update Statement.

PROVIDE THE FOLLOWING REFERENCE INFORMATION FOR EACH COMPLETED PROJECT LISTED ON THE PREVIOUS PAGE.

| PROJECT TITLE |          | COMPANY NAME | CONTACT PERSON | TELEPHONE | EMAIL ADDRESS |
|---------------|----------|--------------|----------------|-----------|---------------|
|               | OWNER:   |              |                |           |               |
|               | DESIGNER |              |                |           |               |
|               | GC:      |              |                |           |               |
|               | OWNER:   |              |                |           |               |
|               | DESIGNER |              |                |           |               |
|               | GC:      |              |                |           |               |
|               | OWNER:   |              |                |           |               |
|               | DESIGNER |              |                |           |               |
|               | GC:      |              |                |           |               |
|               | OWNER:   |              |                |           |               |
|               | DESIGNER |              |                |           |               |
|               | GC:      |              |                |           |               |
|               | OWNER:   |              |                |           |               |
|               | DESIGNER |              |                |           |               |
|               | GC:      |              |                |           |               |
|               | OWNER:   |              |                |           |               |
|               | DESIGNER |              |                |           |               |
|               | GC:      |              |                |           |               |

Is your company or any individual who owns, manages or controls your company affiliated with any owner, designer or general contractor named above, either through a business or family relationship?  YES  NO

Are any of the contact persons named above affiliated with your company or any individual who owns, manages or control your company, either through a business or family relationship?  YES  NO

If you have answered YES to either question, explain. \_\_\_\_\_

**PART 2 – PROJECTS IN PROGRESS CONTRACTS**

List all public and private projects of \$20,000 or more your company has under contract on this date regardless of when or whether the work commenced.

| 1                        | 2             | 3                             | 4                      | 5              | 6              | 7   |
|--------------------------|---------------|-------------------------------|------------------------|----------------|----------------|---|
| PROJECT TITLE & LOCATION | WORK CATEGORY | START AND END DATES (MM/YYYY) | ON SCHEDULE (yes / no) | CONTRACT PRICE | % NOT COMPLETE | \$ VALUE OF WORK NOT COMPLETE (col. 5 X col. 6) |
|                          |               |                               |                        |                |                |   |
|                          |               |                               |                        |                |                |   |
|                          |               |                               |                        |                |                |   |
|                          |               |                               |                        |                |                |   |
|                          |               |                               |                        |                |                |   |

PROVIDE THE FOLLOWING REFERENCE INFORMATION FOR EACH INCOMPLETE PROJECT LISTED ON THE PREVIOUS PAGE.

| PROJECT TITLE |          | COMPANY NAME | CONTACT PERSON | TELEPHONE | EMAIL ADDRESS |
|---------------|----------|--------------|----------------|-----------|---------------|
|               | OWNER:   |              |                |           |               |
|               | DESIGNER |              |                |           |               |
|               | GC:      |              |                |           |               |
|               | OWNER:   |              |                |           |               |
|               | DESIGNER |              |                |           |               |
|               | GC:      |              |                |           |               |
|               | OWNER:   |              |                |           |               |
|               | DESIGNER |              |                |           |               |
|               | GC:      |              |                |           |               |
|               | OWNER:   |              |                |           |               |
|               | DESIGNER |              |                |           |               |
|               | GC:      |              |                |           |               |
|               | OWNER:   |              |                |           |               |
|               | DESIGNER |              |                |           |               |
|               | GC:      |              |                |           |               |

Is your company or any individual who owns, manages or controls your company affiliated with any owner, designer or general contractor named above either through a business or family relationship?  YES  NO

Are any of the contact persons named above affiliated with your company or any individual who owns, manages or control your company, either through a business or family relationship?  YES  NO

If you have answered YES to either question, explain. \_\_\_\_\_

**PART 3 - GENERAL PERFORMANCE**

**For Parts 3 and 4, if you answer YES to any question, please provide on a separate page a complete explanation. Information you provide herein must supplement the application for your most recently issued (not extended or amended) Sub-Bidder Certificate of Eligibility. You must report all requested information not previously reported on that application.**

Include all details [project name(s) and location(s), names of all parties involved, relevant dates, etc.].

|   | YES                      | NO                       |
|---|--------------------------|--------------------------|
| 5A. Has your Company been terminated prior to completion of a Contract?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5B. Has your Company failed or refused to perform or complete any of its Scope of Work under any Contract prior to substantial completion?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5C. Has your Company and/or any principal, officer, or individual with a Financial Interest in your Company filed for bankruptcy?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5D. Has a surety for your Company taken over or been asked to complete your Scope of Work under any Contract?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5E. Has a payment or performance bond been invoked against your Company on any Contract?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5F. Has any surety for your Company made payment under a payment bond to a vendor or supplier or other party on any Contract?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5G. Has any subcontractor filed a demand for direct payment on any of your Contracts?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5H. Has a lawsuit been filed by any of your subcontractors or suppliers to enforce a mechanic's lien in connection with any of your Contracts?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 5I. Has there been a death of any Company employee or other person in connection with (or as the result of) performing your Company's Scope of Work on any of your Contracts?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 5J. Has any Company employee or other person suffered an injury while performing any tasks within the Scope of Work on any of your Contracts resulting in his/her inability to return to work for a period in excess of one year? | <input type="checkbox"/> | <input type="checkbox"/> |

**PART 4 - Legal or Administrative Proceedings; Compliance with Laws**

**Please answer the following questions. Information must supplement all judicial and administrative proceedings involving bidder’s company, which were instituted or concluded (adversely or otherwise) since your company’s Application for your most recently issued (not extended or amended) Sub-Bidder Certificate of Eligibility. You must report all requested information not previously reported on that DCAMM Application.**

The term “administrative proceeding” as used in this Sub-Bidder Update Statement includes (i) any action taken or proceeding brought by a governmental agency, department or officer to enforce any law, regulation, code, legal, or contractual requirement, except for those brought in state or federal courts, or (ii) any action taken by a governmental agency, department or officer imposing penalties, fines or other sanctions for failure to comply with any such legal or contractual requirement.

The term “anyone with a financial interest in your company” as used in this Section “1”, shall mean any person and/or entity with a 5% or greater ownership interest in the applicant’s company.

**If you answer YES to any question, on a separate page provide a complete explanation of each proceeding or action and any judgment, decision, fine or other sanction or result. Include all details (name of court or administrative agency, title of case or proceeding, case number, date action was commenced, date judgment or decision was entered, fines or penalties imposed, etc.).**

|  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| 6.A. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to the procurement or performance of any of your Contracts?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.B. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to a violation of any state or federal construction procurement laws?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.C. Have any criminal charges involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to the procurement or performance of any of your Contracts (e.g., fraud, graft, embezzlement, forgery, bribery, falsification or destruction of records or receipt of stolen property)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.D. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to a violation of state ethics laws (in Massachusetts: M.G.L. Chapter 268A)?  | <input type="checkbox"/> | <input type="checkbox"/> |

**PART 4 - Legal or Administrative Proceedings; Compliance with Laws (continued)**

|  | YES                      | NO                       |
|--|--------------------------|--------------------------|
| 6.E. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to a violation of any state or federal law regulating hours of labor, unemployment compensation, minimum wages, prevailing wages, overtime pay, equal pay, child labor or worker’s compensation?          | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.F. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to a violation of any state or federal law prohibiting discrimination in hiring and/or employment?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.G. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled for violation of any state or federal law regulating labor relations, including collective bargaining agreements, employee welfare benefit plans, employee pension benefit plans, other ERISA and non-ERISA plans? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.H. Have any proceedings by a local, state, or federal agency been brought, concluded, or settled relating to decertification, debarment or suspension of your Company and/or any principal or officer or individual with a Financial Interest in your Company from construction contracting?   | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.I. Have any Judicial Actions or Administrative Proceedings involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled relating to a violation of state or federal environmental laws?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.J. Has your Company been fined or sanctioned by OSHA and/or any other state or federal agency for violations of any laws or regulations related to occupational health or safety?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.K. Has your Company ever (i) failed to meet applicable workforce and/or diversity program goals, benchmarks or other requirements, and/or (ii) been sanctioned, fined and/or penalized for non-compliance with workforce policies and/or diversity programs (e.g., for MBEs, WBEs, SDVOBEs and DBEs) and/or failure to maintain and/or submit required reports, such as certified payrolls.                                    | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.L. Other than previously reported in the above questions, have any Judicial Actions or Administrative Proceedings or investigations involving your Company and/or a principal or officer or individual with a Financial Interest in your Company been brought, concluded, or settled by any local, state or federal agency relating to the procurement or performance of any construction contract?                            | <input type="checkbox"/> | <input type="checkbox"/> |



**PART 5 - SUPERVISORY PERSONNEL**

List all supervisory personnel who will be assigned to the project if your company is awarded the contract.

**Attach the resume of each person listed below.**

| NAME | TITLE OR FUNCTION |
|------|-------------------|
|      |                   |
|      |                   |
|      |                   |
|      |                   |

**PART 6 - CHANGES IN BUSINESS ORGANIZATION OR FINANCIAL CONDITION**

Have there been any changes in your company’s business organization (including changes in ownership, mergers, or asset/stock sales), financial condition or bonding capacity since the date your current Certificate of Eligibility was issued?  Yes  No

**If YES, attach a separate page providing complete details.**

**PART 7 – LIST OF COMPLETED CONSTRUCTION PROJECTS SUBMITTED TO THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE ALONG WITH CERTIFICATION SIGNATURE PAGE.**

Attach here a copy of the list of completed construction projects which was submitted with your company’s application for your most recently issued (not extended or amended) Sub-Bidder Certificate of Eligibility. The Attachment must include a complete copy of the entire Completed Projects spreadsheet and the final page Certification (Signature) Page of the online application, containing the signature and date the completed projects list was submitted to the Division of Capital Asset Management and Maintenance.

## APPENDIX B DIESEL RETROFIT PROGRAM

The Department of Environmental Protection (“DEP”) has developed the Diesel Retrofit Program in response to increasing public health concerns with the emissions from diesel engines and vehicles.

### **Diesel Construction Equipment Standard**

All diesel powered non-road construction equipment and vehicles greater than 50 brake horsepower which will be used in the performance of the work under the Contract (hereinafter “Diesel Construction Equipment”) must have the following pollution control device installed unless exempt as provided below:

1. Emission control technology verified by U.S. Environmental Protection Agency (“EPA”) or the California Air Resources Board (“CARB”) for use with non-road engines;
2. Emission control technology verified by EPA or CARB for use with on-road engines provided that such equipment is operated with diesel fuel that has no more than 15 parts per million sulfur content (i.e. Ultra Low Sulfur Diesel fuel); or
3. Emission control technology certified by the manufacturer that such technology meets or exceeds the emission reductions provided by on-road or off-road emission control technology verified by EPA or CARB, i.e. that a Diesel Oxidation Catalyst is achieving the following minimum emission reductions: particulate matter 20%; carbon monoxide 40%; volatile organic compounds 50%; or a Diesel Particulate Filter is achieving a minimum of 85% emission reductions for particulate matter.

Emission control devices, such as oxidation catalysts or particulate filters, shall be installed on the exhaust system side of the Diesel Construction Equipment. The Contractor shall be responsible to insure that the emissions control technology is operated, maintained, and serviced as recommended by the manufacturer.

For the latest up-to-date list of EPA verified-technologies, see:

<https://www.epa.gov/verified-diesel-tech>

For the latest up-to-date list of CARB verified technologies, see:

<http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>

### **Exemptions**

The following Diesel Construction Equipment shall be exempt from the standard above. The Contractor shall include such Diesel Construction Equipment in the required recordkeeping:

1. Diesel Construction Equipment not owned by the Contractor and used in the performance of the work under this Contract for 30 calendar days (cumulative days but not necessarily consecutive) or less;
2. Unless otherwise exempt, additional Diesel Construction Equipment originally not anticipated to be used under the Contract or used as permanent replacement after the work under the Contract has commenced, for 15 calendar days from the date such Diesel Construction Equipment is brought on site;

**APPENDIX B (cont.)  
DIESEL RETROFIT PROGRAM**

3. Diesel Construction Equipment with an engine that meets the EPA particulate matter (PM) Tier emission standards in effect at the start of the Contract for non-road diesel engines for the applicable engine power group (e.g., as of January 1, 2009, a piece of Diesel Construction Equipment with a Tier 3 engine is exempt from meeting the standard until the piece of Diesel Construction Equipment is available with a Tier 4 engine) provided that if such emissions standards are superseded during the Contract then such Diesel Construction Equipment must be retrofitted in accordance with the standards above prior to the end of the Contract;
4. A large crane (e.g. a sky crane or link belt crane which is responsible for critical lift operations) if such device would adversely affect the operation of the crane provided the Contractor submits to the municipality's project engineer written technical justification documenting the adverse impact on operation; and
5. Diesel Construction Equipment that the project engineer has determined is necessary to control a compelling emergency including but not limited to, the need for rescue vehicles or other equipment to prevent harm to human beings or additional equipment required to address a catastrophic emergency such as structure collapse or imminent collapse. After the compelling emergency is controlled, such non-compliant equipment must be removed from the Contract site and may not be used in further performance of the work under this Contract. Meeting Contract deadlines is not a compelling emergency.

**Contractor Certification**

Each bidder shall submit as part of its bid, the Statement of Intent to Comply. Within 10 days of being notified that it has been awarded a contract, the bidder and each of its Contractors and Subcontractors shall submit a Diesel Retrofit Program Contractor Certification. Each such Certification shall contain the following information for each piece of Diesel Construction Equipment:

1. Contractor or Subcontractor name;
2. Equipment type, make, model;
3. Vehicle Identification Number or VIN;
4. Engine model and year of manufacture;
5. Engine HP rating;
6. Emission Control Device (ECD) type (Diesel Oxidation Catalyst or Diesel Particulate Filter);
7. ECD make, model, and manufacturer;
8. ECD EPA or CARB Verification Number or manufacturer's certification that the DOC or DPF meets or exceeds emission reductions provided by similar emission control technology verified by EPA or CARB;
9. ECD installation date;
10. Type of fuel to be used; and
11. Whether the equipment is owned or rented.

**Recordkeeping**

Each Contractor and Subcontractor shall maintain detailed records of all Diesel Construction Equipment used under the Contract, including the dates and duration times the Diesel Construction Equipment is

**APPENDIX B (cont.)  
DIESEL RETROFIT PROGRAM**

used at the Contract site. Records shall be available for inspection by DEP. Each Contractor and Subcontractor shall notify DEP within 48 hours of any new Diesel Construction Equipment brought onto the Contract site.

For Diesel Construction Equipment that has an emissions control device with a manufacturer's certification, the Contractor shall maintain records of all supporting emissions test data and test procedures. If upon review the emissions reductions are not supported by the test data and test procedures, then the emissions control device may need to be replaced with a compliant retrofit device.

**Project Regulatory Agreement**

The following language shall be included section 4 (Covenants of the Borrower) of the municipality's Project Regulatory Agreement if it receives funds from the State Revolving Fund:

The Borrower shall require each Contractor and Subcontractor to submit the Diesel Retrofit Program Contractor Certification to DEP and the Borrower prior to commencing work on the Project. The Borrower shall not allow any Contractor or Subcontractor to commence work at the Project site prior to submitting such Certification.

**APPENDIX B (cont.)  
DIESEL RETROFIT PROGRAM**

**STATEMENT OF INTENT TO COMPLY**

*This form must be signed and submitted by the bidder as part of the bid.*

**Local Governmental Unit** \_\_\_\_\_ **SRF Project No.** \_\_\_\_\_

**Contract No.** \_\_\_\_\_ **Contact Title** \_\_\_\_\_

**Bidder** \_\_\_\_\_

**The undersigned, on behalf of the above-named Bidder, agrees that, if awarded the Contract:**

- 1. the Bidder shall comply with the Massachusetts Department of Environmental Protection's ("MassDEP") Diesel Retrofit Program by ensuring that all diesel powered non-road construction equipment and vehicles greater than 50 brake horsepower which will be used in the performance of the work under the Contract are equipped or retrofitted with a pollution control device in accordance with the Diesel Retrofit Program Standard;**
- 2. the Bidder shall require all Subcontractors to comply with MassDEP's Diesel Retrofit Program by ensuring all diesel powered non-road construction equipment and vehicles greater than 50 brake horsepower which will be used in the performance of the work under the Contract are equipped or retrofitted with a pollution control device in accordance with the Diesel Retrofit Program Standard; and**
- 3. The Bidder shall submit and shall require each Subcontractor to submit a Diesel Retrofit Program Contractor Certification (form attached) with a Diesel Retrofit List to MassDEP Municipal Services and the Bidder within 10 days of the bidder being notified that it has been awarded the Contract. The Bidder shall require each Subcontractor to update such Certification and List within 2 days of using additional Diesel Construction Equipment on the project under the Contract.**

\_\_\_\_\_  
**(Signature of Bidder's Authorized Representative)** **(Date)**

APPENDIX B (cont.)

**DIESEL RETROFIT PROGRAM CONTRACTOR CERTIFICATION**

*Each Contractor and its Subcontractor(s) must sign and email this form to the DEP DMS project engineer, within 10 days after the contractor is awarded.*

Local Governmental Unit \_\_\_\_\_ SRF Project No. \_\_\_\_\_

Contract No. \_\_\_\_\_ Contact Title \_\_\_\_\_

Contractor \_\_\_\_\_

I, \_\_\_\_\_, an authorized signatory for \_\_\_\_\_, whose principal place of business is at \_\_\_\_\_ do hereby certify that any and all diesel powered non-road construction equipment and vehicles greater than 50 brake horsepower which will be used in the performance of the work under the Contract (hereinafter "Diesel Construction Equipment") have pollution control devices, such as oxidation catalysts or particulate filters, installed on the exhaust system side of the diesel combustion engine equipment in accordance with the Diesel Retrofit Program Standard.

I am submitting on behalf of \_\_\_\_\_ a list of all said Diesel Construction Equipment, labeled "Diesel Retrofit List," that will be used in connection with this Contract by \_\_\_\_\_. I hereby certify that the information on the attached Diesel Retrofit List is correct and accurate as of the date of signature. The List includes the following information for each piece of Diesel Construction Equipment:

1. Equipment type, make, model;
2. Vehicle Identification Number or VIN;
3. Engine model and year of manufacture;
4. Engine HP rating;
5. Emission Control Device ("ECD") type (Diesel Oxidation Catalyst or Diesel Particulate Filter);
6. ECD make, model, and manufacturer;
7. ECD EPA or CARB Verification Number or manufacturer's certification that the DOC or DPF meets or exceeds emission reductions provided by similar emission control technology verified by EPA or CARB;
8. ECD installation date;
9. Type of fuel to be used; and
10. Whether the equipment is owned or rented.

APPENDIX B (cont.)

**DIESEL RETROFIT PROGRAM CONTRACTOR CERTIFICATION**

\_\_\_\_\_ shall notify DEP within 48 hours of any new Diesel Construction Equipment brought onto the Contract site. \_\_\_\_\_ shall maintain detailed records of all Diesel Construction Equipment used at the Contract site, including the dates and duration times the Diesel Construction Equipment is used at the Contract site. \_\_\_\_\_ shall make such records available for inspection by DEP. \_\_\_\_\_ shall ensure that the emissions control technology for each piece of Diesel Construction Equipment is operated, maintained, and serviced as recommended by the manufacturer. \_\_\_\_\_ shall retrofit prior to the end of the Contract any Diesel Construction Equipment no longer exempt from meeting the Diesel Construction Equipment Standard under exemption 3 (because it had an engine that met the EPA particulate matter (PM) Tier emission standards currently in effect at the start of the Contract for non-road diesel engines for the applicable engine power group and such emissions standards were superseded during the Contract).

I acknowledge that this certificate is being furnished as a requirement under this Contract and is subject to applicable State and federal laws, both criminal and civil. Signed under pains and penalty of perjury on this date \_\_\_\_\_.

Signature \_\_\_\_\_

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

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

## APPENDIX F

### DEPARTMENT OF ENVIRONMENTAL PROTECTION BUREAU OF WATER RESOURCES DIVISION OF MUNICIPAL SERVICES POLICIES

The Division of Municipal Services (DMS) has established the following policies for all Division financially-assisted projects.

#### **POLICY MEMORANDUM NO. PM-1**

#### **EASEMENTS AND RIGHTS OF WAY**

Prior to the approval of financial assistance for construction, the owner shall obtain and shall thereafter retain, a fee simple or such estate or interest in the site of construction and rights of access as will assure undisturbed use and possession for the purpose of construction and operation for the estimated life of the project. The Division may refuse to approve financial assistance until it has received from the owner sufficient assurances that such interests have been obtained. Unless the Division otherwise notifies the owner, the certificate (under pains and penalties of perjury) of the owner's legal representative shall constitute such sufficient assurance.

Additional cost which result from interruptions of construction or extensions of contract time caused by the owner's failure to obtain the necessary interests in land shall be ineligible for financial assistance, and all such additional costs shall be borne by the owner.

#### **POLICY MEMORANDUM NO. PM-2**

#### **PERMITS**

The owner shall be responsible for identifying and obtaining all federal, state, local and railroad permits required by the nature and location of construction, including but not limited to building construction permits and permits for street and highway cuts and openings, and all such permits shall be listed in a separate permits section of the contract documents. To the extent possible, such permits shall be obtained by the owner prior to the solicitation of bids for construction, and copies of all permits so obtained shall be included in the said permits section. The status of the application for each permit, including the permit conditions, and costs, not obtained prior to the solicitation of bids shall also be indicated in the contract documents permits section. The Division may refuse to approve financial assistance for construction unless and until it has received from the owner sufficient assurances that all necessary permits have been or will be obtained prior to the commencement of construction.



Policy Memorandum No. PM-2 – Permits (Con't)

The contractor shall be responsible for obtaining all permits required of his equipment, work force, or particular operations (such as blasting) in the performance of the contract and not otherwise specified in the two preceding paragraphs as to be obtained by the owner. These permit fees shall be paid by the contractor.

The owner shall be responsible for the payment of all other permit fees required by the construction.

The following permits shall not be eligible for financial participation by the Department of Environmental Protection (DEP).

- Permits and insurance for construction in railroads' rights of way;
- Building permits;
- Permits for opening public streets and other public or municipal rights of way;
- Permits for the use of explosives;
- Permits for the disposal of waste materials;
- Permits and fees for connecting to municipal utilities.

Permits required by extraordinary circumstances and not specifically excluded from eligibility above may be eligible for DEP participation. For such permits to be so eligible, the owner or his representative must notify the DEP project engineer in advance of obtaining such permit and receive from the engineer specific agreement that such permit will be eligible for DEP participation. Eligibility for such participation will not be made retroactively.

Additional costs which result from interruptions of construction or extensions of contract time resulting from the owner's or the contractor's failure to obtain the necessary permits may be ineligible for participation.

**POLICY MEMORANDUM NO. PM-3**

**FIELD CONTROLS**

The Owner shall be responsible for indicating on the contract drawings all easement limits and all property and other control lines for locating the principal component parts of the work together with those elevations and bench marks used in the design of the work, all hereinafter referred to as "field controls". Where easement and property limits have not previously been established in the field, the owner shall be responsible for establishment of such limits. From the information provided by the Owner, unless otherwise specified, the Contractor shall develop and make all layouts required for construction, such as slope stakes, batter boards, stakes for pipe locations and other working points, lines, elevations and cut sheets.

Whenever he has reason to believe that an error exists or whenever he is otherwise unable to locate the field controls, the contractor shall promptly notify the owner and the owner's engineer of such error with appropriate documentation.

**POLICY MEMORANDUM NO. PM-4****RECORD DRAWINGS**

The Owner shall be responsible for the preparation of all record drawings required by this contract. This responsibility may be delegated to the Owner's representative. The responsibility for preparation of record drawings shall not be delegated or transferred to the contractor. They may use the contractor's and sub-contractor's certified AS BUILT drawings along with their own marked up set in the preparation of the Record Drawings.

Division approved contract drawings shall be revised upon completion of the contract to reflect any changes made and/or final quantities, as appropriate.

**POLICY MEMORANDUM NO. PM-5****PLAN SCALE**

Unless otherwise approved in advance by the Division, the horizontal scale for construction plans for non-structural facilities shall be 1" = 40'. A larger horizontal scale shall be used where appropriate to show sufficient detail to construct the project. The vertical scale for construction plans for non-structural facilities shall be 1" = 4'. Based on the best information available at the time of their preparation, the location of underground utilities and support structures for overhead utilities shall be shown on the plans.

Unless otherwise exempted in advance by the Division, construction plans shall be updated whenever the date of the advertisement for bids for the construction of such facilities is more than one year after the date of approval by the Division or EPA; and in the case of approval by both such agencies, the later approval date shall be used in determining the need for update.

The consulting engineer shall receive adequate compensation for updating plans and specifications, and such additional cost shall be eligible for assistance to the extent not otherwise prohibited by USEPA and Division regulations and program guidance.

All revision, or review without need for revision, shall be noted and dated on the plans prior to advertisement of the project for bid.

**POLICY MEMORANDUM NO. PM-6****BORINGS LOGS**

All soil borings shall be taken as close as practicable to the construction line, and the location of all such borings shall be clearly indicated on the contract drawings. The plan view shall show the location and boring number of each boring. The profile view shall show the location, elevation, and depth of each soil boring, the location of each change in soil stratum, the groundwater level, and the average of blow counts at each five foot interval. As a minimum, boring logs to be submitted with the plans and specifications shall show the name of the company taking the borings, the soil classification, the number of blows per foot of penetration, the groundwater elevation, and the date on which the borings were taken.

As part of the submission of plans and specification for approval, the owner's representative shall include written justification for the lesser frequency and depth of borings where their interval is more than approximately 300' or their depth is less than 50% below depth of pipe invert.

**POLICY MEMORANDUM NO. PM-7**

**BREAKDOWN OF BID ITEMS**

The following items shall, where applicable, be listed separately in the bid documents.

- 1. Mobilization
- 2. Pavement
  - a. Municipal
    - i. temporary
    - ii. permanent
  - b. State
    - i. temporary
    - ii. permanent
- 3. Concrete cradle or encasement  
(to be identified where applicable)
- 4. Rock-Excavation
- 5. Wood or steel sheeting left in place
- 6. Excavation of unsuitable materials below grade.
- 7. Select and/or borrow material
- 8. Dewatering
- 9. Special Dewatering (coffer dam)

Mobilization costs are the costs of initiating the contract, exclusive of the cost of materials. Payment for mobilization shall be a lump sum at the price bid for this item in the proposal and shall be payable when the contractor is operational on the site. For purposes of this policy, “operational” shall mean the substantial commencement of work on site.

The lump sum price bid for mobilization shall not exceed five per centum (5%) of the total amount of the bid.

**POLICY MEMORANDUM NO. PM-8**

**PAVEMENT**

All roads and trenches therein shall be refilled and repaved in accordance with specifications provided by the owner in the contract documents. Please note that this policy may be excludable on federally assisted projects where bid alternative items may be required (i.e. trench width vs. full width pavement). You are advised to seek project specific clarification.

Loan eligibility shall be limited to the following:

- A. Where the depth of the pipe invert is 0 to 8’, the maximum pavement widths which shall be eligible for financial assistance are as follows:

| <u>Nominal Pipe Diameter</u> | <u>Maximum Eligible Widths</u> |                         |
|------------------------------|--------------------------------|-------------------------|
|                              | <u>Initial Pavement</u>        | <u>Permanent Trench</u> |
| 0-24”                        | 6’-6”                          | 8’-6”                   |

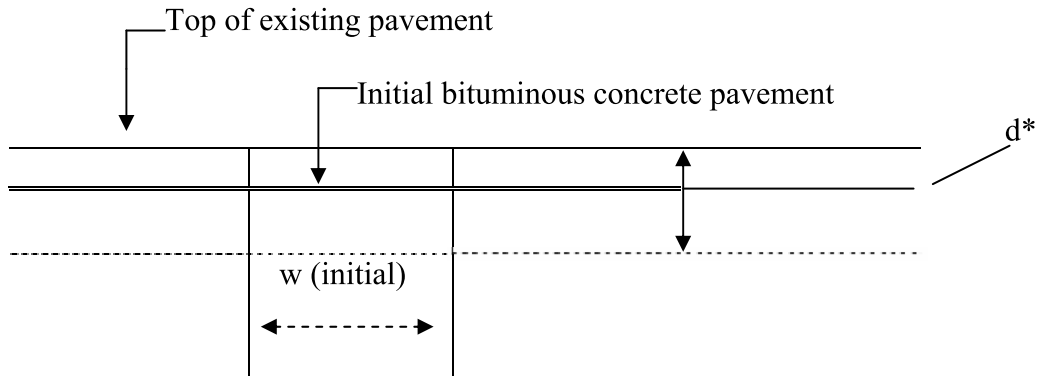
Where the nominal pipe diameter is greater than 24” the maximum eligible width for initial re-paving shall be the nominal diameter of the pipe plus four (4) feet, and for permanent trench re-paving the maximum eligible width shall be the nominal pipe diameter plus six (6) feet.

- B. For each additional four (4) feet (or fraction thereof) of pipe invert depth, add three feet to the eligible width limits stated in paragraph A.

Policy Memorandum No. PM-8 – Pavement (Con't)

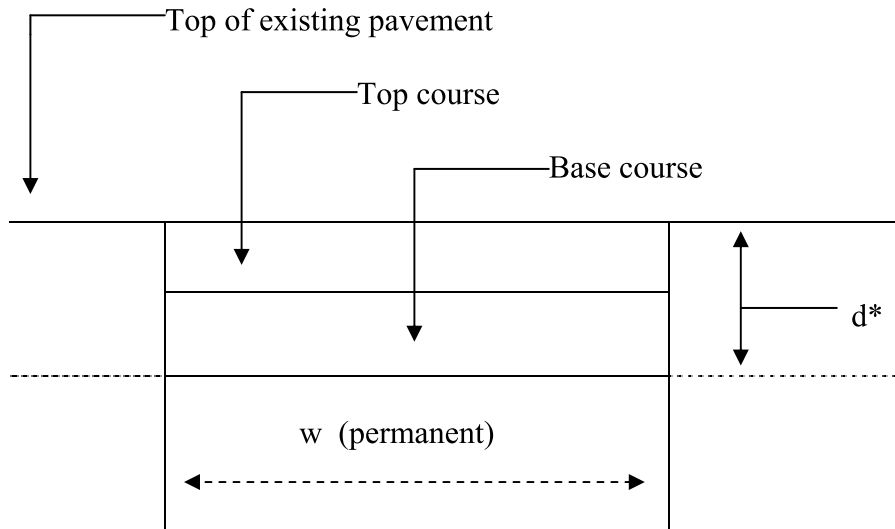
At the design phase of a project the owner has the option to elect either Initial Pavement with Option I (Permanent Trench replacement) or Initial with Option II (curb to curb over initial)

Initial Pavement



$d^*$  = depth of existing pavement to a maximum of 3 inches (see general notes #3)  
 $w$  = maximum eligible Initial pavement width as described in paragraphs “A” & “B” on page DEP-DMS-CG’s-P4.

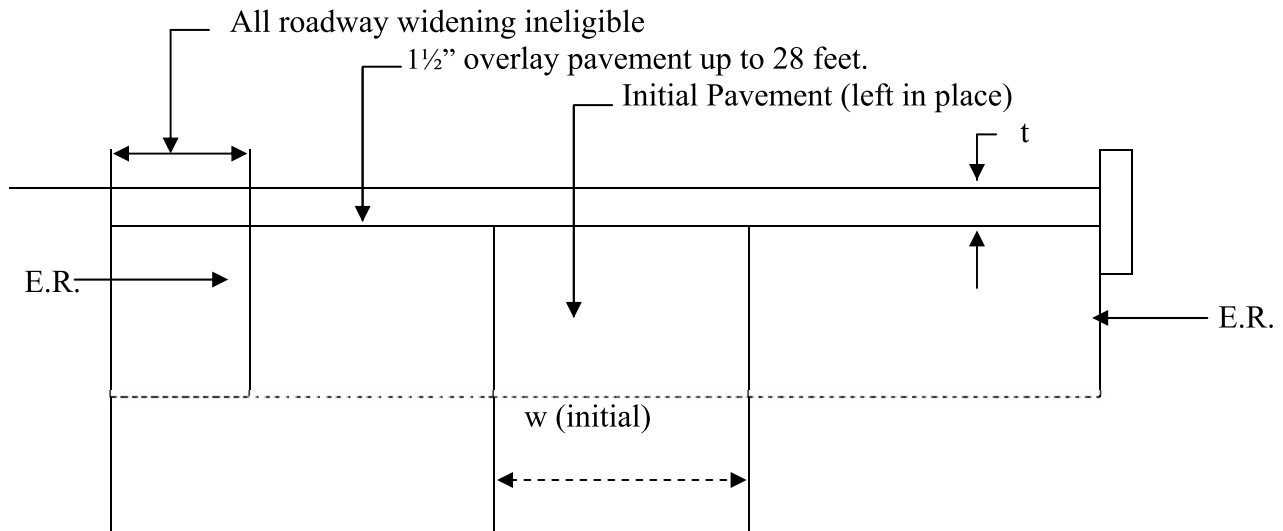
OPTION I Permanent Trench Pavement



$d^*$  = depth of existing pavement trench to a maximum of 3 inches (see general notes #3)  
 $w$  = maximum eligible permanent pavement width as described in paragraphs “A” & “B”. equals initial width plus 2 feet and includes:

- Cutting edges for the permanent trench
- Removal of initial patch plus two feet of existing pavement
- Fine grading/compacting gravel
- Placement of Permanent Trench pavement in two courses.

OPTION II Curb to Curb Pavement (overlay pavement for roadways up to 28 feet)



E.R.= edge of existing paved roadway

t = one and one half inch (1½") overlay of bituminous concrete pavement

GENERAL NOTES:

1. Repavement of settled areas and crown restoration within the trench limits shall be the responsibility of the contractor.
2. Leveling outside the trench limits shall be the responsibility of the owner.
3. Sewer trench re-fill and pavement re-paving on public ways under the jurisdiction of the Massachusetts Department of Public Works, the Metropolitan District Commission, or other such agency shall be in accordance with permit(s) issued therefore by that Department or Commission, as the case may be.
4. The Division will consider requests for increase in the participating pay limits defined in paragraphs A and B, when such increases are, in the Division's opinion, reasonable. Such requests should be documented in writing and submitted to the Division in a timely manner.
5. Projects which deviate from the above options are required to seek Division review and approval.

**POLICY MEMORANDUM NO. PM-9**

**PIPE TESTING**

Monthly payment estimates shall be prepared in accordance with contract documents. All pipe shall be tested in accordance with the contract documents and sound engineering practice. If, after 60 days following submission of a monthly payment estimate for pipe items, the pipe for which payment is requested has not been successfully tested, the owner may withhold up to 10% of the amount requested for such pipe items until the pipe has been so tested. However, in the case of a major (pipe diameter 24 inches or greater) interceptor pipe installation, sums retained by the owner pursuant to this policy memorandum shall not exceed two per centum (2%) of the costs of such pipe items.

**POLICY MEMORANDUM NO. PM-10**

**CHANGE ORDERS**

Executed change orders submitted to the Division for review and processing for financial assistance must be prepared on the attached Change Order Forms (PM-10, Attachment 1, pages A-1 & A-2) with a duplicate copy, calculation sheet(s) (PM-10, Attachment 2), and all other supporting documentation necessary for evaluation. Failure to comply with these instructions will result in delays in processing the change order and/or limited financial assistance.

M.G.L. c.44, s.31C requires that the auditor, accountant, or other municipal officer having similar duties must certify that adequate funding in an amount sufficient to cover the total cost of the change order has been made. Change orders will not be processed or approved until this certification is made on the face of the Change Order Form (PM-10 Attachment 1).

Payment of Change Orders:

Payment of all change orders shall be in accordance with the relevant provisions of Massachusetts General laws, Chapter 30, Section 39G for non-building construction and Section 39K for building construction.

Payment of change orders shall be made in accordance with one of the following three methods:

- A. Existing unit prices as set forth in the contract; or
  - B. Agreed upon lump sum or unit prices; or
  - C. Time and materials
- A. Payment for work for which there is a unit price in the contract:

Where the contract contains a unit price for work and the Engineer orders a change for work of the same kind as other work contained in the contract and is performed under similar physical conditions, the contractor may accept full and final payment at the contract unit price(s) for the acceptable quantities.

Policy Memorandum No. PM-10 – Change Orders (Con't)

B. Payment for work or materials for which no price is contained in the contract:

If the Engineer directs, the contractor shall submit promptly in writing to the Engineer and offer to do the required work on a lump sum or unit price basis, as specified by the Engineer. The stated price, either lump sum or unit price, shall be divided so as to show that it is the sum of:

- (1) The estimated cost of labor, plus
- (2) Direct Labor Cost, plus
- (3) Material and Freight Costs, plus
- (4) Equipment Costs, plus
- (5) An amount not to exceed 20% of the sum of items (1) through (4) for overhead and profit, plus (if applicable),
- (6) In the case of work done by a subcontractor an amount not to exceed 7 ½ %, for the general contractor of the sum of items (1) through (4) for his overhead and profit, less, if applicable,
- (7) Credits for work deleted from the contract.

C. Payment for work on a time and materials basis:

Unless an agreed lump sum and/or unit price is obtained from above and is so stated in the change price, the contractor shall accept as full payment for which no other agreement is contained in contract, and amount equal to:

- (1) The estimated cost of Labor, plus
- (2) Direct Labor Cost, plus
- (3) Material and Freight Costs, plus
- (4) Equipment Costs, plus
- (5) An amount not to exceed 20% of the sum of items (1) through (4) for overhead and profit, plus (if applicable),
- (6) In the case of work done by a subcontractor an amount not to exceed 7 ½ %, for the general contractor of the sum of items (1) through (4) for his overhead and profit, less, if applicable,
- (7) Credits for work deleted from the contract.

Explanation of items (1) through (7) as outlined in “B” and “C”:

- (1) Labor – Only those workers employed on the project who are doing the extra work, including the foreman in charge, are allowable. General foremen, superintendents, or other supervisory personnel are considered to be included in the overhead markup as provided in items (5) and/or (6). Hourly labor rates in excess of those as listed in the contract wage rates (Federal or State, whichever applies) require documentation. As a minimum, an explanation and the appropriate copy of the certified payroll are required.

Policy Memorandum No. PM-10 – Change Orders (Con’t)

(2) Direct Labor Costs - These costs are limited to those which are required in the contract document. Coverage in excess of the contract provisions, secured by the contractor/subcontractor(s) at his option, are ineligible for financial assistance. The following list of typical direct labor charges is provided for your assistance and is in no way intended to be complete or all encompassing:

- Workman’s Compensation
- Federal/State: Social Security Tax and Unemployment Tax;
- Health, Welfare and Pension Benefits; (this cost is included in the wage rates appearing in the Mass. Wage Rates of the contract specifications)
- Liability Insurance:     Bodily Injury;  
                                  Excess Umbrella;  
                                  Property damage;  
                                  Public Liability
- Blasters Insurance   )
- )
- Builders Risk Insurance   )
- )
- Experience Modification Insurance                             )     If applied to any required
- )     direct labor costs.
- )
- Surcharges   )

Following the Notice of Intent to Award, the Owner shall require the Low Bidder to submit the percentage to be used for the Direct Labor Cost markup, along with the breakdown of how it is calculated (this number shall be required and submitted to MassDEP before and Authorization to Award is issued by DMS). This documented direct labor cost may be adjusted upon the submission of new documentation which demonstrates both how and why it has changed.

(3) Material and Freight – Only those materials required as a result of the change order and reasonable freight charges for delivery of same are allowable.



Policy Memorandum No. PM-10 – Change Orders (Con't)

- (4) Equipment – Only the equipment required as a result of the change order is allowable. Equipment rental rates shall be governed by the current Nielson/Dataquest Rental Rate bluebook for Construction Equipment (the “Bluebook”). In determining the rental rate the following shall apply:
- (a) For equipment already on the project – the monthly prorated rental rate by the hourly use shall be applicable;
  - (b) For equipment not on the project the daily rate, the weekly rate, or monthly rate will prevail, whichever will prove to be most cost effective. Small tools and manual equipment are examples of costs not allowable under this item. These costs are considered to be included in the overhead markup as provided in items (5) and/or (6) (1 month (normal use) = 176 hours)
- (5) & (6) Overhead and Profit – All other costs not previously mentioned are considered to be included in this item, be it for the general contractor or subcontractor(s).
- (7) Credits – Work deleted, material and equipment removed from the contractor, stored and/or returned shall be credited to the cost of the change order, less costs.

The Contractor shall furnish itemized statements of the cost of the work ordered and shall give the Engineer access to all accounts, bills and vouchers relating thereto; and unless the Contractor shall furnish such itemized statements, and access to all accounts, bills and vouchers, he shall not be entitled to payment for any items of extra work for which such information is sought by the Engineer. Deviations from any of the above will be reviewed for financial assistance on a case-by-case basis.

The change order will be prepared in such manner as to clearly separate Eligible and Ineligible Costs.

# CHANGE ORDER FORM

SRF Number \_\_\_\_\_  
Public Entity \_\_\_\_\_  
Contract Number \_\_\_\_\_  
Change Order Number \_\_\_\_\_

Contract Amount (As Bid) \$ \_\_\_\_\_  
Net Change in Contract Price (this change order) \$ \_\_\_\_\_  
Total Adjusted Contract Price (including this and all other change orders) \$ \_\_\_\_\_

This change order extends the time to complete the work by \_\_\_\_\_ calendar days.

The extended completion date is \_\_\_\_\_

This change order checked by \_\_\_\_\_  
(Chief) Resident Engineer Date

This change order is requested by: \_\_\_\_\_

This change order is recommended by: \_\_\_\_\_

\_\_\_\_\_  
Consultant Engineer P.E. Number Date

The undersigned agree to the terms of the change order.

\_\_\_\_\_  
Contractor Date

\_\_\_\_\_  
Owner Date

Certification of Appropriation under M.G.L. c.44, §31C: Adequate funding in an amount sufficient to cover the total cost of this change order is available.

By: \_\_\_\_\_  
Certification Officer (Auditor, accountant, treasurer) Date

Do not write below: this space reserved for STATE AGENCY APPROVAL

DEP/DMS

**CHANGE ORDER FORM (Continued)**

PM-10 Attachment 1

Page 2 of 2

Public Entity \_\_\_\_\_

SRF No: \_\_\_\_\_ Contract No. \_\_\_\_\_ Change Order No. \_\_\_\_\_

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

Owner's Name: \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Contractor's Name: \_\_\_\_\_

Contractor's Address: \_\_\_\_\_

Description of Change

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

Reason for Change

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

CALCULATION SHEET

(1) Labor

|          |                      |    |               |          |
|----------|----------------------|----|---------------|----------|
| Foreman  | 10 hrs @ \$10.00/hr. | \$ | 100.00        |          |
| Engineer | 10 hrs @ 8.50/hr     |    | 85.00         |          |
| Operator | 10 hrs @ 9.50/hr     |    | 95.00         |          |
| Laborers | 24 hrs @ 7.00/hr     |    | <u>168.00</u> | \$448.00 |

(2) Direct Labor Cost (use the agreed upon Direct Labor Cost)

|   |                                  |  |  |        |
|---|----------------------------------|--|--|--------|
| * | (30)% of \$448                   |  |  |        |
| * | (Used for example purposes only) |  |  | 134.00 |

(3) Materials & Freight

|                                    |    |              |          |
|------------------------------------|----|--------------|----------|
| 150 l.f. of 12" pipe @ \$2.00/l.f. | \$ | 300.00       |          |
| 15 v.f. precast SMH                |    | 1,700.00     |          |
| Freight (slip # _____ Enclosed)    |    | <u>25.00</u> |          |
|                                    |    |              | 2,025.00 |

(4) Equipment

|                                    |    |                 |          |
|------------------------------------|----|-----------------|----------|
| 1 Backhoe 10 hrs @ \$80.00/hr      | \$ | 800.00          |          |
| 1 Truck-crane 10 hrs @ \$100.00/hr |    | <u>1,000.00</u> |          |
|                                    |    |                 | 1,800.00 |

Total (Items 1 through 4) 4,407.00

(5) 20% markup for Overhead, Profit

|                |  |        |
|----------------|--|--------|
| 20% of \$4,407 |  | 881.00 |
|----------------|--|--------|

(6) 7 1/2% markup for general contractor (if subcontractor is involved)

|                   |  |        |
|-------------------|--|--------|
| 7 1/2% of \$4,407 |  | 331.00 |
|-------------------|--|--------|

(7) Credits (deductibles)

|  |                 |
|--|-----------------|
|  | <u>- 323.00</u> |
|--|-----------------|

Total Cost \$ 5,296.00

Reminder: Provide support documentation as necessary i.e. vouchers, correspondence, Calculation, photographs, reports .....

**POLICY MEMORANDUM NO. PM-11**

**UTILITY RELOCATION**

The construction of treatment facilities, sewers, pumping stations, force mains and appurtenant work can cause the relocation of utilities. Costly relocation can sometimes be minimized by early communication and cooperation of the representatives of the municipality (owner) and the utilities.

Every possible effort should be made by the owner and each utility to establish the location of existing utilities in the vicinity of the proposed construction. The owner or its consulting engineer should make every reasonable effort to design the proposed construction so that relocation of existing utilities is minimized whenever possible. If the proposed construction is in an area of many existing utilities or in an otherwise critical area, the utilities are encouraged to mark the location of their existing utilities at the site during the design phase of the project.

During the design phase of the project, the municipality should provide timely notice to all utilities known or thought to have facilities in or proximate to the site of such future construction.

**POLICY MEMORANDUM NO. PM-12**

**REFUNDABLE DEPOSITS FOR PLANS AND SPECIFICATIONS**

For each set of project plans and specifications provided, the owner may require a deposit in form of cash or other appropriate security, in an amount sufficient to cover the costs of production of such plans and specifications.

Upon return of the plans and specifications to the owner within a reasonable time and in good condition, such deposit shall be refunded.

Actual mailing costs, if any, shall be borne by the party requesting such plans and specifications.

**POLICY MEMORANDUM NO. PM-13**

**BID OPENING PROCEDURES**

As a minimum, bid documents shall be reviewed/inspected for conformance to the following bid opening procedure in the order presented below. Failure to comply with any of these steps shall render the bid non-responsive and upon determination of such non-responsiveness, such bid shall be rejected immediately, set aside, and shall receive no further consideration.

**Bid Opening Procedure**

Step #1. Timeliness – The bid must be filed at the place and within the time specified therefore in the invitation to bid, and no bid shall be accepted after such time. The time at which a bid is filed should be time/date stamped or otherwise prominently noted on the bid;

Policy Memorandum No. PM-13 – Bid Opening Procedures (Con't)

Step #2. Bid Security – Properly executed bid security, in the amount and terms specified in the invitation to bid (equal to 5% of Base Bid or Highest Possible Amount considering all alternatives) shall be placed in a seal envelope and attached to the outside of the envelope containing the bid at the time of its submission;

A. Bid Bond

The Bid bond must be dated On or Before the Bid Date;  
Issued by a Bonding Company Licensed in Massachusetts;  
Accompanied by a Current Power of Attorney;  
Signed by Surety;

B. Check

The Check must be a Certified, Cashiers or Bank Treasurer's;  
Dated On or Before the Bid Date;

Step #3. Bid Signature – The bid and all accompanying documents so required shall be signed by the bidder or its authorized representative before submission;

Step #4. Addenda – All addenda shall be sent certified mail, return receipt requested, by the owner to all individuals and organizations which have received plans and specifications and shall be mailed not later than five days prior to the date established for submission of bids. All bidders shall include with their bids written acknowledgement of receipt of all addenda, which acknowledgement may be on a form provided therefore by the owner.

Alternates – Any Alternates shall be acknowledged.

Step #5. Written Dollar Amounts – The total dollar amount of each bid shall be read, and the three lowest bids shall be selected for further consideration. The remaining bids shall then be set aside. The three apparent low bids shall be read to determine whether the unit price for each line item of each bid has been written therein in words. If it has not, such bid shall be rejected and shall receive no further consideration. ***Bid amounts shall be consistent (words vs. numbers) and if words and numbers differ, the words govern.*** This procedure shall then be repeated with the next apparent low bid until three are acceptable which have all the unit prices written in words, at which time the lowest bid shall be announced as the apparent low bidder, and the bid opening procedure shall be closed.

The Division recommends that this policy memorandum be included in all contract specifications and that the owner's evaluator(s) use the attached form (PM-13 Attachment 1) for bid opening procedures.

The Contractor's Bid Opening Checklist also attached hereto, is for use by each contractor to assure that his bid conforms with this policy memorandum. It is recommended that the checklist (PM-13 Attachment 2) be included in information for bidders, or at the end of the bid proposal, or in some other prominent part of the bid specifications

**FORM FOR BID OPENING PROCEDURES**  
(to be completed by the owner's evaluator(s))

CONTRACT NO.: \_\_\_\_\_

DATE: \_\_\_\_\_

CONTRACT NAME: \_\_\_\_\_

BID OPENING TIME: \_\_\_\_\_

All non-responsive bids shall be rejected forthwith by the awarding authority upon determination of such bids' non-responsiveness at the time bids are opened and read. Failure to comply with any one of the requirements shall render the bid non-responsive, and upon determination of such non-responsiveness such bid shall be rejected and receive no further consideration.

A = Acceptable

N-R = Non-Responsive (explain reasons on supplemental sheet & attach)

| BIDDER | 1. TIMELINESS | 2. BID SECURITY | 3. SIGNATURE | 4. ADDENDA ALTERNATIVES | 5. WRITTEN DOLLAR AMOUNTS | COMPLIANCE (CIRCLE ONE) |    |
|--------|---------------|-----------------|--------------|-------------------------|---------------------------|-------------------------|----|
|        |               |                 |              |                         |                           | YES                     | NO |
| 1      |               |                 |              |                         |                           | YES                     | NO |
| 2      |               |                 |              |                         |                           | YES                     | NO |
| 3      |               |                 |              |                         |                           | YES                     | NO |
| 4      |               |                 |              |                         |                           | YES                     | NO |
| 5      |               |                 |              |                         |                           | YES                     | NO |
| 6      |               |                 |              |                         |                           | YES                     | NO |
| 7      |               |                 |              |                         |                           | YES                     | NO |
| 8      |               |                 |              |                         |                           | YES                     | NO |
| 9      |               |                 |              |                         |                           | YES                     | NO |
| 10     |               |                 |              |                         |                           | YES                     | NO |
| 11     |               |                 |              |                         |                           | YES                     | NO |
| 12     |               |                 |              |                         |                           | YES                     | NO |

Evaluator(s) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## BID OPENING PROCEDURES CONTRACTORS CHECKLIST

CONTRACT NO.: \_\_\_\_\_ BIDDER: \_\_\_\_\_ DATE: \_\_\_\_\_

All non-responsive bids shall be rejected forthwith by the awarding authority upon determination of such bids' non-responsiveness at the time bids are opened and read. Failure to comply with one or more of the following requirements shall render the bid non-responsive, and upon determination of such non-responsiveness such bid shall be rejected and receive no further consideration.

| ITEM             | REQUIREMENTS   | COMPLIANCE (CIRCLE 1) |              | REASONS FOR REJECTION |
|------------------|--|-----------------------|--------------|-----------------------|
|                  |  | Yes                   | No; Rejected |                       |
| 1. Timeliness    | Bid filed w/in time specified                              | Yes                   | No; Rejected |                       |
| 2. Bid Security  | Appropriate and properly Executed security w/bid.          | Yes                   | No; Rejected |                       |
| 3. Signature     | Bid signed by authorized Representative                    | Yes                   | No; Rejected |                       |
| 4. Addenda       | All addenda acknowledge Any alternative                    | Yes                   | No; Rejected |                       |
| 5. Dollar Amount | Dollar amount in words Specified for each line item in bid | Yes                   | No; Rejected |                       |



There shall be in the contract documents a separate pay item for rock excavation. For such purposes, “rock” shall mean igneous, sedimentary, metamorphic, and conglomerate rock, which for excavation must be drilled, blasted, broken, or ripped by power tools. Boulders and concrete structures one cubic yard or greater, however removed, are included within this definition of rock for payment purposes. At the option of the owner or his representative a separate pay item for boulders, concrete structures, or concrete road base may be used.

| <u>Depth From Ground Surface</u><br><u>To Invert Pipe</u> | <u>Pay Width</u><br><u>(Nominal Pipe Diameter)</u> |                 |
|---|--|-----------------|
| * 0 – 12’   | <u>0-24”</u>                                       | <u>Over 24”</u> |
| * Over 12’ – 20’  | 5’0”   | D+3’0”          |
|   | 7’0”   | D+5’            |

Engineer’s plans and specifications shall establish pay limits below pipe and structures.

- See PM-14 Attachment 1 (typical cross section)

Payment width for depths over twenty feet (20’) shall be determined on a case-by-case basis consistent with the foregoing chart.

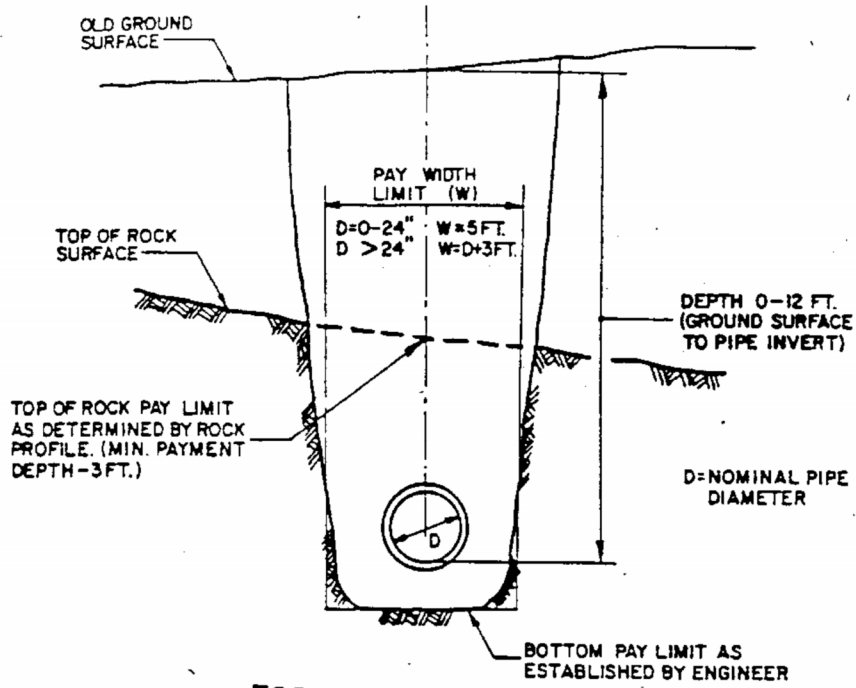
The pay limit for rock removal outside proposed manholes shall commence one foot (1’) outside the widest dimension of the structure of shall be the maximum connecting trench width, whichever is greater.

Payment depth for rock which is encountered in a trench shall be no less than three feet (3’) when removal can be accomplished only by drilling and blasting or by use of jack (air or hydraulic) hammers.

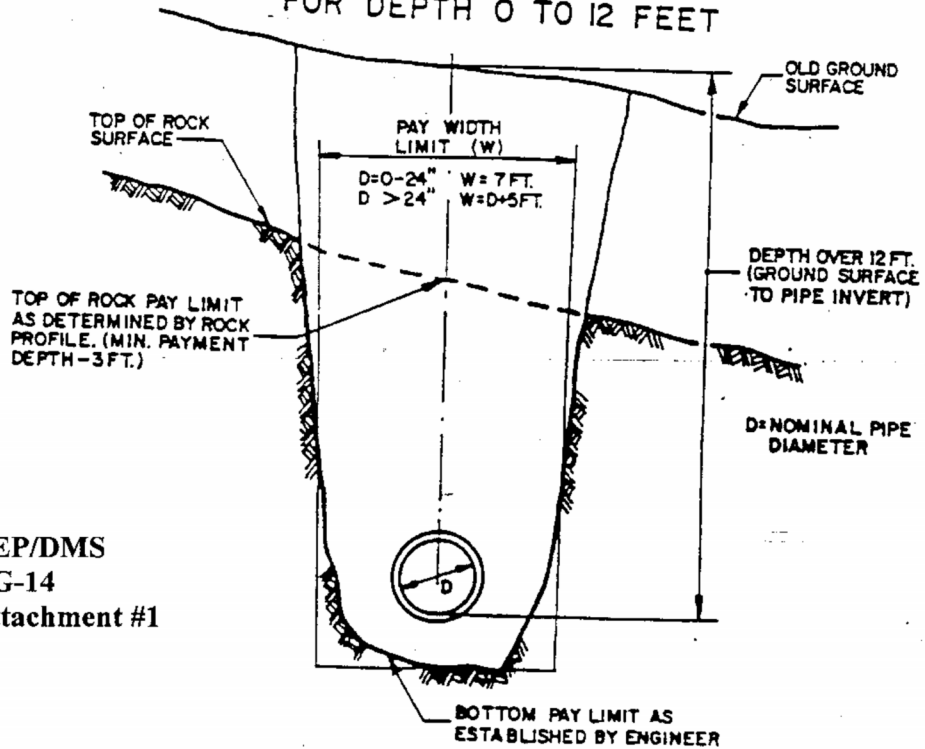
Payment for rock removed, using the same or equal equipment as utilized for normal trench excavation, shall be limited to the actual depth removed within the limits established by the contract documents.

Boulders encountered within the pay limits of excavation, whose volume is one cubic yard or greater, part of which extends outside said limits shall be paid in accordance with the actual volume excavated.

# CG-14 ROCK EXCAVATION



FOR DEPTH 0 TO 12 FEET



DEP/DMS  
 CG-14  
 Attachment #1

FOR DEPTH OVER 12 FEET AND UP TO 20 FEET

**POLICY MEMORANDUM NO. PM-15**

**TRAFFIC POLICE**

The reasonable costs for police details required for traffic control on a construction project which receives financial assistance shall be considered as an eligible administrative cost. A police detail item shall not be included as a bid item in the contract documents.

“Police” as used in this memorandum includes local, county, capital, state, regular and auxiliary police.

Owner’s Responsibility

It shall be the owner’s responsibility to submit in writing the hourly rate of pay to be established for detailed traffic police and each change in rate during the course of the project. It is the owner’s responsibility to arrange, document and pay for such police details. The owner or its representative shall meet with the police chief or other officer in charge of police detail duty to review contract needs. The owner shall maintain a daily record of the following:

- a. Officer’s name
- b. Hours worked
- c. Location of assignment
- d. Hourly rate

**POLICY MEMORANDUM NO. PM-16**

**DOCUMENTATION REQUIRED TO  
SUBSTANTIATE CONTRACT QUANTITIES**

Unit

Documentation required

Acres (A)

Location, station, offset and calculations.  
Location = Street right-of-way, etc;  
Station = Point on Baseline;  
Offset = Distance left or right of Baseline

Cubic Yard (C.Y.)

Location, stations, widths, depths, calculations and  
Cross sections as necessary

Each (Ea.)

Location, station, and offset.

Gallon (Gal.)

Location, stations, calculations (if appropriate) and delivery slips.

Hour (Hr.)

Hours and location.

Linear Feet (L.F.)

Location, stations, and offsets.

Month (Mo.)

Location, period of time and calculations if applicable.

|                                   |   |
|-----------------------------------|---|
| 1000 Foot Board Measure<br>(MFBM) | Location, stations, offset, elevations, grade, and calculations.<br><br>Attach invoices where applicable. |
| Pound (Lb.)                       | Locations, stations, and calculations (if applicable). Attach<br>Delivery weight slips.                   |
| Square Feet (S.F.)                | Locations, stations and calculations  |
| Square Yard (S.Y.)                | Locations, stations and calculations  |
| Ton                               | Locations, stations and calculations (if applicable). Attach<br>Delivery weight slips.                    |
| Vertical Feet (V.F.)              | Locations, stations, elevations, and offsets.   |

Note:

1. All of the above, that apply must be submitted with a final payment request or change order as applicable.
2. Where in place measurement is not possible or practical, delivery slips may be used to substantiate quantities.
3. Change orders – See PM-10 in which some of the above may be applicable in justifying materials, equipment and labor.
4. When necessary, itemized quantities must be separated into eligible and non-eligible units with separate calculations to justify eligible costs.
5. Overruns and underruns of any specific item shall be explained with an appropriate sentence or paragraph.
6. On all quantities, units of payment shall be maintained at the project site and shall be updated daily so that upon field inspection by the C.O.E., EPA or DMS, the quantities paid to date can be substantiated.
7. In the case of unforeseen conditions, photos should be submitted with the applicable item in addition to the recommended documentation.
8. Documentation of units of payment shall be clearly legible and cross referenced to the applicable sheets of the record drawings.
9. For record drawings policy, please see PM-4.

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DMS Policies 1 through 16 Approved By:

Steven J. McCurdy  
Division of Municipal Services

**DWS POLICY 88-02**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**POLICY FOR REVIEW OF SEWER LINE/WATER SUPPLY PROTECTION**

The Department of Environmental Protection seeks to protect existing and potential water supplies from the potentially negative effects of leaking sewer lines through the adoption of a Department policy on this subject.

The following restrictions will apply to new sewer construction statewide:

Gravel Packed Wells

- ~ Within the 400 foot radius protective distance around gravel packed wells, all sewer lines and appurtenances are prohibited, unless they are necessary to eliminate existing and/or potential sources of pollution to the well.

Tubular Wells

- ~ Within the 250 foot radius protective distance around tubular wells, all sewer lines and appurtenances are prohibited, unless they are necessary to eliminate existing and/or potential sources of pollution to the well.

Gravel Packed and Tubular Wells

- ~ Within a minimum radius of 2,640 feet or unless otherwise documented by an appropriate study specifically defining the area of influence and approved by the Division of Water Supply, all sewer lines and appurtenances will be designed and constructed for maximum water tightness.
- Force Mains or Pressure Sewers: shall be tested at 150% above maximum operating pressure or 150 p.s.i. whichever is greater. Testing shall conform to the requirements of the American Water works Association (AWWA) standard c 600.
- Gravity Sewers: shall be tested by approved methods which will achieve test results for infiltration or exfiltration of less than 100 gallons/inch diameter/mile/24 hours.
- Manholes: shall be installed with watertight covers with locking or bolted and gasketed assemblies. Testing for infiltration/exfiltration shall conform to the same standards as the maximum allowed for pipes in the manhole as required for gravity sewers, indicated above.
- Satisfactory test results for Force Mains, Manholes and Gravity Sewers shall be performed prior to the expiration of the contractor's one year guarantee period.
- All pumping stations within this zone shall have standby power high water alarms telemetered to an appropriated location that is manned at all times. An emergency contingency plan must be developed by the owner and approved by the BWR.
- A minimum of Class B bedding as defined by WPCF-MOP9 must be used for all piping.
- Service connections (laterals and house connections) shall be rigidly inspected by the appropriate municipal official. Certified inspection reports shall be submitted to the BWR.

### Bedrock Wells

The above requirements are the same for bedrock wells, with the Department reserving the right to require more stringent controls on a case-by-case basis.

### Surface Water Supplies

- ~ Within 100 feet of all surface water supplies and tributaries all sewer lines and appurtenances are prohibited except as required to cross tributaries or to eliminate existing or potential pollution to the water supply. In the latter case, watertight construction methods shall be use.
- ~ Tributary stream crossings shall employ watertight construction methods of sewer lines and manholes. Watertight construction must extend 100 feet to either side of the stream.
- ~ Within 1,000 feet of surface water supplies and tributaries, all pumping stations shall have standby power and high water alarms telemetered to an appropriate location that is manned at all times. An emergency contingency plan must be developed by the owner of the wastewater treatment facility and submitted to the BWR for approval.
- ~ Beyond 1,000 feet and within the watershed of surface water supplies the Department may in specific circumstances after review, require additional controls.

### Potential Public Water Supplies

The above requirements also apply to potential public water supplies.

### Baseline Date Requirements

Two (2) copies of an appropriately scaled map(s) shall be submitted to the Department which details the proposed sewers and/or appurtenances and also includes the following:

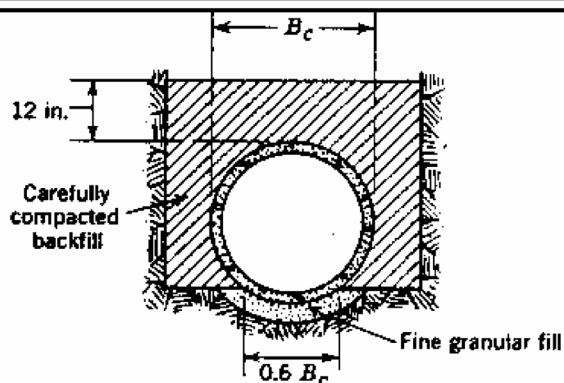
- (1) the location of all nearby existing or potential surface water supplies, tributaries thereto, and watershed boundaries;
- (2) the location of existing and potential public and municipal potable groundwater supply wells.

The Department reserves the right to impose more restrictive measures than those contained in this policy as deemed appropriate.

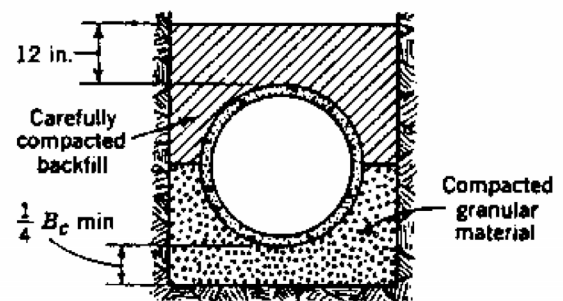
### Definitions

- Appurtenances – all attachments to sewer lines necessary for the transport and operation and maintenance of sewer lines, including manholes, pumping station, siphons, etc.
- Area of influence – that area of an aquifer which contributes water to a well under the most severe recharge and pumping condition that can be realistically anticipated (i.e. pumping at the safe yield of the well for 180 days without any natural recharge occurring). It is bounded by the groundwater divides which result from pumping the well and by the contact of the edge of the aquifer with less permeable materials such as till and bedrock. At some locations, streams and lakes may form recharge boundaries.
- Potential public water supply – areas designated by communities for water supply purposes where land has been set aside and Department approved pump tests conducted and surface water supplies as defined below.
- Surface Water Supply – Waters classified as Class A by the DWPC.
- Public Water Supply Systems – as defined in 310 CMR 22.02 (DEP Drinking Water Regulations).
- Class B Bedding – as defined in WPCF Manual of Practice No. 9.

APPROVED: (Signature on File)



Shaped bottom with tamped backfill,  
load factor 1.9



Compacted granular bedding,  
load factor 1.9

**Class B---First-Class Bedding** – Class B bedding may be achieved by either of two construction methods:

- a. **Shaped Bottom with Tamped Backfill.** The bottom of the trench excavation shall be shaped to conform to a cylindrical surface with a radius at least 2 in. (5 cm) greater than the radius to the outside of the pipe and with a width sufficient to allow six-tenths of the width of the pipe barrel to be bedded in fine granular fill placed in the shaped excavation. Carefully compacted backfill shall be placed at the sides of the pipe to a thickness of at least 12 in. (30 cm) above the top of the pipe. Shaped trench bottoms are difficult to achieve under current construction conditions.
- b. **Compacted Granular Bedding with Tamped Backfill.** The pipe shall be bedded in compacted granular material placed on a flat trench bottom. The granular bedding shall have a minimum thickness of one-fourth the outside pipe diameter and shall extend halfway up the pipe barrel at the sides. The remainder of the side fills and a minimum depth of 12 in. (30 cm) over the top of the pipe shall be filled with carefully compacted material.

## **APPENDIX E**

### **Davis Bacon Act Requirements**

All construction projects are subject to the Davis Bacon wage rate requirements and must include the appropriate sections of the following document in its entirety in the contract documents.

**The vast majority of SRF projects will be bid by Governmental Entities (i.e., Cities, Towns, Authorities, Water Districts, Wastewater Districts). These projects must include the following language in construction contracts:**

**I.3. Contract and Subcontract Provisions**

**I.4. Contract Provisions for Contracts in Excess of \$100,000 (if applicable)**

**I.5. Compliance Verification**

**This language may be found on pages DB-3-DB-11.**

**In certain cases, SRF projects may be bid by non-Governmental Entities (i.e., private water companies, private PWSs, etc.). These projects must include the following language in construction contracts:**

**II.3. Contract and Subcontract Provisions**

**II.4. Contract Provisions for Contracts in Excess of \$100,000 (if applicable)**

**II.5. Compliance Verification**

**This language may be found on pages DB-11-DB-21**

#### **Preamble**

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

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

#### **I. Requirements For Subrecipients That Are Governmental Entities:**

The following terms and conditions specify how recipients will assist EPA in meeting its Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance with respect to State recipients and subrecipients that are governmental entities. If a subrecipient has



questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient. If a State recipient needs guidance, the recipient may contact Valerie Marshall at EPA Region 1 (617-918-1674) for guidance. The recipient or subrecipient may also obtain additional guidance from DOL's web site at <https://www.dol.gov/whd/govcontracts/dbra.htm>

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

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

## **2. Obtaining Wage Determinations.**

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

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

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

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

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

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

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

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2012 Appropriations Act, the following clauses:

(1) Minimum wages.

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein:

Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, [www.dol.gov](http://www.dol.gov).

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

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

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

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

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

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

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

(3) Payrolls and basic records.

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

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/whd/forms/wh347.pdf> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

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

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

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

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

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

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

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

(4) Apprentices and trainees--

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

(10) Certification of eligibility.

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

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

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

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

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

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 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 subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any 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 Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

## **5. Compliance Verification**

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

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the subrecipient 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. Subrecipients 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. Subrecipients 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 subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its

assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

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

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at [https://www.dol.gov/whd/whd\\_district\\_offices.pdf](https://www.dol.gov/whd/whd_district_offices.pdf).

## **II. Requirements For Subrecipients That Are Not Governmental Entities**

The following terms and conditions specify how recipients will assist EPA in meeting its DB responsibilities when DB applies to EPA awards of financial assistance with respect to subrecipients that are not governmental entities. If a subrecipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient for guidance. If a State recipient needs guidance, the recipient may contact Valerie Marshall at EPA Region 1 (617-918-1674) for guidance. The recipient or subrecipient may also obtain additional guidance from DOL's web site at <https://www.dol.gov/whd/govcontracts/dbra.htm>

**Under these terms and conditions, the subrecipient must submit its proposed DB wage determinations to the State recipient for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors.**

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

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

### **2. Obtaining Wage Determinations.**

(a) Subrecipients must obtain proposed wage determinations for specific localities at [www.wdol.gov](http://www.wdol.gov). After the Subrecipient obtains its proposed wage determination, it must submit the wage determination to (insert contact information for State recipient DB point of contact for wage determination) for approval prior to inserting the wage determination into a solicitation, contract or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments unless subsequently directed otherwise by the State recipient Award Official).

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

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

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

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

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

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

### 3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2011 Full-Year Continuing Appropriation, 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. Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, [www.dol.gov](http://www.dol.gov).

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

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

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

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

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

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

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

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

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

(3) Payrolls and basic records.

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

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

available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/whd/forms/wh347.pdf> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

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

- (1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

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

(4) Apprentices and trainees--

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

(10) Certification of eligibility.

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

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

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

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

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

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 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 subrecipient 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.

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

## **5. Compliance Verification**

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

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

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

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at [https://www.dol.gov/whd/whd\\_district\\_offices.pdf](https://www.dol.gov/whd/whd_district_offices.pdf).