

Preconstruction Conference Report for Projects without BABA



S.C. Department of Environmental Services

PROJECT NAME: _____

SPONSOR: _____

DATE / TIME: _____

LOCATION: _____

CONTACT INFORMATION

SCDES SRF PROJECT MANAGER: _____

SCDES SRF TECHNICAL STAFF: _____

SCDES SRF FINANCE MANAGER: _____

SCDES REGIONAL REP: _____

CONSULTING ENGINEER: _____

RIA REPRESENTATIVE: _____

_____: _____

PURPOSE OF CONFERENCE

The purpose of this conference is to reach a mutual understanding of the contract requirements, to discuss the responsibilities of the Sponsor as required under the provisions and conditions of the loan agreement, and to define the roles of the Sponsor, S.C. Department of Environmental Services (SCDES), the Rural Infrastructure Authority (RIA), and the Consulting Engineer.



Authority and Responsibilities of Authorized Representative of Sponsor

Sponsor Authority:

The authorized representative of the sponsor has the authority to administer the loan agreement, to administer the construction contract(s), and to issue certain revisions to the contract(s). These revisions will be limited by the amount and scope specified in the loan agreement. Only the sponsor has the authority to make changes to the contracts after approval by SCDES.

Sponsor Responsibilities:

The sponsor bears the primary responsibility for complying with all terms and conditions of the loan agreement and for the administration and successful completion of the loan project, through all contracts made by the sponsor.

The sponsor is responsible for compliance by the contractor(s) with the following SRF requirements, as applicable:

- The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333).
- Copeland Regulations of the Secretary of Labor (29 CFR Part 3).
- The Department of Labor Non-Discrimination Provisions and Equal Opportunity Contract Specifications (Executive Order (EO) 11246).
- Compliance of all contractors and subcontractors with non-exclusion from participation in procurement and non-procurement transactions, as cited in 2CFR Parts 180 & 1532 and evidenced through the U.S. General Services Administration's System for Award Management (SAM).
- Use of small, minority, and women-owned businesses.
- The Flood Disaster Protection Act of 1973 [40 CFR Part 30].
- Fire and Extended Coverage Insurance (Builder's Risk).
- Davis-Bacon and Related Acts.
- American Iron and Steel Provisions.
- Compliance with equal opportunity requirements (40 CFR, Part 8).
- All other special conditions and/or requirements outlined in the approved specifications documents or loan documents.

Authority and Responsibilities of SCDES Representatives

SCDES Authority:

The SCDES SRF Project Manager and regional engineer/inspector have the authority, with respect to state law, to monitor, advise, and offer assistance to the sponsor to ensure that:

- The sponsor is complying with provisions of the loan agreement.
- The sponsor's performance will assure the technical integrity of the project.
- The sponsor is providing adequate construction supervision.

SCDES Responsibilities:

The SCDES staff indicated above, or other SCDES staff members acting on their behalf, are responsible for monitoring construction progress, and reviewing sponsor compliance with federal requirements. The applicable SCDES regional office or SCDES central office (surface water plants) will perform the final construction inspection.

The SCDES SRF Project Manager will be responsible for reviewing and issuing approvals for project revisions, change orders, disbursements, and other related project activities in coordination with representatives of RIA.

The SRF Financial Officer and the SRF Project Manager will be responsible for reviewing and certifying draw requests for disbursement to the SCDES finance office and RIA for disbursement processing. More thorough reviews are performed on the first and last draw requests. The SRF project manager will be responsible for these reviews and any adjustments that may be required during the course of the project.

Authority and Responsibilities of the Rural Infrastructure Authority

RIA Authority:

RIA has the authority to ensure compliance with all provisions of the loan agreement and associated loan documents. Questions relative to the loan agreement should be addressed to RIA.

RIA Responsibilities:

RIA is responsible for:

- Assuring fiscal integrity of the loan and assuring that the sponsor is carrying out required responsibilities specified in the loan agreement.
- Administrative functions related to the loan agreement and associated documents, loan disbursements, and loan amendments.

Environmental Requirements During Construction

The sponsor and contractor(s) are advised that it is necessary to comply with all environmental protection and pollution control programs established by SCDES and/or local ordinances.

Attention should be paid to the following items (as applicable) throughout the construction process:

- The SC Department of Archives and History should be notified if archaeological remains are discovered during construction.
- Protection of existing trees, shrubs, and grass.
- Dust control on haul roads, excavation work, and borrow areas.
- Siltation, soil erosion, and other non-point source pollution must be minimized during construction.
- Use of chemicals should be in accordance with applicable EPA, OSHA, or other standards.
- The contractor(s) and subcontractor(s) should be aware that the sponsor retains complete responsibility for meeting any applicable NPDES/ND permit limits or drinking water standards.
- Disposal of all residual sludge and/or solids from a treatment facility must be in accordance with a SCDES-issued permit or approval letter.
- Wastewater only: Bypassing of a wastewater treatment facility is not permitted.

Construction Requirements

- Continuous Inspection: In accordance with the Loan Agreement, Article 8 (Item 7 in an All Principal Forgiveness LAA), the sponsor has agreed to provide competent and adequate engineering supervision and continuous construction inspection.
- Monthly Construction Inspection Report: After the issuance of the Notice to Proceed by the sponsor, a Monthly Construction Inspection Report must be prepared and submitted to the SCDES SRF project manager. The individual that is directly responsible for construction inspection should complete the Monthly Construction Inspection Report. DES 3587 (*Monthly Construction Inspection Report – for Projects without BABA Requirements*), is attached. Submit the form(s) with the disbursement request. A separate form for each month during construction is required.
- Approved Plans Onsite: The contractor's and sponsor's inspectors must maintain a complete set of approved plans and specifications on the job site at all times during construction.
- Maintain Water/Wastewater Treatment: During construction, water/wastewater treatment must be provided and shall not be less than before construction.
- Comply with Davis Bacon: The sponsor and contractor are responsible for Davis-Bacon compliance, including: proper signage, weekly collection of certified payrolls, and monitoring of payrolls for classifications, pay rates and overtime compensation. Payroll records must be retained (by sponsor, prime, and any subcontractors) for a period of three years from the completion of the contract. The sponsor will certify compliance with Davis-Bacon requirements for each period covered by a draw request using DES 2557.
- Disadvantaged Business Enterprise (DBE) (for projects with equivalency requirements): The DBE requirements mandate that minority and women-owned businesses (MBE/WBE) be given the opportunity to participate in a fair share of the subcontracts awarded. The prime contractor must demonstrate "Good Faith Efforts" and must obtain SCDES approval prior to executing any subcontract. Failure to have sub approval prior to the sub working on the job site will delay draw request processing and may result in costs declared ineligible for SRF assistance.

- Disadvantaged Business Enterprise (DBE) Reporting (for projects with equivalency requirements): Annual reports of the procurement of DBEs (contracts signed) based on EPA Form 5700-52A are required. The reporting period ends September 30th. Submission of this information to SCDES is required even if there is no MBE/WBE contracting to report; this is called a Negative Report. Failure to meet this requirement may result in loan draw requests being held pending receipt of the MBE/WBE Utilization Reports.
- Comply with American Iron and Steel: American Iron and Steel (AIS) requirements must be complied with during construction. DES 0962, "Project Sponsor's 'American Iron and Steel Certification,'" will be used to certify compliance with AIS and must accompany each draw request. For small incidental items that are difficult to certify as AIS compliant, a de minimis log must be kept with no one item being over 1% of the total construction materials cost and the cumulative value of all de minimis items not to exceed 5% of the total construction materials cost.
- Signage: Construction projects with equivalency requirements will require signage for the project. The document entitled, *Signage Guide for Equivalency Projects* is posted to the SC SRF Guidance webpage at des.sc.gov/SRFguidance and contains information on meeting the signage requirement.
- **ANY EXCEPTION TO THESE REQUIREMENTS MUST BE APPROVED BY SCDES.** The reasonable cost of complying with these requirements is eligible for loan participation.

Substantial Project Changes and Loan Amendments

Prior written approval by SCDES is required for project changes which may substantially alter the:

Design or scope of the project

Type of treatment

Location, size, capacity, or quality of any major item of equipment

The sponsor must promptly notify RIA and the SCDES SRF project manager of events or proposed changes which require a **loan amendment**. If the sponsor intends to request loan participation in any proposed change order which affects the scope of work or budget by major category as identified in the executed Loan Agreement (Appendix A), the sponsor must obtain prior written approval of the change(s) by RIA. Prior written approval by RIA will also be necessary if the change affects or alters the Loan Agreement.

Change Orders

A change in the project work that is consistent with the objective of the project and within the scope of the loan agreement requires the execution and SCDES approval of a change order. SCDES will determine the reasonableness of cost for all change orders; however, in no instance will change orders be approved for loan participation in an amount in excess of the funds available in the loan agreement

The sponsor should notify SCDES of proposed changes to the contract or to the project in advance, except for minor or in emergency situations.

Time extensions for the contract shall be made using a change order. Contract time extensions do not affect the schedules established in the Loan Agreement.

A disbursement will not be made for work performed under a change order until it has been approved by SCDES. Change order approvals do not affect the loan amounts established in the Loan Agreement.

The change order format shall comply with the form included in the approved contract specifications.

One electronic copy of the change order must be submitted to the SCDES SRF Project Manager. The following information should be provided with all change orders:

- Need for the change
- Clear description of the change
- Cost and pricing data
- Memo of negotiations
- For claims, information showing the claim did not result from mismanagement

Disbursement

The State Revolving Fund disbursements are reimbursements for expenditures by the sponsor. The “SRF Disbursement Package” provides detailed procedures for submission of draw (reimbursement) requests.

Before the first draw request will be processed:

- The sponsor must designate a “Sponsor Representative” who will be responsible for submitting draw (disbursement) requests, making payments on the loan and representing the sponsor in other matters pertaining to administration of the loan agreement. This individual must be an official or employee of the sponsor.
- The sponsor must designate two individuals authorized to *sign* draw requests. These two individuals should be the designated Sponsor Representative and the project engineer. DES 3586, *SRF Official Designation and Signature Form*, identifying these individuals, must be on file 30 days prior to the first draw request. Two original forms must be executed. Submit one original to SCDES and the other original to RIA.
- A copy of the Notice to Proceed and one copy of the bound executed contract documents must be submitted to and approved by SCDES.

Final Payment to Sponsor

Prior to releasing the final draw request for processing by SCDES Finance and RIA, a final review of Davis Bacon and “American Iron and Steel” compliance must be carried out by a SCDES representative and the following must be received by the SRF Project Manager:

- Final close-out change order, if needed
- Final Approval to Place into Operation (APO) or Letter of Approval, when required
- Consulting Engineer’s Certification that the project was constructed in accordance with approved plans and specifications
- Sponsor’s acceptance of the project
- As-Built/Record drawings (PDFs preferred)
- Final *MBE/WBE Utilization Under Federal Grants and Cooperative Agreements* (EPA Form 5700-52A), if there are DBE requirements for the project
- CW Projects only – DES 3236, *Fiscal Sustainability Plan Certification* for a developed and implemented Fiscal Sustainability Plan

SCDES and RIA reserve the right to refuse final payment if there is a delay in submitting the final draw request to SCDES of longer than 180 days after the final APO was issued.

SRF Draw Request Checklist

SRF requirements are subject to change. When in doubt about a requested/required item, contact the SCDES Project Manager or Financial Manager handling the project. All forms are available electronically on the SRF Document and Forms web page, des.sc.gov/SRFforms.

To Be Submitted before the First Draw Request:

	Sponsor Compliance Forms - To include: Sponsor's Debarment Certification Form (3590); URLAP Form (3594) - if required
	All required Bid Package Items (see SRF Bidding Guidance)
	Project Inspection Designation Form (2324)
	Official Designation and Signature Form (3586) - 1 to SCDES, 1 to RIA
	Executed Contract, including Notice to Proceed

To Be Submitted with the First Draw Request:

	Any remaining items from above, <i>"To Be Submitted before the First Draw Request"</i>
	If debt service reserve fund required, submit current balance to RIA
	ALL eligible engineering planning & design costs, land costs, and/or legal costs
	Land Acquisition Form, if applicable (Clean Water - 2553 or Drinking Water - 2554)
	Documentation that the signage requirement has been met - if applicable
	ALL items listed below under the title <i>"Required with Interim Draw Requests"</i>

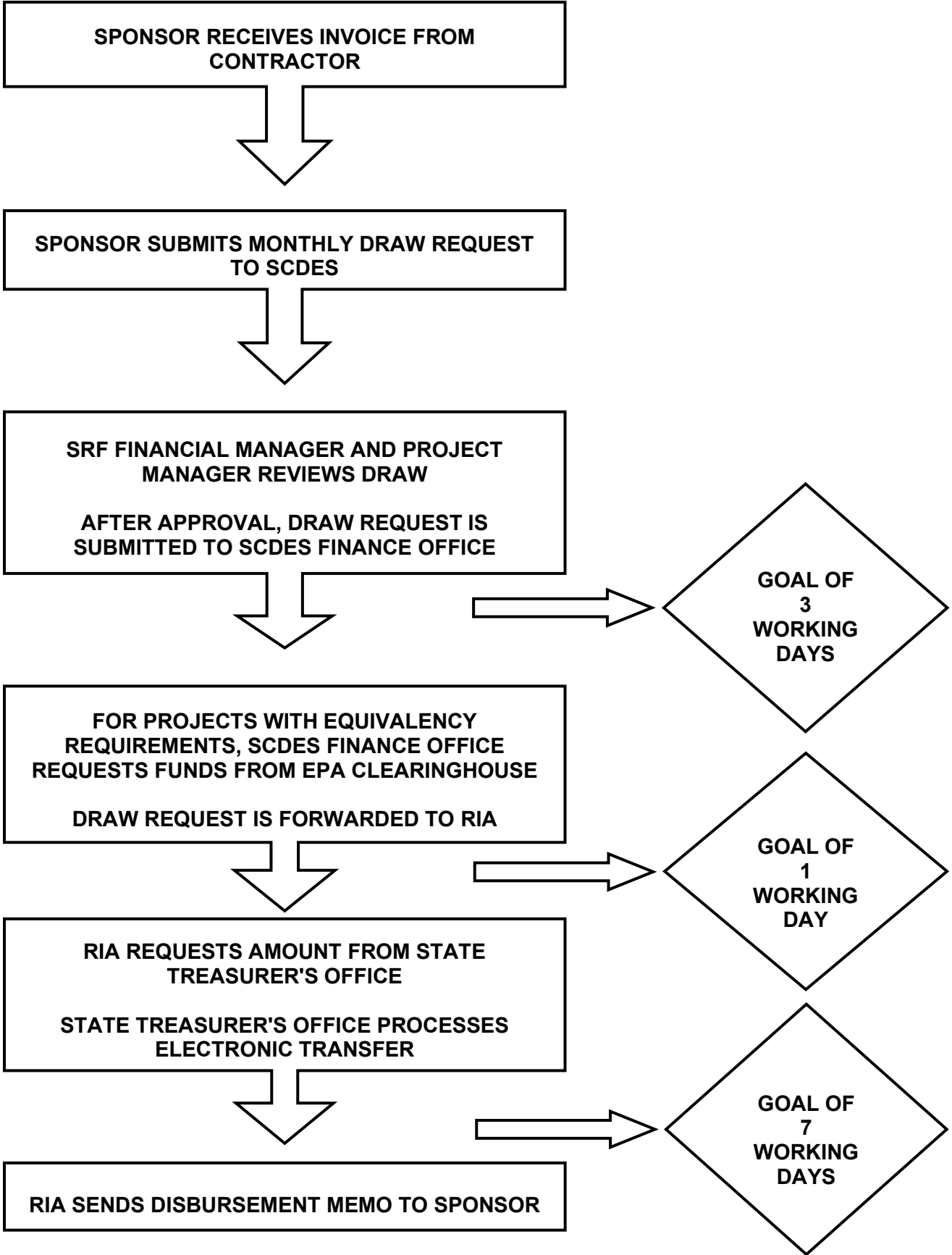
Required with Interim Draw Requests:

	Draw Request Form (Loan - 3585 or Principal Forgiveness - 2560)
	Supporting Documentation - invoices, contractor's pay application(s), etc.
	Monthly Construction Inspection Report — for Projects without BABA Requirements (3587) - one for each month covered by the draw request
	Project Sponsor's Davis Bacon Certification (2557) - one for the entire draw request period
	Project Sponsor's AIS Certification (0962) - One for the entire draw request period

Required with the Final Draw Request:

	All items listed under the title <i>"Required with Interim Draw Requests"</i>
	Any remaining/final change order(s) - must be approved before draw can be processed
	Copy of the Final Approval(s) To Place into Operation (APO) - final draw request must be within 180 days of APO
	Copy of the Engineer's Certification of Completion
	Copy of Sponsor's Acceptance of Project
	A complete set of as-built/record drawings (PDF copy preferred)
	MBE/WBE Utilization Under Federal Grants and Cooperative Agreements (EPA 5700-52A), if required
	<i>Clean Water projects</i> : FSP Certification (3236) - if not previously submitted

TIMELINE GOALS FOR SRF DRAW REQUEST DISBURSEMENTS



Forms

All forms referenced in this document are available electronically on the SRF Document and Forms web page, des.sc.gov/SRFforms. To access the main SRF web page use des.sc.gov/SRF.

American Iron and Steel Requirements

In order to ensure compliance with the AIS requirement, specific AIS contract language must be included in each contract, starting with the assistance agreement, all the way down to the purchase agreements.

EPA recommends the use of a step certification process, similar to one used by the Federal Highway Administration. The step certification process is a method to ensure that producers adhere to the AIS requirement and assistance recipients can verify that products comply with the AIS requirement. The process also establishes accountability and better enables States to take enforcement actions against violators.

Step certification creates a paper trail, which documents the location of the manufacturing process involved with the production of steel and iron materials. A step certification is a process under which each handler (supplier, fabricator, manufacturer, processor, etc.) of the iron and steel products certifies that their step in the process was domestically performed. Each time a step in the manufacturing process takes place, the manufacturer delivers its work along with a certification of its origin. A certification can be quite simple. Typically, it includes the name of the manufacturer, the location of the manufacturing facility where the product or process took place (not its headquarters), a description of the product or item being delivered, and a signature by a manufacturer's responsible party. These certifications should be collected and maintained by assistance recipients.

Alternatively, the final manufacturer that delivers the iron or steel product to the worksite, vendor, or contractor, may provide a certification asserting that all manufacturing processes occurred in the US. While this type of certification may be acceptable, it may not provide the same degree of assurance. Additional documentation may be needed if the certification is lacking important information. Step certification is the best practice.

SRF Iron or Steel covered products as presented in EPA guidance (3-20-2014)***Lined or unlined pipes or fittings****Manhole Covers****Hydrants****Tanks****Flanges****Pipe clamps and restraints****Valves****Reinforced precast concrete**

Reinforcing bar and wire must be made in US and casting of concrete happens in US

Structural steel

Rolled flanged shapes having at least one dimension of x-section 3" or greater

Municipal Castings (examples of)

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

Construction materials (may overlap with structural steel) Includes but not limited to:

wire rod	fasteners (i.e. nuts and bolts)	dome structures
bar	welding rods	roofing
angles	decking	ductwork
concrete reinforcing bar	grating	surface drains
wire rod	railings	cable hanging systems
wire cloth	stairs	manhole steps
wire rope and cables	access ramps	fencing and fence tubing
tubing	fire escapes	guardrails
framing	ladders	doors
Joists	wall panels	stationary screens
trusses		

*See also, "Implementation of American Iron and Steel (AIS) Provisions of P.L. 113-76, Consolidated Appropriations Act", 2014, on US EPA's Website, http://water.epa.gov/grants_funding/aisrequirement.cfm

For a listed product to be considered subject to the AIS requirements, it must be made of greater than 50% iron or steel, measured by cost. The cost should be based on the material costs. See also EPA AIS Guidance under *Covered Iron and Steel Products*.

EPA suggests that "step-certifications" be collected for all covered items - this is where the manufacturer at each step of the process indicates that their steel is American-made.

If any small items will not be easily identified as AIS compliant the *de minimis* waiver may be used by tracking non-AIS plus unknown-AIS-compliant costs of covered materials divided by all materials costs, with a result of 5% or less. (And no one *de minimis* item may be greater than 1% of material costs.)



RIA & DES • STATE REVOLVING FUND

American Iron and Steel

Manufacturer's Certification Letter

Requirements

- On manufacturer's letterhead
- Reference American Iron and Steel as mandated by the EPA
- Reference the specific SRF project and sponsor/owner
- Reference the specific product delivered to the project site
- State the location of the manufacturing facility (city and state)
- Include the signature of a company representative



Letterhead

2700 Bull Street
Columbia, SC 29100
(803)777-8888

MATERIAL CERTIFICATION

April 5, 2018

Job Name: Anytown WWTP, Pleasantville, SC – 2019 State Revolving Fund Project
SRF project number: 555-01

Specific SRF project name and number

I certify that the processes for manufacturing or fabricating the following products and/or materials provided for the project noted above took place at the following US locations:

Quantity	Description and identifier	Manufacturing Process	Location of manufacturing facility
30	Reinforced concrete manhole XYZ1234-56	Melted, rolled, fabricated	Columbia, SC
30	Manhole cover ABC123456	Melted, cast, finished	Charleston, SC
1000 linear feet	4" Ductile Iron Water Pipe 12345AB	Melted, rolled, finished	Greenville, SC

Specific items for project, process, and facility location

I further certify that the products and/or materials are in full compliance with the American Iron and Steel Requirements as mandated in the Environmental Protection Agency's State Revolving Fund programs. If any of the above compliance statements change while providing material to this project we will immediately notify the supplier, prime contractor, consulting engineer, or project owner.

Reference to AIS

Jane Smith
Product Quality Manager

Signature of representative

Davis-Bacon and Related Acts for SRF Projects

- Davis-Bacon and Related Acts (DBRA or often just DB) must be complied with by federally-assisted construction projects and can be confusing to contractors and compliance monitors alike.
- Any recurrent issues that result in underpayment of workers that cannot be resolved could lead to debarment from working on federal or federally-assisted contracts for three years, so it is best to stay on top of DB requirements.
- What DB requires:
 - Laborers and mechanics (workers) **are properly classified** for the work they do
 - Covered workers **are paid weekly at the required wage + any required fringe for all hours worked upon the “site of work”**
 - Employees **do not have any unauthorized deductions**
 - Certified Payrolls **are submitted weekly**, and
 - Employees **must receive overtime compensation** for working any hours over 40 hours. (Contract Work Hours and Safety Standards Act –CWHSSA)
- DB requirements **apply to all** contractors/subcontractors where the prime contract is valued greater than \$2,000. DB contract terms must appear in all subcontracts – at any tier.
- The Prime Contractor is responsible for the compliance of payrolls for themselves and ALL subcontractors. It is in the prime’s best interest to understand DB compliance principles and relay those to the subcontractors.
- The Sponsor is responsible for making the correct determination(s) for the project and including the determination(s) in the contract. (No change prior to 10 days before bid opening, contracts signed within 90 days)
- The Sponsor has to monitor DB compliance and certify DB compliance to SCDES with each draw request. DB contract provisions allow a Sponsor to withhold funds to cover suspected underpayments. When the underpayment involves a subcontractor, the prime is responsible to see that proper wages are paid. The prime may withhold funds from a subcontractor that won’t pay required wages to workers to cover suspected underpayments.
 - If requested, provide name and contact information for the individual(s) handling payrolls and interviews for the Sponsor
- Any position that does not fit into a classification listed on the published wage determination MUST BE CONFORMED:
 - This requires a form (SF-1444) be submitted to DOL through SCDES. The position being requested must not already be able to be performed by a classification listed on the determination and must be a position used in the local area for construction. Also, the proposed wage must bear a reasonable relationship to existing wage rates and typically, must not be less than the lowest rate for any worker in the given labor group (e.g. laborers, operators, skilled craftsmen) (A helper will not be conformed unless duties are substantially unique from the main position.)
 - Wages must be paid at the rate requested, but if the approved rate comes back higher, the difference must be paid to any affected workers **RETROACTIVELY**.
- The hourly compensation for a given class of worker must equal or exceed the indicated rate plus any fringe amount as shown on the correct wage determination. The fringe benefit portion

of the wage compensation may be met by paying cash in lieu of fringe. If fringes are paid to approved plans, or indicated in writing, the hourly equivalent value when added to the wage paid in cash, must be enough to satisfy the required hourly compensation (base rate + fringe).

- When more than one wage determination applies to a contract, it must be spelled out in the contract when each applies. A “Summary Wage Sheet” may be used to spell out which wages apply to the various positions and in which circumstances.
- If an employee performs work in more than one classification, they must be paid at the highest applicable rate, or time must be tracked and wages due calculated separately for each position worked.
- Any salaried employees or piecework employees must receive enough compensation that they receive the wages due based on the published minimum wage rate (to include wages due for any overtime worked).
- Supervisory or office personnel do not need to be listed on a certified payroll. However, a working supervisor who spends more than 20% of their time working at one or more listed classification must be paid hourly at least equal to the minimum rate for the work being performed).
- If there are bona fide apprentices or trainees, they may be paid at a lower rate, but there must be documentation of their registration in a certified training program, and adherence to the proper apprentice to journeyman ratio must be kept.
- The WH-347 is an *optional* form for “reporting” a certified payroll. Any payroll report that supplies the same information is acceptable as long as the compliance statement from the WH-347 is part of the payroll report. The compliance statement is intended to be signed by an officer/owner of the company unless another entity has been authorized in writing to sign.
- Payrolls need to be numbered sequentially from start of work under a contract/subcontract including any “no work” weeks. A long period of no work may be indicated in writing from the contractor, with numbering to resume upon resuming work.
- Wage determinations, conformance replies and the poster, “Employee Rights under Davis Bacon”, WH-1321 must be displayed at the site of work from construction start to completion.
- The sponsor shall periodically interview a sufficient number of employees entitled to prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. All interviews must be conducted in confidence. The sponsor must use SF-1445, HUD-11, or equivalent documentation. Employee interviews shall take place at least once during project construction and when a compliance problem is uncovered. (Employees need to know their work classification and pay rate.)
- Certified payrolls are to be kept by the Sponsor, contractor and subcontractors for three years after contract completion.
- Required DB Postings (mentioned above)
 - WH 1321 “Employee Rights Under Davis Bacon” in English and Spanish as needed
 - Wage decision(s) from contract or Project Wage sheet
 - Any conformance replies
 - Location of required posting: All required posting shall be placed in a location where all covered employees will see the posting during the normal course of their duties.

Questions: Contact Sedona Edgar, Sedona.Edgar@des.sc.gov, 803-898-4305.

