

2021 PRIVATE LEAD WATER SERVICE LINE REPLACEMENT APPENDIX 1

Pertinent Federal Acts

DBE Rule Program Requirements – EPA Form 6100-4 & DNR Form 8700-294A

American Iron and Steel Requirements

Contractor's Payroll Certification and American Iron and Steel Certification

29 CFR 5.5(a) Federal Labor Standards Provisions

Davis-Bacon Wage Rates

Pertinent Federal Acts

The Contractor shall comply with the regulations of the Davis-Bacon Act, Executive Order 11246 (Federal Equal Employment Opportunity), the Contract Work Hours Standards Act, the Consolidated Appropriations Act, 2014, the Consolidated and Further Continuing Appropriations Act, 2015, the Consolidated Appropriations Act 2016, the Water Resources Reform and Development Act of 2014 (Use American Iron and Steel), and Title X of the Clean Air Act Amendments of 1990 (Disadvantage Business Enterprise), and any amendments or modifications thereto, and shall cause appropriate provisions to be inserted in subcontracts to ensure compliance therewith by all Subcontractors subject thereto.

“The successful bidder will be required to conform to the wage requirements prescribed by the federal Davis-Bacon and Related Acts which requires that all laborers and mechanics employed by contractors and sub-contractors performing on contracts funded in whole or in part with federal funds in excess of \$2,000 pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits, as determined by the Secretary of Labor, for corresponding classes of laborers and mechanics employed on similar projects in the area.” – U.S. Dept. of Labor Wage and Hour Division May 29, 2009 Guidance.

Forms

The following forms are to be used in conjunction with these federal provisions (copies are attached):

- Contractor’s Payroll Certification and American Iron and Steel Certification
- Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Utilization Form (EPA Form 6100-4)
- Environmental Improvement Fund (EIF) DBE Contacts Worksheet (DNR Form 8700-294A)

Links for more Information

- U.S. DOL Prevailing Wage Resources Book - <http://www.dol.gov/whd/recovery/pwrb/toc.htm>
- U.S. DOL General Wage Determinations - <http://www.wdol.gov>
- U.S. DOL Certified Payroll Form WH-347 - <http://www.dol.gov/whd/forms/wh347.pdf>
- WH-1321 “Employee Rights Under the Davis-Bacon Act” poster - <http://www.dol.gov/whd/regs/compliance/posters/davis.htm>
- EPA’s DBE Resources - http://www.epa.gov/osbp/dbe_team.htm
- WisDOT UCP Directory - <http://wisconsin.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>
- EPA American Iron and Steel (AIS) Requirement - Guidance and Questions and Answers website: <https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-guidance-and-questionsand-answers>
- Federal Contractor Suspension/Debarment List - <https://www.sam.gov/portal/public/SAM/>

For further questions concerning the Federal Davis-Bacon Wage rates please contact:

Suspended, Debarred, and Ineligible Contractors

The contractor or firm also must be registered in the federal System for Award Management (SAM) System which replaced the "Excluded Parties List System (EPLS). This Department is required to confirm that the contractor/ firm has no existing records to disclose, and that they are not actively excluded, suspended or debarred by a federal agency from receiving federal funds.

The prospective Contractor agrees by submitting this bid/proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the City.

A participant in a covered transaction shall require a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction. A participant may decide the method and frequency by which it determines the eligibility of its principals. In addition, each participant shall confirm whether a prospective participant in a lower tier covered transaction is debarred or suspended by checking the exclusion records maintained at <https://www.sam.gov/portal/public/SAM/>.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) SOLICITATION GUIDANCE

CLEAN WATER FUND PROGRAM and SAFE DRINKING WATER LOAN PROGRAM

All municipalities applying for funds from the Clean Water Fund Program (CWFP) or the Safe Drinking Water Loan Program (SDWLP) **must make good faith efforts** to solicit disadvantaged business enterprises (DBEs) in their construction projects. When procuring construction work, equipment, raw materials, or supplies for a project, a municipality must comply with the DBE solicitation requirements whenever the procurement must be bid under the state procurement laws. DBEs include, but are not limited to, minority business enterprises (MBEs) and women business enterprises (WBEs).

Prime contractors and subcontractors participating in a CWFP or SDWLP funded project **must also make good faith efforts** whenever they subcontract for construction work, equipment, raw materials, or supplies.

IMPORTANT: Good faith efforts include solicitation of DBEs **and other steps** identified in Form 8700-294, DBE Good Faith Certification Form, which the municipality must complete before receiving a loan. See the Forms section below.

When advertising bids for a CWFP or SDWLP funded project, municipalities and contractors must meet the DBE requirements, including the solicitation requirements below. Prime contractors and subcontractors must continue to use the solicitation methods described below under “Three Options to Meet Solicitation Requirements” when hiring any subcontractors for CWFP or SDWLP projects, even if utilization goals have already been met.

Three Options to Meet Solicitation Requirements

Municipalities, when hiring prime contractors; prime contractors, when hiring subcontractors; and subcontractors, when hiring other subcontractors, must do **at least one** of the following in order to comply with DBE solicitation requirements:

1. **Include language in bid advertisements** that encourages DBEs to submit bid proposals. If contracts are advertised separately, each advertisement should include the DBE language.
 - **MUNICIPALITIES:** To make a good faith effort when hiring prime contractors, the municipality can add a simple statement to its advertisements for prime contractors such as “We encourage DBEs, including MBEs and WBEs, to submit bid proposals.” The advertisements must appear at least in the official newspaper of public record for the municipality. **The municipality must then submit a copy of the advertisement to the DNR along with other bid documents.**
 - **PRIME CONTRACTORS AND SUBCONTRACTORS:** To make a good faith effort when subcontracting, a contractor can advertise for subcontractors with an ad that includes a simple statement like “DBEs, including MBEs and WBEs, are encouraged to submit proposals.” If just one advertisement is published for all areas of work that may be subcontracted, it should indicate those types of work that could be subcontracted. The advertisement(s) must appear in an industry trade publication and/or the official newspaper of public record for the municipality. **The prime contractor should supply a copy of the advertisement to the consulting engineer or the municipality so they can submit it to the DNR along with other bid documents.**
2. **Contact DBEs on a Unified Certification Program (UCP) List** to solicit bids from these firms (e.g., firms registered in the WisDOT UCP, <http://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>). This good faith effort option is available for municipalities, prime contractors and subcontractors to comply with the DBE requirements. The individual that makes the contacts should document all the contacts, preferably using [Form 8700-294a](#), the DBE Contacts Worksheet.

The UCP lists are the main sources of certified DBEs for the CWFP and the SDWLP, but there are other sources available. Any certification must meet the same requirements as those used for UCP-listed businesses. Any firm providing DBE certifications must be approved by the U.S. Environmental Protection Agency (USEPA).

3. **Utilize DBEs registered with the UCP** (e.g., WisDOT UCP, <http://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>). Municipalities must require prime contractors to complete and submit with bids EPA Form 6100-4, DBE Subcontractor Utilization Form, for any DBE subcontractors they intend to use on the contract. **Municipalities must then submit those forms to DNR along with other bidding documents prior to loan closing.**



When Solicitation Requirements Are Not Met

- If none of the above options are used by the municipality and the construction contractor(s) to meet DBE solicitation requirements for a project, **8% of the construction costs in the project budget will be ineligible for SDWLP funding or eligible only for the market interest rate in the CWF.**
- **MUNICIPALITIES:** If a contractor follows at least one of the options to meet DBE solicitation requirements for a project contract, but the municipality uses none of the options to meet DBE solicitation requirements for a project contract, **1% of the construction costs in the project budget for that contract will be ineligible for SDWLP funding or eligible only for the market interest rate in the CWF.**
- **PRIME CONTRACTORS:** If a municipality uses at least one of the options to meet DBE solicitation requirements for a project contract, but the prime contractor uses none of the options to meet DBE solicitation requirements, **7% of the costs of that specific construction contract that would have been eligible for subsidy will instead be ineligible for SDWLP funding or eligible only for market interest rate in the CWF.**

Forms

Use the following forms to document good faith efforts and DBE utilization. You can obtain all DBE-related forms from our website at <http://dnr.wi.gov/Aid/documents/EIF/Forms/Forms.html>, or by contacting Meja Maka at (608) 266-9193 or meja.maka@wisconsin.gov. The EPA forms are further explained in the "Contract Packet for DBE Compliance", which is also available on our website.

1. **EIF Form 8700-294 - DBE Good Faith Certification Form.** This mandatory form asks the municipality to certify that required steps were taken to utilize DBEs, including MBEs and WBEs, in its EIF project. The municipality must answer several questions and provide explanations or justification for any "no" answers as to why specific steps were not taken.
2. **EIF Form 8700-294a – DBE Contacts Worksheet (Revised April 2015).** It is not mandatory to submit this form when following Option 2 to meet good faith efforts, but we encourage municipalities and contractors to use Form 8700-294a. This form provides an easy format for documenting contacts and provides DNR with all the information needed to conduct a review of DBE good faith efforts.
3. **EPA Form 6100-2 – DBE Program Subcontractor Participation Form.** This form gives a DBE subcontractor the opportunity to describe the work the DBE subcontractor received from the prime contractor, how much the DBE subcontractor was paid and any other concerns the DBE subcontractor might have. This form is submitted directly to EPA.
4. **EPA Form 6100-3 – DBE Program Subcontractor Performance Form.** This form captures an intended subcontractor's description of work to be performed for the prime contractor and the price of the work submitted to the prime.
5. **EPA Form 6100-4 – DBE Program Subcontractor Utilization Form.** This form captures the prime contractor's intended use of an identified DBE subcontractor, and the estimated dollar amount of the subcontract.

Contract Packet

When letting a contract for a project that may be financed with CWF or SDWLP financial assistance, municipalities designated as "federal equivalency" must include specific language and forms in the bidding documents.

The department will select Federal Equivalency projects and notify selected municipalities in advance of bidding.

See the "Contract Packet" on our Environmental Loans News web page at <http://dnr.wi.gov/Aid/LoanNews.html> or under Forms & Publications at <http://dnr.wi.gov/Aid/documents/EIF/Forms/Forms.html> for details of what must be included in the bidding documents. If a municipality is requesting refinancing of a previously constructed project and the Contract Packet documents were not included in the bids, a municipality may complete and submit the required forms to meet this requirement.

Additional Information

For additional information regarding DBE procurement requirements, contact the DNR project manager assigned to your project or contact Meja Maka at (608) 266-9193 or meja.maka@wisconsin.gov. Information is also available on the Environmental Loans website at <http://dnr.wi.gov/Aid/documents/EIF/Guide/DBE.html>.



Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE¹ subcontractors² and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

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

I have identified potential DBE certified subcontractors	___YES	___NO	
If yes, please complete the table below. If no, please explain:			
Subcontractor Name/ Company Name	Company Address/ Phone/ Email	Est. Dollar Amt	Currently DBE Certified?
Continue on back if needed			

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

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



OMB Control No:
Approved:
Approval Expires:

**Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Utilization Form**

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

Prime Contractor Signature	Print Name
Title	Date

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

101 S. Webster St., PO Box 7921
 Madison WI 53707-7921
 Phone No. (608) 266-7555 FAX (608) 267-0496
 website: dnr.wi.gov/org/caer/cfa/cfindex.html

Notice: Under ss. NR 162.09(3), NR 166.12(4), and NR 167.18(4), Wis. Adm. Code, a municipality is required to provide complete information to verify that it has met Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and if applicable, Small Business in Rural Areas (SBRA) goals. The Department will not complete a financial assistance agreement unless the municipality submits documentation regarding MBE/WBE/SBRA solicitation or utilization. Failure to provide information requested, meet the goals, or make a good faith effort may result in sanctions described in s. NR 162.09(3)(b), s. NR 166.12(4)(e), or s. NR 167.18(4)(e), Wis. Adm. Code. Personally identifiable information provided on this form will be used to review MBE/WBE/SBRA participation in a project and may also be made available to requesters as required by Wisconsin Open Records law [ss. 19.31 - 19.39, Wis. Stats.].

You may use this worksheet as a tool to provide required backup information to Environmental Improvement Fund MBE/WBE/SBRA Good Faith Certification (Form 8700-294). You may also provide information requested on this form in some other format. If your municipality receives state funds for your project, you must make a good faith effort to use WBEs and MBEs. If your project is designated as a federal equivalency project, include SBRA in addition to MBEs and WBEs in your solicitation efforts. **Five contacts for each type of firm shows a good faith effort.**

Clean Water Fund Program

Safe Drinking Water Loan Program

Land Recycling Loan Program

Project Information

Name of Municipality	EIF Project Number
Name of Prime Contractor	Information Prepared By (Name and Phone)

Contacts

Information Needed For Review	Contact 1	Contact 2	Contact 3
a. Name of Firm Contacted			
b. Contact's Phone Number	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
c. Firm Type	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA
d. Is firm self-certified or agency-certified?	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name)	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name)	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name)
e. Date Contacted			
f. Result of contact	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
g. Bid received?	Yes No	Yes No	Yes No
h. If bid received and rejected, why rejected?	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
i. Utilizing this firm? (If yes, more on p. 4)*	Yes No	Yes No	Yes No

Information Needed For Review	Contact 4	Contact 5	Contact 6
a. Name of Firm Contacted			
b. Contact's Phone Number			
c. Firm Type	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA
d. Is firm self-certified or agency-certified?	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____
e. Date Contacted			
f. Result of contact			
g. Bid received?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
h. If bid received and rejected, why rejected?			
i. Utilizing this firm? (If yes, more on p. 4)*	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Information Needed For Review	Contact 7	Contact 8	Contact 9
a. Name of Firm Contacted			
b. Contact's Phone Number			
c. Firm Type	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA
d. Is firm self-certified or agency-certified?	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____
e. Date Contacted			
f. Result of contact			
g. Bid received?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
h. If bid received and rejected, why rejected?			
i. Utilizing this firm? (If yes, more on p. 4)*	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Information Needed For Review	Contact 10	Contact 11	Contact 12
a. Name of Firm Contacted			
b. Contact's Phone Number			
c. Firm Type	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA
d. Is firm self-certified or agency-certified?	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____
e. Date Contacted			
f. Result of contact			
g. Bid received?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
h. If bid received and rejected, why rejected?			
i. Utilizing this firm? (If yes, more on p. 4)*	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Information Needed For Review	Contact 13	Contact 14	Contact 15
a. Name of Firm Contacted			
b. Contact's Phone Number			
c. Firm Type	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBRA
d. Is firm self-certified or agency-certified?	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____	<input type="checkbox"/> Self <input type="checkbox"/> Agency (Provide Agency Name) _____
e. Date Contacted			
f. Result of contact			
g. Bid received?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
h. If bid received and rejected, why rejected?			
i. Utilizing this firm? (If yes, more on p. 4)*	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Use of American Iron and Steel (AIS)

Program implementation details are outlined in the governing administrative codes and statutes: §§ 281.58 and 281.59 and 281.61, Wis. Stat., and chs. NR 162 and 166, Wis. Adm. Code.

Congress first included a provision for the American Iron and Steel (AIS) requirement for the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) in the Federal Fiscal Year (FFY) 2014 Consolidated Appropriations Act.

On June 10, 2014, the Water Resources Reform and Development Act (WRRDA) made the AIS requirement permanent for the CWSRF. On October 23, 2018, America's Water Infrastructure Act (AWIA) was passed and included language on AIS for the DWSRF which applies through the end of FFY 2023.

Note: The Wisconsin DNR Environmental Loans Program called it Use of American Iron and Steel (UAIS) to limit confusion with the department's acronym for Aquatic Invasive Species.

- [Projects affected by the AIS requirement](#)
- [AIS compliance cheat sheet](#)
- [AIS webinar](#)
- [Iron and steel products](#)
- [Documenting compliance](#)
- [Certification form](#)
- [Waivers](#)
- [Requesting waivers](#)
- [Final extension of short-term national product waiver for ...](#)
- [Nationwide de minimis waiver](#)
- [Contact information](#)

PROJECTS AFFECTED BY THE AIS REQUIREMENT

Starting Oct. 1, 2014, the AIS requirement applies to all Clean Water Fund Program (CWFP) projects unless the plans and specifications were approved prior to June 10, 2014, the date of WRRDA enactment. WRRDA exempts projects where the plans and specifications were approved prior to the passage of the act.

Starting Dec. 16, 2014, the AIS requirement applies to all Safe Drinking Water Loan Program (SDWLP) projects unless the plans and specifications were approved prior to Dec. 16, 2014.

For more information and guidance on this federal requirement, see EPA's [State Revolving Fund \(SRF\) American Iron and Steel \(AIS\) Requirement \[exit DNR\]](#).

AIS COMPLIANCE CHEAT SHEET

This [two-page PDF](#) is essentially a cheat sheet of key AIS concepts and points.

AIS FOR CLEAN WATER & DRINKING WATER STATE REVOLVING FUNDS WEBINAR

- The Wisconsin DNR and U.S. EPA provided training on 5/15/2018 about [AIS Requirements for CW & DW SRFs \[VIDEO Length 1:27:55\]](#). View the AIS slide show [handout \[PDF\]](#). Direct AIS questions to SRF_AIS@epa.gov.

AIS IMPLEMENTATION REQUIREMENTS WEBINAR

- The Wisconsin DNR hosted and recorded a public webinar on 2/12/2015 about [AIS implementation requirements \[VIDEO Length 24:18\]](#). It includes a 15-minute presentation followed by 30 minutes of a panel answering questions. View AIS slide show [handout \[PDF\]](#).

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IRON AND STEEL PRODUCTS

The term "iron and steel products" means the following products made primarily of iron or steel:

- construction materials;
- flanges;
- hydrants;
- lined or unlined pipes and fittings;
- manhole covers and other municipal castings;
- pipe clamps and restraints;
- reinforced precast concrete;
- structural steel;
- tanks; and
- valves.

DOCUMENTING COMPLIANCE

To document compliance with AIS requirements, specific language should be included in each contract, starting with purchase agreements for the iron and steel components and continuing all the way up through the Financial Assistance Agreement (FAA). It is important that AIS language is included in any request for proposals or solicitations for bids.

Certification letters for the American Iron and Steel requirement should be:

- obtained from the product vendor/handler of the iron and steel; and
- submitted for inclusion in the project documentation for the CWFP and SDWLP.

We request that certification letter documentation be organized using tab cover sheets to separate the certification letters - based upon where an item/product is found in the project (specification) manual. The tab cover sheets should be labeled with the a tab number, the specification section number, and description.

LETTERS OF CERTIFICATION FOR AIS COMPLIANCE

To document the use of AIS, engineers/contractors/funding recipients should follow the information provided in the sample certification letters found in [Appendix 5 \[PDF exit DNR\]](#) of the U.S. EPA memo dated 3/20/2014.

A step certification process similar to what is used by the Federal Highway Administration is recommended. Step certification ensures that producers adhere to AIS requirements and allows assistance recipients to verify that compliance. Under a step certification process, each handler of the iron and steel (supplier, fabricator, manufacturer, processor, etc.) certifies that their step in the process was performed in the United States. These certifications should be collected and maintained by the assistance recipient.

Each certification should include the following:

- project name, project number (####-##), or both;
- certification statement;
- the name of the manufacturer;
- the location of the *manufacturing facility* (not its headquarters);
- a description of the item, products, and/or materials; and
- a signature from a responsible party representing the manufacturer.

Mill certifications may also be acceptable as AIS certification if all the information shown in the sample certification letters is provided.

CONTRACT SPECIFICATIONS AND ENGINEER'S PRODUCT SUBMITTAL/REVIEW/APPROVAL PROCESS

For the items, products, and/or materials requiring compliance with AIS, the Environmental Loans section recommends that contract specifications ("Product Submittal Requirements" or other similarly-named specification section) be written to notify the contractor of the requirement for AIS certification letter documentation. This could be managed by incorporating the certification letter requirement as a part of the engineer's shop drawing/product review/comment/approval process.

As an example, a shop drawing review or product submittal comment by the engineer may include, "Provide AIS certification for this item."

INCLUDE SPECIFIC AIS LANGUAGE IN...

To document the use of AIS, engineers/contractors/funding recipients should follow the information provided in the sample construction contract language found in [Appendix 4 \[PDF exit DNR\]](#) of the U.S. EPA memo dated 3/20/2014.

Engineers/contractors/funding recipients should include specific AIS language and requirements for each handler of the iron and steel (bidders, suppliers, product vendors, fabricators, manufacturers, processors, producers, etc.) in such as the following:

- advertisements;
- contracts and subcontracts;
- engineer's product approval process;
- prequalification requirements;
- purchase agreements for iron and steel components;
- request for proposals;
- solicitations for bids; and
- specifications ("Product Submittal Requirements" or other similarly-named specification section).

Specific AIS language should be included in construction contracts. Assistance recipients will be required to certify that the successful bidders have certified their understanding of and compliance with the AIS requirements. Assistance recipients will also complete an additional certification of compliance with the AIS requirements at project closeout after construction is completed.

Sample construction contract language and sample certifications can be found in the appendices of EPA's [AIS Guidance and Questions & Answers \[PDF exit DNR\]](#).

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CERTIFICATION FORM

The certification form for AIS is a mandatory form for all projects and should be completed after a project has been bid. The form must be completed even if it is determined that your project is exempt from the AIS requirements.

- [CWFP AIS Certification Form 8700-361 \[PDF\]](#).
- [SDWLP AIS Certification Form 8700-356 \[PDF\]](#).

WAIVERS

The legislation permits EPA to issue waivers for a case or category of cases where EPA finds:

1. that applying these requirements would be inconsistent with the public interest;
2. iron and steel products are not produced in the U.S. in sufficient and reasonably available quantities and of a satisfactory quality; or
3. inclusion of iron and steel products produced in the U.S. will increase the cost of the overall project by more than 25%.

Approved waivers; waiver requests received by EPA; draft waivers; and denied waivers can be found on EPA's page, [SRF AIS Requirement \[exit DNR\]](#).

Page 12 of EPA's [AIS Guidance and Questions & Answers \[PDF exit DNR\]](#) goes into detail about the EPA's waiver process.

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REQUESTING WAIVERS

If you have a project which you believe would qualify for a waiver, **you must submit your waiver request through the State SRF program** (Wisconsin DNR Environmental Loans Section) where it will be reviewed for completeness before being forwarded on to EPA. A checklist of required documentation applicable to each type of waiver request is included as Appendix 1 of the EPA guidance document which can be found at the link given above.

Once you have compiled the appropriate documentation for your request you should email it to Frank Fuja at Francis.Fuja@Wisconsin.gov. Please be sure to include contact information in case we have any questions. The request will be reviewed for completeness and then forwarded on to EPA.

EPA Headquarters will publish the request on their website for 15 days to give the public the opportunity to review the request and provide informal comments. If the waiver request is approved, EPA will notify the State SRF program and post the approved waiver on EPA's page, [SRF AIS Requirement \[exit DNR\]](#).

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FINAL EXTENSION OF SHORT-TERM NATIONAL PRODUCT WAIVER FOR STAINLESS STEEL NUTS & BOLTS USED IN PIPE COUPLINGS, RESTRAINTS, JOINTS, FLANGES, AND SADDLES FOR STATE REVOLVING FUND (SRF) PROJECTS

On **Aug. 24, 2018**, the U.S. Environmental Protection Agency (EPA) signed the third and [Final Extension of the Short-Term National Product Waiver for Stainless Steel Nuts & Bolts used in Pipe Couplings, Restraints, Joints, Flanges, and Saddles \[PDF exit DNR\]](#) for CW & DW SRF projects.

With this third and final extension, the waiver will retroactively cover nuts and bolts purchased since Feb. 18, 2018 and be extended **18 months from the signing date of this waiver** (sunset date). This waiver will not be renewed after the sunset date.

The [original, approved waiver \[PDF exit DNR\]](#) provides details regarding the specific types of products covered by and the rationale for issuance of the waiver. This national product waiver extension is short-term, applying to the covered products if those products are purchased by the assistance recipient or their authorized representatives (i.e., construction contractor) up until the sunset date.

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NATIONWIDE DE MINIMIS WAIVER

On April 15, 2014, EPA issued a nationwide public interest waiver for de minimis incidental components. This waiver permits the use of noncompliant **incidental components** for projects subject to the AIS requirements as long as the de minimis components cumulatively compromise no more than a total of 5% of the total cost of materials used in and incorporated into the project and no individual item exceeds 1%.

Examples of **incidental components** include: small washers; screws; fasteners (i.e., nuts and bolts); miscellaneous wire; corner bead; ancillary tube; etc.

Examples of items which are **not incidental** include: significant process fittings (i.e., tees, elbows, flanges, and brackets); distribution system fittings and valves; force main valves; pipes for sewer collection and/or water distribution; treatment and storage tanks; large structural supports; etc.

Recipients who wish to utilize the de minimis waiver must retain relevant documentation (i.e., invoices) in their project files for all materials used in and incorporated into the project. Documentation demonstrating compliance with the 5% and 1% thresholds must be submitted as part of the project closeout process once construction is completed.

This documentation must show the total cost of all materials used in and incorporated into the project as well as demonstrate that the total of the de minimis components does not exceed 5% of the total materials cost and that no individual item exceeds 1%.

An optional spreadsheet is available for use in documenting de minimis costs, [De Minimis Tracking Worksheet \[Excel\]](#).

Contact information

Direct general AIS and waiver procedure questions to:

[AIS specialist](#) or [AIS CME](#)

Direct project-specific AIS questions to your assigned [DNR construction management engineer \(CME\)](#).

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[Disclaimer of guidance](#): This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

**CONTRACTOR'S PAYROLL CERTIFICATION
AND
AMERICAN IRON AND STEEL CERTIFICATION**

(To be submitted with each application for payment)

Name of Contractor: _____

Address of Contractor: _____

Project Name: _____

Project Number: _____

Project Location: _____

Payment Application No.: _____

Payment App. End Date: _____

I hereby certify that all of the contract requirements as specified under the Labor Standards Provision for Federal and Federally Assisted Contracts have been complied with by the above named Contractor, and by each Subcontractor employing Laborers or Mechanics at the site of the work, or there is an honest dispute with respect to the required provisions.

I hereby certify that the "American Iron and Steel" provisions of P.L. 113-76, "Consolidated Appropriation Act, 2014", the "Consolidated and Further Continuing Appropriations Act, 2015", P.L. 114-113, the "Consolidated Appropriations Act, 2016"; and/or the "Water Resources Reform and Development Act of 2014" ("Acts") as applicable, have been met, and that all iron and steel used in the project named above have been produced in the United States in a manner that complies with American Iron and Steel Requirements, and/or that applicable EPA-approved waivers have been obtained to comply with American Iron and Steel requirements.

CONTRACTOR: _____

Name of Responsible Official

Title

Signature

Date

29 CFR 5.5(a) Federal Labor Standards Provisions

I. Requirements For Sub recipients 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 through the state revolving funds with respect to State recipients and sub recipients that are governmental entities. If a sub recipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State recipient. The recipient or sub recipient may also obtain additional guidance from DOL's web site at <http://www.dol.gov/whd/>.

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

Construction projects funded under the Drinking Water State Revolving Fund (DWSRF) or Clean Water State Revolving Fund (CWSRF) are subject to DB. If a sub recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub recipient must discuss the situation with the State recipient before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub recipients 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 sub recipient shall monitor www.wdol.gov weekly to ensure that the wage determination contained in the solicitation remains current. The sub recipients 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 sub recipients 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 sub recipient 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 sub recipient,

obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub recipient shall monitor 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 sub recipient 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 sub recipient shall insert the appropriate DOL wage determination from www.wdol.gov into the ordering instrument.

(c) Sub recipients 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 sub recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub recipient 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 sub recipient 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 sub recipient'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 sub recipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the Clean Water State Revolving Fund (CWSRF) 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 FY 2015 Water Resource Reform and Development 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.

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

(ii)(A) The sub recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The 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 sub recipient(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 sub recipient (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 sub recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the State 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 sub recipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and

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

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the sub recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub recipient(s).

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

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

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

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

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

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

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

(4) Apprentices and trainees

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

actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or sub contractor'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 sub recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

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

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

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

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

(a) Contract Work Hours and Safety Standards Act. The sub recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 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 sub recipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

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

5. Compliance Verification

- (a) The sub recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The sub recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.
- (b) The sub recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.
- (c) The sub recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the sub recipient 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. Sub recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the sub recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.
- (d) The sub recipient shall periodically review contractors and subcontractor's 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) Sub recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/whd/america2.htm>.

"General Decision Number: WI20210036 01/01/2021

Superseded General Decision Number: WI20200036

State: Wisconsin

Construction Type: Residential

Counties: Douglas, Fond Du Lac and Marathon Counties in Wisconsin.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.95 for calendar year 2021 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.95 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number Publication Date
 0 01/01/2021

CARP0252-006 06/01/2008

FOND DU LAC & MARATHON COUNTIES

	Rates	Fringes
CARPENTER.....	\$ 19.96	10.26

CARP0361-011 05/01/2018

DOUGLAS COUNTY

	Rates	Fringes
CARPENTER.....	\$ 31.10	19.03

ELEC0242-004 05/31/2020

DOUGLAS COUNTY

	Rates	Fringes
ELECTRICIAN.....	\$ 39.77	28.11

ELEC0388-006 06/01/2020

MARATHON COUNTY

	Rates	Fringes
ELECTRICIAN.....	\$ 22.33	15.725%+9.92

ELEC0494-009 06/01/2020

FOND DU LAC COUNTY

	Rates	Fringes
ELECTRICIAN.....	\$ 28.63	12.55

ENGI0139-006 06/01/2020

	Rates	Fringes
OPERATOR: Power Equipment		
Backhoe/Excavator 130,000 lbs. and over.....	\$ 41.67	23.15
Backhoe/Excavator under 130,000 lbs.....	\$ 39.97	23.15
Bulldozer over 40 h.p.; Roller over 5 tons.....	\$ 39.44	23.15
Bulldozer under 40 h.p.; Roller 5 tons and under; Rubber Tire Roller.....	\$ 37.37	23.15

LABO0330-002 06/03/2019

FOND DU LAC & MARATHON COUNTIES

	Rates	Fringes
LABORER		

Common or General; Mason
Tender - Brick.....\$ 16.71 14.31

LAB01091-009 06/03/2019

DOUGLAS COUNTY

Rates Fringes

LABORER

Common or General; Mason
Tender - Brick.....\$ 16.71 14.31

PLUM0011-005 05/07/2018

DOUGLAS COUNTY

Rates Fringes

PLUMBER.....\$ 40.63 20.72

PLUM0400-007 05/30/2016

FOND DU LAC COUNTY

Rates Fringes

PLUMBER.....\$ 32.15 17.57

PLUM0434-008 05/31/2020

MARATHON COUNTY

Rates Fringes

PLUMBER.....\$ 34.99 20.47

ROOF0096-001 04/01/2019

MARATHON COUNTY

Rates Fringes

ROOFER.....\$ 40.95 13.73

ROOF0096-005 06/01/2020

FOND DU LAC COUNTY

Rates Fringes

ROOFER.....\$ 27.00 14.12

* ROOF0096-016 07/01/2020

DOUGLAS COUNTY

	Rates	Fringes
ROOFER.....	\$ 35.10	18.42

SHEE0010-032 05/01/2008

DOUGLAS COUNTY

	Rates	Fringes
SHEET METAL WORKER (Including HVAC Duct Installation).....	\$ 23.12	10.56

SHEE0018-013 06/01/2018

MARATHON COUNTY

	Rates	Fringes
SHEET METAL WORKER (Including HVAC Duct Installation).....	\$ 19.64	18.17

SHEE0018-031 09/01/2020

FOND DU LAC COUNTY

	Rates	Fringes
SHEET METAL WORKER (Including HVAC Duct Installation).....	\$ 21.05	19.32

SUWI2012-020 04/04/2012

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 24.37	7.29
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 24.95	9.05
OPERATOR: Loader.....	\$ 25.70	9.58

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave
for Federal Contractors applies to all contracts subject to the
Davis-Bacon Act for which the contract is awarded (and any

solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted

because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

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