

**Supplemental Specification Insert for  
Idaho Drinking Water and Clean Water State Revolving Fund  
Loan Attachment C (ENG-03)**

**A. GENERAL**

1. The requirements contained herein apply to all projects either partially or completely funded by the Drinking Water State Revolving Fund and/or Clean Water State Revolving Fund (DWSRF or CWSRF) Program. In the event of conflict with other requirements contained elsewhere, the requirements contained herein shall control.
2. All applicable federal, state, and local laws shall be complied with during bidding and construction. The Contractor is responsible for its own and its employees' acts or omissions under the laws and the contract and are jointly and equally responsible for the acts and omissions of their employees.
3. Copies of all documentation required by this specification insert shall be kept by the Owner, who shall maintain the records until three years of loan repayments have occurred.

**B. MAINTENANCE OF EXISTING TREATMENT WORKS DURING CONSTRUCTION**

1. Where construction consists of replacement or modification to any existing supply or distribution line, pumping facility or water treatment works, the Contractor shall provide for the maintenance of the works' conveyance of water and its existing level of treatment at all times during construction, unless otherwise specified within these specifications.

**C. ACCESS**

1. The Contractor shall provide for access to all sites of contract work for representatives of the Environmental Protection Agency (EPA) and the state Department of Environmental Quality (DEQ).

**D. BONDING REQUIREMENTS**

1. For construction or facility improvement contracts exceeding \$100,000, the minimum requirements shall be as follows:
  - a. Bid guarantee: a bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
  - b. Performance bond: a performance bond on the part of the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the Contractor's obligations under such contract.
  - c. Payment bond: a payment bond on the part of the Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure

payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

- E. SAFETY:** Contractor is solely responsible for ensuring safety standards at the project site and for ensuring that all work will be conducted in a manner consistent with Occupational Safety and Health Administration Safety and Health Standards, 29 Code of Federal Regulations (CFR) Part 1926.
- F. OPTIONAL PROJECT SIGN:** A DEQ SRF project sign is not required for the project. If the Contractor is required elsewhere in the Contract to provide a project sign, then the project sign shall be in substantial conformance with DEQ SRF sign specifications below.
1. DEQ SRF SIGN SPECIFICATIONS:
    - a. The project sign shall be in accordance with DEQ SRF sign template provided by DEQ to the Owner. The Contractor shall coordinate with the Owner to secure sign specific to this Project. Any additional information displayed on the sign should not detract from or displace the information required.
    - b. The sign shall be constructed of 4 feet by 8 feet exterior type high-density overlaid plywood or other sign material of equivalent quality and framed with 2 inch by 4 inch wood of suitable grade.
    - c. The DEQ logo shall be 11 inches in diameter.
    - d. The sign shall be painted with black or other visible dark lettering on a white background. Lettering shall be of professional quality and all lettering should be in proportion to the sizes shown.
    - e. The Contractor should provide adequate support for the sign with regard to site conditions and it should be an adequate distance above the prevailing grade to permit public viewing.
    - f. When the project is ready for final payment and accepted by DEQ, the Contractor shall remove and appropriately dispose of or reuse the sign unless otherwise required by the Contract.
- G. SRF CONTRACT REQUIREMENTS:** The following clauses shall be included as part of these specifications and thereby incorporated into the construction Contract:
1. PRIVACY OF CONTRACT: The construction Contract is funded in part with funds from the EPA and DEQ. Neither the United States, the State of Idaho nor any of its departments, agencies, or employees is, or will be a party to the construction Contract or any lower tier contract.
  2. AUDIT ACCESS TO RECORDS:
    - a. The Contractor (the person or entity under contract with the Owner to perform the work partially or fully paid for with DWSRF and/or CWSRF) shall maintain books, records, documents, and other evidence directly pertinent to performance on DWSRF and/or CWSRF-funded work under this contract in accordance with generally accepted accounting principles and practices consistently applied, and the applicable DEQ

regulations in effect on the date of execution of this construction contract. The Contractor shall also maintain the financial information and data used in the preparation or support of any cost submission required under applicable regulations for negotiated contracts or change orders and a copy of the cost summary submitted to the Owner. The DEQ, the EPA, the Comptroller General of the United States, the United States Department of Labor, and the Owner, or any of their authorized representatives shall have access to all such books, records, documents, and other evidence for the purpose of inspection, audit, and copying during normal business hours. The Contractor will provide proper facilities for such access and inspection.

- b. If this is a fixed price contract awarded through sealed bidding or otherwise on the basis of effective price competition, the Contractor agrees to make paragraphs (a) through (g) of this clause applicable to all negotiated change orders and contract amendments affecting the contract price. In the case of all other types of prime contracts, the Contractor agrees to make paragraphs (a) through (g) applicable to all contract awards in excess of \$10,000, at any tier, and to make paragraphs (a) through (g) of this clause applicable to all change orders directly related to project performance.
- c. Audits conducted under this provision shall be in accordance with generally accepted auditing standards and with established procedures and guidelines of the reviewing or audit agency.
- d. The Contractor agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause to any of the agencies referred to in paragraph (a).
- e. Records under paragraphs (a) and (b) above shall be maintained by the Contractor during performance on DEQ assisted work under this contract and for three years after the Owner makes final payment to the Contractor and all other pending matters are closed.
- f. Access to records is not limited to the required retention periods. The authorized representatives designated in paragraph (a) of this clause shall have access to records at any reasonable time for as long as the records are maintained.
- g. This right of access clause applies to financial records pertaining to all contracts (except for fixed price contracts awarded through sealed bidding or otherwise on the basis of effective price competition), and all contract change orders regardless of the type of contract, and all contract amendments regardless of the type of contract. In addition, this right of access applies to all records pertaining to all contracts, contract change orders, and contract amendments:
  - i. To the extent the records pertain directly to contract performance
  - ii. If there is any indication that fraud, gross abuse, or corrupt practices may be involved; or
  - iii. If the contract is terminated for default or for convenience.

3. COVENANT AGAINST CONTINGENT FEES: The Contractor assures that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purposes of securing business. For breach or violation of this assurance, the Owner shall have the right to annul the Contract without liability or, at its discretion, to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, and brokerage or contingent fee.
4. GRATUITIES
  - a. If the Owner finds after a notice and hearing that the Contractor or any of the Contractor's agents or representatives offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the Owner, DEQ or EPA in an attempt to secure a contract or favorable treatment in awarding, amending or making any determinations related to the performance of the Contract, the Owner may, by written notice to the Contractor, terminate the Contract. The Owner may also pursue other rights and remedies that the law or this Contract provides.
  - b. In the event this Contract is terminated as provided in paragraph (a), the Owner may pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor, and as a penalty, in addition to any other damages to which it may be entitled by law, be entitled to exemplary damages in an amount which shall be not less than three nor more than ten times the costs the Contractor incurs in providing any such gratuities to any such officer or employee.
5. CONTRACTS FOR PROFESSIONAL SERVICES: The following clause applies only to contracts that include professional services:
  - a. The Contractor is responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports and other services furnished by the Contractor under this Contract. If the Contract involves environmental measurements or data generation, the Contractor shall develop and implement quality assurance practices consisting of policies, procedures, specifications, standards and documentation sufficient to produce data of quality adequate to meet project objectives and to minimize loss of data due to unforeseen conditions or malfunctions. The Contractor shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in that Contractor's designs, drawings, specifications, reports and other services.
  - b. The Contractor shall perform the professional services necessary to accomplish the work specified in the Contract in accordance with the Contract and applicable DEQ requirements in effect on the date of execution of the funding assistance agreement for this project.
  - c. The Owner's or DEQ's approval of drawings, designs, specifications, reports and incidental work or materials furnished shall not in any way relieve the Contractor of responsibility for the technical adequacy of his work. Neither the Owner's nor DEQ's review, approval,

- acceptance or payment for any of the services shall be construed as a waiver of any rights under the Contract or of any cause for action arising out of the performance of the Contract.
- d. The Contractor shall be, and shall remain, liable in accordance with applicable law for all damages to the Owner or DEQ caused by the Contractor's negligent performance of any of the services furnished under this Contract, except for errors, omissions or other deficiencies to the extent attributable to the Owner, Owner-furnished data or third party. The Contractor shall not be responsible for any time delays in the project caused by circumstances beyond the Contractor's control.
  - e. The Contractor's obligations under this clause are in addition to the Contractor's other express or implied assurances under this Contract or state law and in no way diminish any other rights that the Owner may have against the Contractor for faulty materials, equipment or work.
6. ANTI-LOBBYING ACT: The Contractor agrees to comply with the requirements of the federal Anti-Lobbying Act, Section 1352, Title 31, U.S. Code, which requires disclosure of lobbying activities. The Certification Form, "*Certification of Compliance with Anti-Lobbying Act*", (Attachment A see Section L - Submissions), must be signed by all Contractors entering into contracts of \$100,000 or greater.
  7. COMPLIANCE WITH COPELAND ACT REQUIREMENTS: The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated in this contract by reference.
  8. 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.
  9. 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.
  10. DAVIS-BACON WAGE RATE REQUIREMENTS UNDER THE CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS ACT, 2013 (P.L. 113-6): With respect to the Clean Water and Drinking Water State Revolving Funds, Davis Bacon prevailing wage rates are a requirement of the project. 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 the Contract. The following provision shall apply to the Contract:
    - a. 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.

- b. 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 (f) 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 section 5.5(a)(4) of the Davis-Bacon Act. 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 (c) 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.
- c. The Contractor shall require that any class of laborers or mechanics, including helpers, which is not listed in the general wage determination and which is to be employed under the Contract be classified in conformance with the wage determination. The Contractor and Owner shall submit request for additional classification to DEQ project manager when the following criteria have been met:
- i. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - ii. The classification is utilized in the area by the construction industry; and
  - iii. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
  - iv. If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Owner 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 Owner to the DEQ project manager. The DEQ project manager will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor (DOL), Washington, DC. The Contractor and Owner shall transmit such request for additional classification using most recent version of DOL Conformance Request SF1444 Form. The DOL Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the DEQ project manager or will notify the DEQ project manager within the 30-day period that additional time is necessary.
- d. In the event the Contractor, the laborers or mechanics to be employed in the

classification or their representatives, and the Owner do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the DEQ project manager shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the DEQ project manager, to the DOL Administrator for determination. The DOL 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 DEQ project manager within the 30-day period that additional time is necessary.

- e. The wage rate (including fringe benefits where appropriate) determined (c) or (d) 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.
- f. 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.
- g. 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.
- h. In the event of Contractor's 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 Owner shall withhold or cause to be withheld from the 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. DEQ or EPA may, after written notice to the Contractor and 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.
- i. If a mathematical error, misclassifications, or other error that results in the underpayment of wage or fringe benefits occurs, the Contractor or subcontractor must make wage restitution and submit a corrected certified payroll and a copy of the check showing the underpayment made to the worker, to the Owner.
- j. 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

vide 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. Contractor 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.

- i. The Contractor shall submit weekly, for each week in which any Contract work is performed, a copy of all payrolls to the Owner. Such documentation shall be available on request of the DEQ or EPA. 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 Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractor and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Owner for transmission to DEQ or EPA if requested 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 Contractor to require a subcontractor to provide addresses and social security numbers to the Contractor for its own records, without weekly submission to the Owner.
- ii. 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.
  - iii. 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 this section.
  - iv. 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.
  - v. The Contractor or subcontractor shall make the records of this section available for inspection, copying, or transcription by authorized representatives of the DEQ, 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 DEQ may, after written notice to the Contractor and 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.
  - k. 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 DOL 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.

- l. 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.
- m. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10), and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

- n. 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.
- o. 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 Owner, DEQ, EPA, the U.S. Department of Labor, or the employees or their representatives.
- p. 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.
- q. Contract Work Hours and Safety Standards Act: For Contract in excess of \$100,000.00, the Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall not 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.
  - i. In the event of any violation set forth in 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 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 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 this section.
  - ii. The Owner shall withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under the 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 Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (i) of this section.
- iii. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.
  - iv. If the Contract is 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 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. 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 DEQ and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.
11. BUILD AMERICA, BUY AMERICA: The goods and services under this Contract are being funded with federal monies and have statutory requirements commonly known as “Build America, Buy America” that requires all of the iron and steel, manufactured products, and construction materials used in the project to be produced in the United States (“Build America, Buy America Requirements”) including iron and steel, manufactured products, and construction materials provided by the Contractor pursuant to this Contract.
- a. Notwithstanding any other provision of this Contract, any failure to comply with this paragraph by the Contractor shall permit the Owner or DEQ to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney’s fees) incurred by the Owner or DEQ resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from DEQ or any damages owed to DEQ by the Owner). DEQ is a third-party beneficiary and neither this paragraph (nor any other provision of this Contract necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of DEQ.
  - b. The Contractor shall secure a manufacturer’s certification of compliance statement with Build America, Buy America Requirements for all iron and steel, manufactured products, and construction materials delivered to the project site. The certification of compliance statement shall include, at a minimum 1) Project name and location 2) Product delivered to the project site 3) Documentation includes statement attesting that the products supplied to the Owner are compliant with Build America, Buy America Requirements (reference the Infrastructure Investment and Jobs Act (“IIJA”) or the Bipartisan Infrastructure Law (BIL) are also acceptable. References to the American Iron and Steel (AIS) requirements are also acceptable and reciprocal with for such items. 4) Documentation that manufacturing

occurred in the United States, which may include, the location(s) of manufacturing for each manufacturing step that is being certified. It is acceptable for manufactured products to note a single point of manufacturing, documenting that the final point of manufacturing is in the United States. 5) Signature of company representative on company letterhead. The signatory of the certifying statement shall affirm their knowledge of the manufacturing processes for the referenced product(s) and attests that the product meets the Build America, Buy America Requirements.

- c. The Contractor shall develop and maintain an on-site product compliance log containing current records of all iron and steel, manufactured products, and construction materials arriving on the construction site. The compliance log shall include the manufacturer's certification of compliance statement, type of product (e.g. iron and steel, manufactured products, or construction materials), purchase order number and sufficient product information to enable tracking of the products, such as product description, serial and lot numbers (if available), manufacturer's name, and origin of shipment including city and state. In addition, a separate log shall be maintained to track information related to de minimis materials such as purchase order number, product description, current value of de minimis materials, and the running percentage of de minimis product value received to the total cost of the project. The on-site materials compliance log and de minimis log shall be made available to the Owner and DEQ upon request.
  - d. Contractor shall submit an executed Bidder's Certification of Compliance, (Form BABA-1, see Section L – Submissions), covering all proposed steel and iron products, manufactured products, and construction materials shall be furnished by bidders as part of the sealed bid; this Certification is required in order to constitute a valid bid.
12. REQUIRED NONDISCRIMINATION CONTRACT REQUIREMENT: The Contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in the termination of this Contract or other legally available remedies.

13. REQUIRED CERTIFICATIONS:

Boycott of Israel. Pursuant to Idaho Code section 67-2346, if payments under the Contract exceed one hundred thousand dollars (\$100,000) and Contractor employs ten (10) or more persons, Contractor certifies that it is not currently engaged in, and will not for the duration of the Contract engage in, a boycott of goods or services from Israel or territories under its control. The terms in this section defined in Idaho Code section 67-2346 shall have the meaning defined therein.

Ownership or Operation by China. Pursuant to Idaho Code section 67-2359, Contractor certifies that it is not currently owned or operated by the government of China and will not for the duration of the Contract be owned or operated by the government of China. The terms in this section defined in Idaho Code section 67-2359 shall have the meaning defined therein.

Boycott of Various Industries. Pursuant to Idaho Code § 67-2347A, if payments under the contract exceed one hundred thousand dollars (\$100,000) and Contractor employs ten or more persons, Contractor is not currently engaged in, and will not for the duration of the contract engage in, a boycott of any individual or company because the individual or company: (a) engages in or supports the exploration, production, utilization, transportation, sale or manufacture of fossil fuel based energy, timber, minerals, hydroelectric power, nuclear energy, or agriculture; or (b) engages in or supports the manufacture, distribution, sale, or use of firearms. The terms in this Section defined in Idaho Code § 67-2347A shall have the meaning defined therein, including through reference to another section of Idaho code.

- H. SUSPENDED AND DEBARRED:** The Contractor shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532 (Suspension and Debarment). The Contractor or subcontractor shall not knowingly enter into covered transactions (any contract awarded to a subcontractor, supplier, or consultant where the expected amount of the contract is \$25,000 or greater) with excluded persons.
1. **General: Prohibition on Equipment Purchase from Excluded Contractors:** In addition, Owner and Contractors shall check that certain prohibited equipment, systems, or services, including equipment, systems, or services are not produced or provided by entities identified and recorded in the System for Award Management Items included in the prohibition are not eligible SRF costs, and the SRF programs cannot reimburse Owner or Contractors for these costs.
  2. **Telecommunications and Surveillance Equipment:** Owner and Contractors are prohibited from obligating or expending loan funds to procure equipment, services, or systems that use telecommunications equipment or services produced by Huawei Technologies Company or ZTE Corporation. Owner and Contractors also may not use SRF funds to purchase: video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company. Owner and Contractors shall be mindful of automatic meter reading (AMR) technology and advanced metering infrastructure (AMI), instrumentation control systems (e.g. process control systems, distributed control systems and programmable logic controls), and security cameras and other electronic security measures to ensure that those items are procured from a non-excluded entity.
  3. **Condition For all Lower Tier Transactions:** The Contractor or subcontractor shall insert this condition into all lower tier covered transactions and ensure any subsequent lower tier covered transactions include this condition. Excluded parties may be verified at [www.sam.gov](http://www.sam.gov).
- I. BIDDER'S LIST OF SUBCONTRACTORS:** The Contractor shall submit Form 1. Bidder's List of Subcontractors (see Section L - Submissions) to the Owner who shall provide a copy to DEQ. The list shall provide specific contact information on the Contractor and all subcontractors including business name, contact, address, phone, email, date bid submitted; and shall outline the items of work for which they will be retained; and shall indicate if they are a Disadvantaged Business Enterprise (DBE). The completed form must be submitted prior to DEQ issuance of the Authorization to Award.

**J. RESERVED**

**K. DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION:** In compliance with the President's Policy Statement on Disadvantaged Business Enterprises (DBEs), Executive Order 12432, and the Environmental Protection Agency's Procurement Under Assistance Agreements Regulation (40 CFR 33), all bidders shall be required to comply fully with these specifications toward the goal of equitable utilization of DBEs. DBEs consist of Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Small Business Enterprises (SBE). Such utilization may be through prime contracting, subcontracting, joint ventures, procurement of supplies, material or equipment, or other business participation utilized in performing this project. Contractors shall take necessary and reasonable steps to ensure DBEs have the maximum opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of EPA-assisted projects.

1. **REQUIREMENTS:** Bidders must take the following "Good Faith Efforts" in awarding subcontracts for supplies, construction, services, and equipment:
  - a. Make DBEs aware of contracting opportunities through outreach and recruitment activities.
  - b. Provide information on forthcoming opportunities and establish reasonable timeframes that encourage participation.
  - c. Consider whether firms competing for large contracts could subcontract with DBEs.
  - d. Encourage contracting with a consortium of DBEs when a contract is too large for one firm.
  - e. Use services and assistance from the Idaho Transportation Department, Idaho Department of Environmental Quality's Fiscal Office, the Small Business Administration, and the Office of Minority Business Enterprise of the U.S. Department of Commerce.
2. **RECORDKEEPING:** The Contractor must maintain all records documenting its compliance with the Good Faith Efforts under 40 CFR Part 33 Subpart C. These records should be retained in accordance with applicable record retention requirements of this specification.

**L. SUBMISSIONS (Copies of Required Forms Follow this Section)**

1. Form to be submitted by all bidders as part of the sealed bid:
  - a. FORM BABA-1: Bidder's Certification of Compliance With Build America, Buy America (BABA) Provisions
2. Forms to be submitted by the Successful Bidder prior to issuance of the authorization to award:
  - a. Form 1: Bidder's List of Subcontractors
3. Forms to be submitted by the Owner to DEQ with requisitions for reimbursement:

4. Forms to be submitted by the Successful Bidder to the Owner prior to issuance of the notice to proceed:
  - a. ATTACHMENT A Certification of Compliance with Anti-Lobbying Act (Anti- Lobbying Certification)
  - b. ATTACHMENT B Certification of Non-Segregated Facilities

To be submitted as part of the sealed bid; Owner forwards a copy to DEQ

**FORM BABA-1  
BIDDER’S CERTIFICATION OF COMPLIANCE  
WITH THE CURRENT SRF ASSISTANCE BUILD AMERICA, BUY AMERICA (BABA)  
PROVISIONS**

(To be submitted as part of the sealed bid)

**Bidder's Statement of Certification**

The Bidder acknowledges to and for the benefit of the (“Owner”) for the (“Project”) that the Bidder understands the project is being funded in part with SRF Assistance. Build America, Buy America (“BABA”) requirements specify that all iron and steel, manufactured products, and construction materials used in the project shall be produced in the United States. Consistent with the terms of the Owner's bid solicitation and the provisions of SRF Assistance, the Bidder hereby represents and warrants to and for the benefit of the Owner and DEQ that:

1. The Bidder has reviewed and understands the BABA requirements,
2. The Bidder certifies all of the iron and steel, manufactured products, and construction materials used in the project will be and/or have been produced in the United States in a manner that complies with the BABA requirements, unless a waiver of the requirements is approved by Owner and DEQ.
3. The Bidder agrees to provide any further verified information, certification or assurance of compliance with BABA requirements, or information necessary to support a waiver of the BABA, as may be requested by the Owner or DEQ.

Bidder Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

Organization: \_\_\_\_\_

To be Submitted Prior to authorization to Award; Owner forwards a copy to DEQ

<b>FORM 1. BIDDER'S LIST</b>		<b>Items of Work Bid On</b>	<b>Date Bid Submitted</b>	<b>MBE/WBE Contractor</b>
<b>Prime Contractor Information</b>				
Business Name:				
Contact Name:				
Mailing Address:				
Phone:				
Email:				
<b>Subcontractor Information</b>				
Business Name:				
Contact Name:				
Mailing Address:				
Phone:				
Email:				
<b>Subcontractor Information</b>				
Business Name:				
Contact Name:				
Mailing Address:				
Phone:				
Email:				
<b>Subcontractor Information</b>				
Business Name:				
Contact Name:				
Mailing Address:				
Phone:				
Email:				

COPY THIS PAGE IF ADDITIONAL SUBCONTRACTORS ARE NEEDED

Owner receives from the Successful Bidder prior to issuing Notice to Proceed

**ATTACHMENT A  
CERTIFICATION OF COMPLIANCE WITH ANTI-LOBBYING ACT**

The undersigned certifies, to the best of his/her knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federally funded grant, the making of any federally funded loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federally funded contract, grant, loan or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federally funded contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Owner Receives from the Successful Bidder Prior to issuing Notice to Proceed

**ATTACHMENT B  
CERTIFICATION OF NONSEGREGATED FACILITIES**

(Applicable to federally assisted construction contracts and related subcontracts exceeding \$10,000 which are not exempt from the Equal Opportunity clause.)

The federally assisted construction contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction contractor certified, further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work area, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or area, in fact, segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. The federally assisted construction contractor agrees that (except where he has obtained identical certifications from proposed contractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such, certification in this file.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name and Title of Signer: \_\_\_\_\_