

UTILITY POLICY NO. 2021-1

AMERICAN IRON AND STEEL VS. BUY AMERICA REQUIREMENTS FOR UTILITY WORK PERFORMED UNDER MAINEDOT PROJECT CONTRACTS

Initial Policy Development Date: October 2021

Last Revision Date: October 2021

Background:

The Buy America Act required that iron and steel materials used to build Federal-Aid transportation infrastructure projects be made in the United States beginning in 1982. The American Iron and Steel (AIS) regulation was enacted into USEPA funded State Revolving Fund (SRF) Program in January 2014 followed by enactment into the Federal USDA funded Rural Development Program in May 2017.

Unfortunately, after enactment of AIS, the Federal Highway Administration (FHWA) interpreted that the overlapping regulations both apply in a transportation project when the AIS funded utility construction work is performed under a Federal-Aid state DOT project contract.

(See FHWA Buy America Q&A, Ques. 38: – “*For joint funded projects involving other Federal agencies where there is no established lead agency, 23 USC 313 continues to apply to the FHWA funding and other agencies' requirements apply as well.*”)

https://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm

This interpretation creates confusion as to which regulation applies in some instances because although the regulations are basically the same, i.e., they both require iron and steel products be American made, each regulation has some differing requirements.

For example, the dollar value of allowable non-US steel in Buy America is different than the “De minimis incidental components” allowance in AIS which allows use of Canadian valve boxes. Another example, Buy America allows MaineDOT to fabricate precast reinforced concrete T-beams or voided slabs or Pre-stressed beams at a Canadian manufacturer using US steel and oversight by a MaineDOT inspector at the plant, but fabricating any precast reinforced concrete items out of country is not allowed under any circumstances under AIS requirements.

Purpose and Scope:

Considering the background, the purpose of this policy is to provide process guidance for Maine Department of Environmental Protection (Maine DEP), Maine Department of Health and Human Services (Maine DHHS) and Maine USDA managers of the SRF and Rural Development programs, respectively, and MaineDOT Utility Coordinators regarding application of AIS requirements. The guidance covers the documents to use and process to follow when AIS requirements are implemented under a MaineDOT project contract for USEPA (SRF Program) and Federal USDA (Rural Development Program) funded utility construction.

It should be noted that MaineDOT, Maine DEP, Maine DHHS and the Maine office of USDA together have petitioned FHWA to start the process to develop a “Memorandum of Agreement” for the purpose of defining responsibilities for the utilities and MaineDOT when utility work is funded with SRF or the Rural Development Programs. MaineDOT Policy 2021-1 will be used for the foreseeable future unless and until our Federal Partners, USEPA, Federal USDA and FHWA develop that Memorandum of Agreement.

Process Guide:

General –

When AIS funding is used for utility construction performed under a MaineDOT contract, both AIS and Buy America Certifications must be collected from the contractor. The AIS certifications will be collected to satisfy the AIS funding agency requirements and documents while the Buy America certifications will be collected to satisfy FHWA requirements. Both the MaineDOT Utility Coordinators and funding agency partners will work collaboratively to assure that each of their respective requirements are met, as well as, making sure that all of the documentation is completed and submitted.

MaineDOT Document Modifications –

AIS funding requires the modification of the MaineDOT Utility Receivable Agreement and Special Provision 104, Utilities, to reference the appropriate regulation and address the requirements. Utility Coordinators will replace the Buy America clause in the Receivable Agreement with the clause in Appendix A for AIS funded projects. Special Provision 104 will include one or several of the clauses found in Appendix B when used for AIS projects depending on project circumstances. Note that the Special Provision may also need to account for utilities that are not funded under AIS, and thus fall under Buy America requirements, when both types are in the same project.

AIS Funding Agency Documents –

Appendices C, D, and E present all the supplementary specification documents that will need to be placed within the Utility Company, District, Municipality, etc. project specifications. The table below presents the purpose for each Appendix C, D, and E:

Appendix C –

Use for the case when there is only one utility funded by the SRF Program in the MaineDOT contract.

Appendix D –

Use for the situation when there is only one utility funded by the Rural Development Program in the MaineDOT contract.

Appendix E –

Use for the case when both a SRF funded utility entity and a Rural Development funded utility entity have utility construction projects in the same project under a MaineDOT contract.

Each of the appendices contain all the supplementary specifications and documents needed for each specific situation. The intent of the appendices is to allow the Utility Coordinators and/or the Funding Agency Representatives to copy the entire content of each Appendix C, D, or E, as appropriate, and

provide it to the utilities or their consultant to place into the utilities construction plan and specification package.

The MaineDOT Utility Coordinators, Utility Engineer, and representatives of the SRF and Rural Development funding agencies will work together to assure that all the appropriate information gets into the MaineDOT project specifications and Utility Receivable Agreement. If questions arise during execution of the project, all the partners described in the beginning of this paragraph will communicate with each other to resolve the issues.

APPENDIX A

Replacement Clause for Utility Receivable Agreements

Replace Section 11, Buy America Requirements, with the entire Section 11, American Iron and Steel (AIS) Requirements, below:

11. American Iron and Steel (AIS) Requirements: The following regulations regarding AIS requirements are incorporated and made a part hereof by reference. Note that both AIS and Buy America certifications will be collected for the project files. The AIS certifications will be collected to satisfy the AIS funding agency requirements and documents, while the Buy America certifications will be collected to satisfy FHWA project requirements.

For USDA (Rural Development) Funded Projects: Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel requirement to this project. Specific requirements are presented in RUS Bulletin 1780-35 which is incorporated and made a part hereof by reference.

For USEPA (SRF) Funded Projects: Clean Water Act (CWA) 2014, Section 608, includes requirements for the use of AIS in Clean Water State Revolving Fund (CWSRF) projects. America's Water Infrastructure Act of 2018' (AWIA) also includes several updates and revisions to the Safe Drinking Water Act (SDWA), including the Drinking Water State Revolving Fund (DWSRF) provisions.

APPENDIX B

NOTE: There may be project situations where AIS requirements apply to one utility and Buy America requirements apply to another utility. In those cases, the appropriate AIS clause below and the Buy America clause below must both be included in Special Provision 104, Utilities, noting which requirement applies to each utility.

AIS Clause for Special Provision 104, Utilities

AMERICAN IRON AND STEEL REQUIREMENTS

Use this for Rural Development Program funding projects –

New sewer utility construction for the ABC Sewer Department is funded by the Rural Development Program. Therefore, Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel (AIS) requirement to this project. Specific requirements are presented in RUS Bulletin 1780-35 which is incorporated and made a part hereof by reference.

Also see the ABC Sewer Department construction specifications for details of the American Iron and Steel requirements. Note that both AIS and Buy America certifications will be collected for the project files. The AIS certifications will be collected to satisfy the AIS funding agency requirements and documents while the Buy America certifications will be collected to satisfy FHWA project requirements.

Use this for SRF Program funding projects –

New water or sewer utility construction for the ABC Water or Sewer Department is funded by the SRF Program. Therefore, Clean Water Act (CWA) 2014, Section 608, requirements for the use of AIS in Clean Water State Revolving Fund (CWSRF) projects and America's Water Infrastructure Act of 2018' (AWIA) updates and revisions to the Safe Drinking Water Act (SDWA), including the Drinking Water State Revolving Fund (DWSRF) provisions applies an American Iron and Steel (AIS) requirement to this project. Those requirements are incorporated and made a part hereof by reference.

Also see the ABC Water or Sewer Department construction specifications for details of the American Iron and Steel requirements. Note that both AIS and Buy America certifications will be collected for the project files. The AIS certifications will be collected to satisfy the AIS funding agency requirements and documents while the Buy America certifications will be collected to satisfy FHWA project requirements.

BUY AMERICA REQUIREMENTS

XYZ Water or Sewer District utility construction work performed as part this federal-aid project is subject to the requirements of Buy America in accordance with Federal Regulation 23 CFR 635.410 Section 1518. Specific requirements are presented in MaineDOT Standard Specification Section 100, Appendix A, Section 3.A., Buy America.

APPENDIX C

AIS Funding Agency Documents for an SRF Funded Utility Project Under a MaineDOT Project Contract



STATE REVOLVING FUND (SRF)

Utility Construction Contract Requirements To Supplement the Maine Department of Transportation (MDOT) General Conditions



Last Updates: October 2021

STATE REVOLVING FUND (SRF)
UTILITY CONSTRUCTION CONTRACT REQUIREMENTS
TO SUPPLEMENT THE
MAINE DEPARTMENT OF TRANSPORTATION
GENERAL CONDITIONS

Last Updates: October 2021

Utility Construction Supplementary Conditions

Gratuities

If Owner finds after a notice and hearing that Contractor, or any of Contractor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise) to any official, employee, or agent of Owner or Agency in an attempt to secure this Contract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Contract, Owner may, by written notice to Contractor, terminate this Contract. Owner may also pursue other rights and remedies that the law or this Contract provides. However, the existence of the facts on which Owner bases such findings shall be an issue and may be reviewed in proceedings under the dispute resolution provisions of this Contract. In the event this Contract is terminated as provided in above paragraph, Owner may pursue the same remedies against Contractor as it could pursue in the event of a breach of this Contract by Contractor. As a penalty, in addition to any other damages to which it may be entitled by law, Owner may pursue exemplary damages in an amount (as determined by Owner) which shall not be less than three nor more than ten times the costs Contractor incurs in providing any such gratuities to any such officer or employee.

Environmental Requirements

When constructing a project involving trenching and/or other related earth excavations, Contractor shall comply with the following environmental constraints:

1. Floodplains – When disposing of excess, spoil, or other construction materials on public or private property, Contractor shall not fill in or otherwise convert 100 year floodplain areas delineated on the latest Federal Emergency Management Agency Floodplain Maps, or other appropriate maps, i.e., alluvial soils on NRCS Soil Survey Maps.
2. Endangered Species – Contractor shall comply with the Endangered Species Act, which provides for the protection of endangered and/or threatened species and critical habitat. Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of Contractor, Contractor will immediately report this evidence to Owner and a representative of Agency. Construction shall be temporarily halted

pending the notification process and further directions issued by Agency after consultation with the U.S. Fish and Wildlife Service.

Utility Construction Project Sign

At the start of the project, the Contractor shall provide and erect a project sign as detailed and specified in the attachment to these supplementary conditions. The location of the sign shall be as directed by the Engineer. No other contractor, subcontractor, or material references will be permitted on the sign. The Contractor shall maintain and keep the project sign in good condition until the work is completed when the sign will be removed. Provide adequate supports for the sign as site conditions may require and keep sign a proper distance above prevailing grade to permit public viewing.

Alternate methods of publicizing may be considered on a project specific basis for projects with a contract value less than \$250,000. Prior to the start of the project, the Contractor must obtain Agency approval, through the Owner, for use of a proposed method. Alternate methods that may be considered include: posters or wall signage on public buildings or at a public location, newspaper advertising, online signage, and press releases. Minimum public awareness requirements and sample language can be obtained from the Agency.

SRF Disadvantaged Business Enterprises Program

The contractor must maintain all records documenting its compliance with the requirements of this part, including documentation of its good faith efforts (such as copies of solicitation letters and emails) and data relied upon in formulating its fair share objectives.

1. During the bidding period, the Contractor is required to make the following good faith efforts if they will be awarding subcontracts:
 - (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. This will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
 - (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
 - (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
 - (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
 - (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

- (f) Employ the good faith efforts described above even if the prime contractor has achieved its fair share objectives under subpart D of this part.
2. The Contractor must comply with the following provisions when submitting their bid:
 - (a) The contractor must complete and submit SRF Form 6100–4, ‘DBE Program Subcontractor Utilization Form’ (copy attached) as part of the prime contractor’s bid or proposal package to the Owner. Note, only DBE subcontractors should be listed. If no DBE subcontractors are to be used, the contractor must still complete and submit the form.
 - (b) The contractor must have each of its proposed DBE subcontractors complete the SRF Form 6100–3, ‘DBE Program Subcontractor Performance Form’ (copy attached). The completed forms must be submitted as part of the prime contractor’s bid or proposal package to the Owner.
 3. Prior to contract award, as the Successful Bidder, the Contractor must comply with the following provisions:
 - (a) The contractor must submit to the Owner documentation of its good faith efforts (such as copies of solicitation letters and emails) and data relied upon in formulating its fair share objectives. Solicitation documentation must include proof of receipt. The records must be submitted to the Owner even if the goals were met.
 - (b) The contractor must submit to the Owner a bidders list of all firms that bid or quote on subcontracts, including both MBE/WBEs and non-MBE/WBEs. The purpose of a bidders list is to provide contractors who conduct competitive bidding with as accurate a database as possible about the universe of MBE/WBE and non-MBE/WBE subcontractors. The list must include the following information:
 - (1) Entity's name with point of contact;
 - (2) Entity's mailing address, telephone number, and e-mail address;
 - (3) The procurement on which the entity bid or quoted, and when; and
 - (4) Entity's status as an MBE/WBE or non-MBE/WBE.
 4. Following contract award, the Contractor must comply with the following additional provisions:
 - (a) The contractor must provide SRF Form 6100–2, ‘DBE Program Subcontractor Participation Form’ (copy attached) to all DBE subcontractors listed on Form 6100-4. SRF Form 6100–2 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 during the course of the project, for example, reasons why the DBE subcontractor believes it was terminated by the prime contractor. If DBE subcontractors choose to complete this form, the completed form should be given to the SRF Project Manager.
 - (b) Complete the SRF Progress Report of DBE Subcontractor Utilization Form (copy attached) for all contractor pay applications whether or not they include invoiced amounts

from DBE subcontractors. The progress report should be attached to the corresponding pay application for processing through the Owner.

- (c) Pay subcontractors for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the Owner.
- (d) Notify the Owner in writing prior to any termination of a DBE subcontractor for convenience by the prime contractor.
- (e) If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the good faith efforts described above if soliciting a replacement subcontractor. Documentation of good faith efforts shall be submitted to the Owner upon request.

American Iron and Steel (AIS) Requirements

The Contractor acknowledges, to and for the benefit of the Owner and the State (Maine Department of Environmental Protection and the Maine Department of Health and Human Services), that it understands the goods and services under this Agreement are being funded with monies made available by the State Revolving Fund (SRF) that have statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement. See attached Public Law 113-76, Section 436. The Contractor hereby represents and warrants, to and for the benefit of the Owner and the State, that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Owner or the State. While the Contractor has no direct contractual privity with the State, as a lender to the Owner for the funding of its project, the Owner and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

The Owner shall maintain files on the project site for American Iron and Steel (AIS) manufacturer certifications. The Contractor and subcontractors shall provide step manufacturer certifications to the Owner for each AIS item delivered to the site. The files shall be made available to State and Federal officials for inspection upon request. See sample Step Manufacturer Certification attachment for information that should be included. The Contractor and its subcontractors shall submit to the Owner, an AIS Compliance Certification (see form attached) with each contractor pay application. The Owner, shall in turn, submit this certification from the Contractor, with their AIS Compliance Certification (see form attached), to the State with the SRF pay requisition. The nationwide waiver to the American Iron and Steel law permits the use of products when they occur in de minimis incidental components of such projects funded by the Act that may otherwise be prohibited under section 436(a). Funds used for such de minimis incidental components cumulatively may comprise no more than a total of 5 percent of the total cost of the materials used in and incorporated into a

project; the cost of an individual item may not exceed 1 percent of the total cost of the materials used in and incorporated into a project. It is the State's interpretation that all SRF projects will contain incidental components that might not comply with the law and therefore it is likely that the Owner will use the de minimis waiver. The Contractor is required to provide the necessary documentation. See attached sample de minimis tracking form. Owners should, in consultation with their contractors, determine the items to be covered by this waiver, must retain relevant documentation (i.e., invoices) as to those items in their project files, and must summarize the items to which this waiver is applied, the total cost of incidental components covered by the waiver, and the calculations by which they determined the total cost of materials used in and incorporated into the project. The Owner shall maintain files on the project site for this documentation. The files shall be made available to State and Federal officials for inspection upon request.

The Contractor shall refer to the attached guidance taken from an EPA Memorandum. Additional information regarding the AIS requirements can be found on this website http://water.epa.gov/grants_funding/aisrequirement.cfm

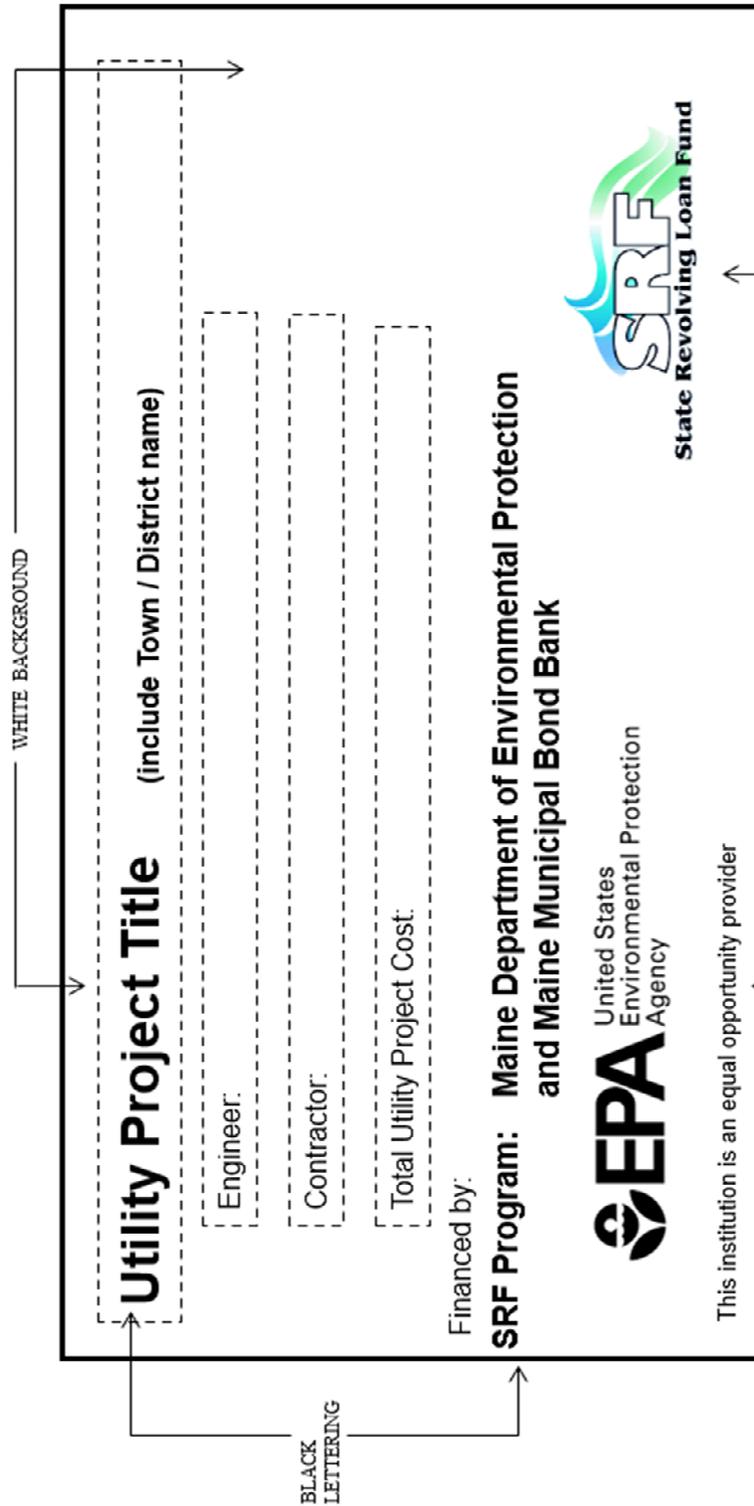
List of Attachments to the Utility Supplementary Conditions

(ALL attachments should follow this list)

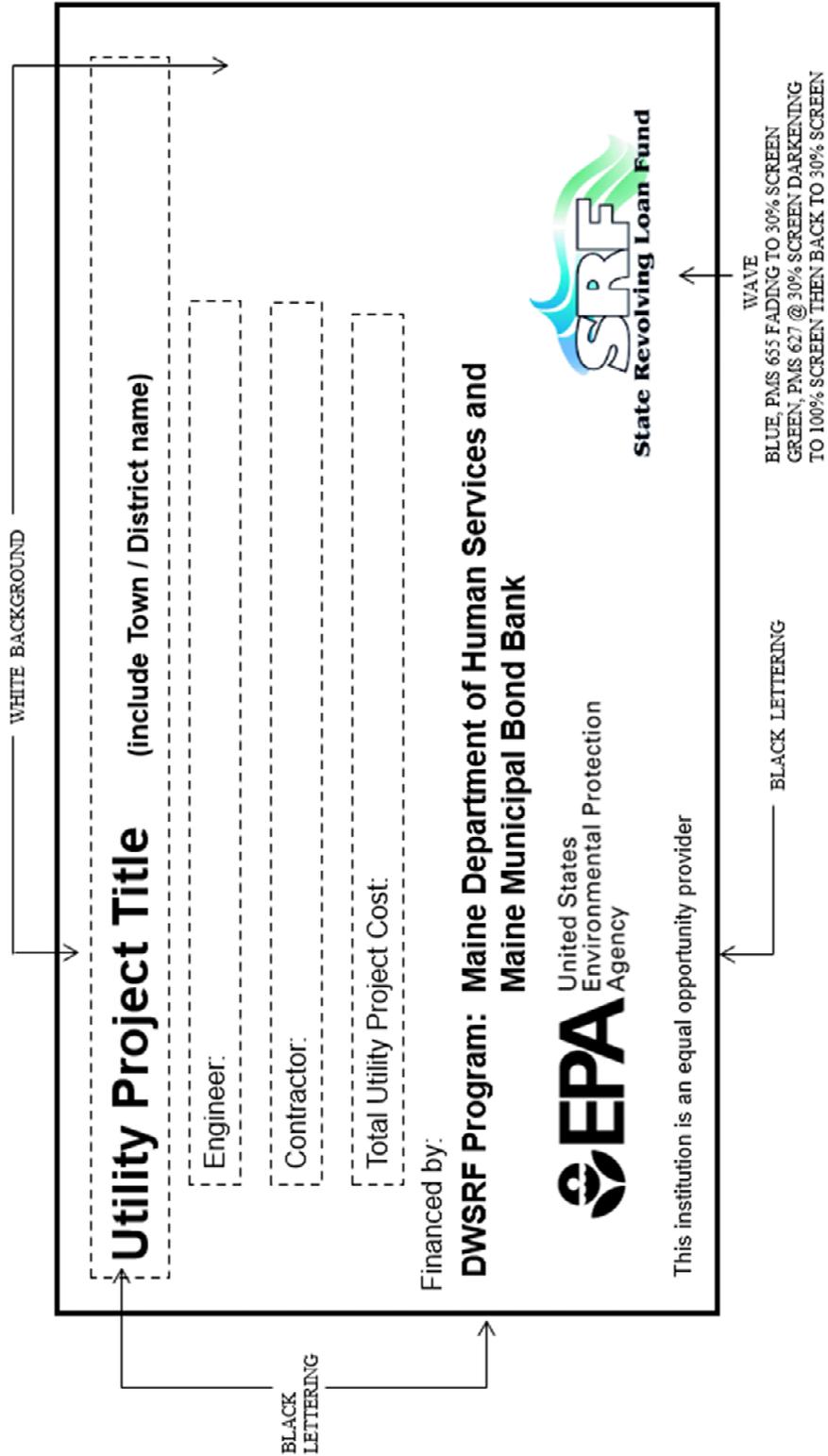
- Utility Construction Project Sign Drawings
- Progress Report of DBE Subcontractor Utilization Form
- DBE Program Subcontractor Utilization Form - SRF 6100-2
- DBE Program Subcontractor Performance Form - SRF 6100-3
- DBE Program Subcontractor Participation Form - SRF 6100-4
- AIS Covered Products Q &A
- AIS Law
- AIS Certification by Owner
- AIS Certification by Contractor
- AIS Step Manufacturer Certification
- AIS De Minimis Tracking Form
- AD-1048 Certification Regarding Debarment

Select Utility Construction Project Sign Drawings As Appropriate

Temporary Utility Construction Sign for CWSRF Projects



Temporary Utility Construction Sign for DWSRF Projects



MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")

EXTERIOR PLYWOOD (A-B GRADE)

MINIMUM LETTERING SIZE: 5 CM (2-INCHES)

Temporary Utility Construction Sign for CWSRF & DWSRF Projects

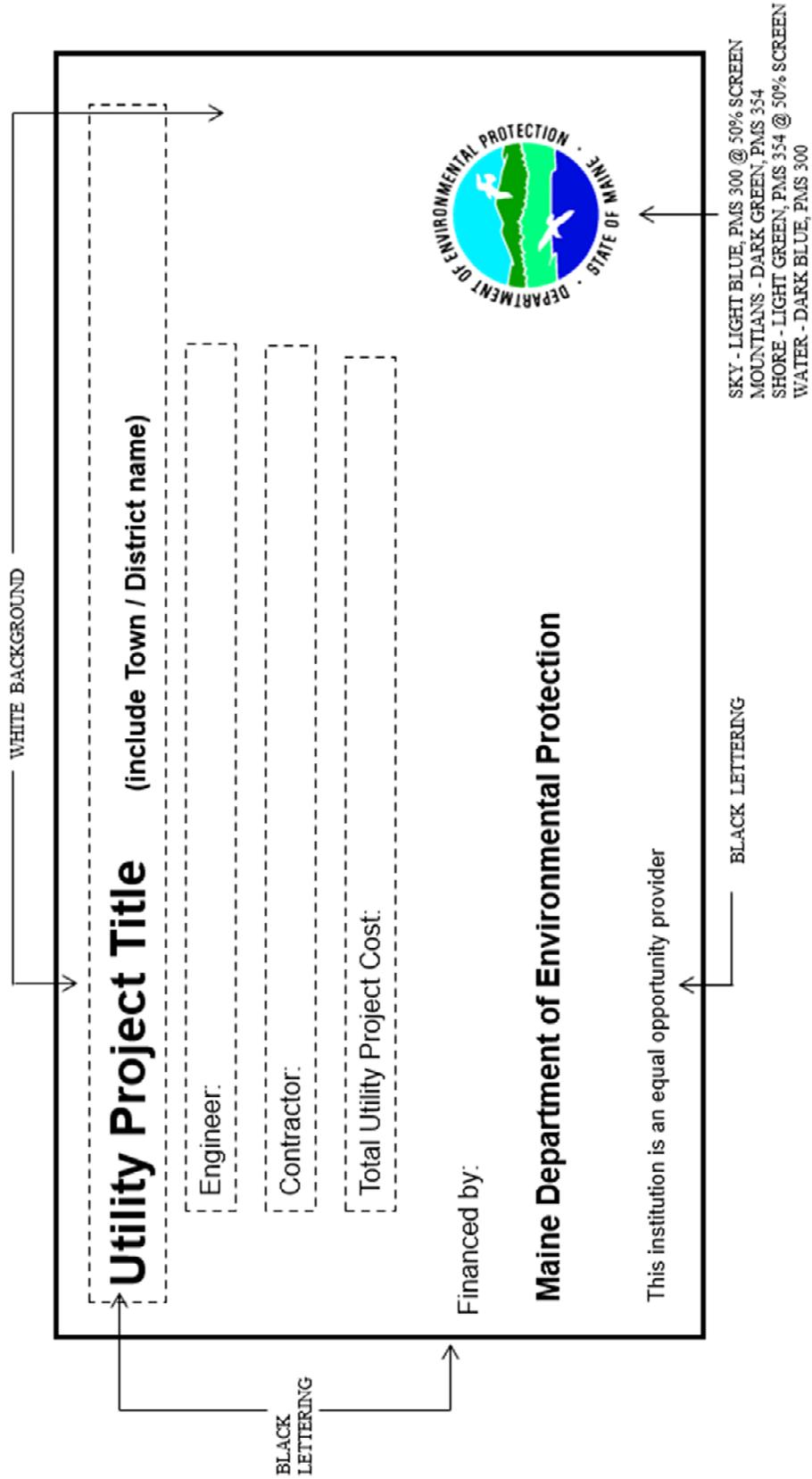


MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")

EXTERIOR PLYWOOD (A-B GRADE)

MINIMUM LETTERING SIZE: 5 CM (2-INCHES)

Temporary Utility Construction Sign for DEP Grant Projects



MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")

EXTERIOR PLYWOOD (A-B GRADE)

MINIMUM LETTERING SIZE: 5 CM (2-INCHES)



Disadvantaged Business Enterprise Program

(DBE) PROGRESS REPORT OF DBE SUBCONTRACTOR UTILIZATION FORM

TO ENSURE PROMPT PAYMENT THE FOLLOWING INFORMATION MUST BE SUBMITTED WITH ALL REIMBURSEMENT REQUESTS WHETHER THEY INCLUDE INVOICED AMOUNTS FROM A QUALIFYING WBE OR MBE PARTICIPANT OR NOT:

Municipality/District: _____ SRF #: _____

Name of Project: _____ Contractor: _____

Contractor's Payment Request No. _____ Period covered by the request _____

The accompanying Reimbursement Request includes the following WBE/MBE participation:

Name & Address of WBE/MBE firm to be paid	WBE	MBE	Source of Certification, i.e., DOT, EPA or SBA	Amount to be paid this request	Type of Work
	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>			

This attachment must be signed by an authorized representative of the contractor.

Signature: _____ Date: _____

Name: _____ Title: _____

Address: _____

Phone: _____ E-Mail: _____



Disadvantaged Business Enterprise Program (DBE) Subcontractor Participation Form

DBE Subcontractor Participation Form) SRF FORM 6100-2, Page 1 of 2

An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE¹ subcontractor² the opportunity to describe work received and /or report any concerns regarding the EPA-funded project (e.g. in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the DEP DBE Coordinator at any time during the project period of performance.

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

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services, Equipment or Supplies	Amount Received by Prime Contractor

¹A 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.

²Subcontractor 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.

Please use the space below to report any concerns regarding the above EPA-funded project:

Subcontractor Signature	Print Name
Title	Date



Disadvantaged Business Enterprise Program (DBE) Subcontractor Participation Form

DBE Subcontractor Performance Form) SRF FORM 6100-3, Page 1 of 2

This form is intended to capture the DBE¹ subcontractor's² description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

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

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies	Price of Work Submitted to the Prime Contractor
DBE Certified By: <input type="checkbox"/> DOT <input type="checkbox"/> SBA <input type="checkbox"/> Other: _____		Meets/exceeds EPA certification standards? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Unknown

¹A 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.

²Subcontractor 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.

DBE Subcontractor Performance Form) SRF FORM 6100-3, Page 2 of 2

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form doesnot 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 33Section 33.202 (c).

Prime Contractor Signature	Print Name
Title	Date

Subcontractor Signature	Print Name
Title	Date



Disadvantaged Business Enterprise Program (DBE) Subcontractor Participation Form

DBE Subcontractor Utilization Form) SRF FORM 6100-4, Page 1 of 2

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	<input type="checkbox"/> _ YES	<input type="checkbox"/> _ 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 ?

¹A 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.

²Subcontractor 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 or financial assistance.

DBE Subcontractor Utilization Form) SRF FORM 6100-4, Page 2 of 2

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 that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Section 33.202 (c).

Prime Contractor Signature	Print Name
Title	Date

Link to AIS Covered Products Q & A

<https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-guidance-and-questions-and-answers>



From the “Consolidated Appropriations Act, 2014”

H.R. 3547 (PL113-76, enacted 1/17/2014)

USE OF AMERICAN IRON AND STEEL

“SEC. 436. (a)(1) None of the funds made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or made available by a drinking water treatment revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

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

(b) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the “Administrator”) finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

(e) The Administrator may retain up to 0.25 percent of the funds appropriated in this Act for the Clean and Drinking Water State Revolving Funds for carrying out the provisions described in subsection (a)(1) for management and oversight of the requirements of this section.

(f) This section does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency’s capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of the enactment of this Act.”



**CERTIFICATION BY THE OWNER
OF COMPLIANCE WITH THE
USE OF AMERICAN IRON AND STEEL LAW
enacted on 1/17/2014**

(To be attached to each Utility Construction SRF requisition submitted for payment)

We, the Owner named, _____, having obtained funding from the State of Maine, State Revolving Fund (SRF), for the Utility Construction Project named _____, hereby submit to the SRF program, certification from each contractor working on the Utility Construction Project that the use of American Iron and Steel in the construction of the project complies with the law, or that a waiver has been obtained from the U.S. Environmental Protection Agency. Thereby, it is to the best of the Owner's knowledge that the costs being requested with this SRF requisition # _____ are in compliance with the Use of American Iron and Steel Law.

Signature of Official

Printed name

Date

Attachment: Certification by Contractor



Sample Step Manufacturer Certification

(Documentation must be provided on company letterhead)

Date

Company Name

Company Address

City, State Zip

Subject: American Iron and Steel Step Manufacturer Certification

Project Name _____

I, _____ (company representative), certify that the _____ (melting, bending, coating, galvanizing, cutting, etc.) process for _____ (manufacturing or fabricating) the following products and/or materials shipped or provided for the project is in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. _____
2. _____
3. _____

Such process took place at the following location: _____ (address)

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Company representative

Signature

Date

AIS De Minimis Tracking Form



AISDeMinimisReport
Form.xlsx



Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion AD-1048 Lower Tier Covered Transactions

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, and 2 C.F.R. §§ 180.300, 180.335, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880. Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud privacy, and other statutes may be applicable to the information provided.

(Read instructions on page two before completing certification.)

The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;

Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ORGANIZATION NAME	PR/AWARD NUMBER OR PROJECT NAME
NAME(S) AND TITLE(S) OF AUTHORIZED REPRESENTATIVE(S)	
SIGNATURE(S)	DATE

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint (<https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer>) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442.

Instructions for Certification

- (1) By signing and submitting this form, the prospective lower tier participant is providing the certification set out on page 1 in accordance with these instructions.
- (2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- (3) The prospective lower tier participant shall provide immediate written notice to the person(s) to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549, at 2 C.F.R. Parts 180 and 417. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- (5) The prospective lower tier participant agrees by submitting this form 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 by the department or agency with which this transaction originated.
- (6) The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the System for Award Management (SAM) database.
- (8) Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (9) Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

APPENDIX D

**AIS Funding Agency Documents for a Rural Development Only Utility
in a MaineDOT Project Contract**



**United States
Department of
Agriculture**

USDA RURAL DEVELOPMENT

Utility Construction Contract Requirements To Supplement the Maine Department of Transportation (MDOT) General Conditions

Last Updates: October 2021

COMPLIANCE STATEMENT

This statement relates to a proposed contract with _____

(Name of borrower or grantee)

who expects to finance the contract with assistance from either the Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), or the Rural Utilities Service (RUS) or their successor agencies, United States Department of Agriculture (whether by a loan, grant, loan insurance, guarantee, or other form of financial assistance). I am the undersigned bidder or prospective contractor, I represent that:

1. I have, have not, participated in a previous contract or subcontract subject to Executive Order 11246 (regarding equal employment opportunity) or a preceding similar Executive Order.

2. If I have participated in such a contract or subcontract, I have, have not, filed all compliance reports that have been required to file in connection with the contract or subcontract.

If the proposed contract is for \$50,000 or more and I have 50 or more employees, I also represent that:

3. I have, have not previously had contracts subject to the written affirmative action programs requirements of the Secretary of Labor.

4. If I have participated in such a contract or subcontract, I have, have not developed and placed on file at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor.

I understand that if I have failed to file any compliance reports that have been required of me, I am not eligible and will not be eligible to have my bid considered or to enter into the proposed contract unless and until I make an arrangement regarding such reports that is satisfactory to either the RHS, RBS or RUS, or to the office where the reports are required to be filed.

I also certify that I do not maintain or provide for my employees any segregated facilities at any of my establishments, and that I do not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I certify further that I will not maintain or provide for my employees any segregated facilities at any of my establishments, and that I will not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I agree that a breach of this certification is a violation of the Equal Opportunity clause in my contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms 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 are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. I further agree that (except

Appendix D Page 2 of 25

UTILITY POLICY NO. 2021-1

AMERICAN IRON AND STEEL VS. BUY AMERICA REQUIREMENTS FOR
UTILITY WORK PERFORMED UNDER MAINE DOT PROJECT CONTRACTS

where I have obtained identical certifications for proposed subcontractors for specific time periods)I 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; that I will retain such certifications in my files; and that I will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods): (See Reverse).

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0018. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Position 6

RD400-6 (Rev. 4-00)

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS OF NON-SEGREGATED FACILITIES

A certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e. quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

DATE _____

(Signature of Bidder or Prospective Contractor)

Address (including Zip Code)



Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion AD-1048 Lower Tier Covered Transactions

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, and 2 C.F.R. §§ 180.300, 180.335, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880. Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud privacy, and other statutes may be applicable to the information provided.

(Read instructions on page two before completing certification.)

- A. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;
- B. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ORGANIZATION NAME	PR/AWARD NUMBER OR PROJECT NAME
NAME(S) AND TITLE(S) OF AUTHORIZED REPRESENTATIVE(S)	
SIGNATURE(S)	DATE

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint \(https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer\)](https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442.

Instructions for Certification

- (1) By signing and submitting this form, the prospective lower tier participant is providing the certification set out on page 1 in accordance with these instructions.
- (2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- (3) The prospective lower tier participant shall provide immediate written notice to the person(s) to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549, at 2 C.F.R. Parts 180 and 417. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- (5) The prospective lower tier participant agrees by submitting this form 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 by the department or agency with which this transaction originated.
- (6) The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the System for Award Management (SAM) database.
- (8) Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (9) Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

CERTIFICATION FOR CONTRACTS, GRANTS AND LOANS

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

1. No Federal 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 Federal grant or Federal loan, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant or loan.

2. If any funds other than Federal 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 Federal contract, grant or loan, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," 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 contracts, subcontracts, and subgrants under grants and loans) 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.

(name)

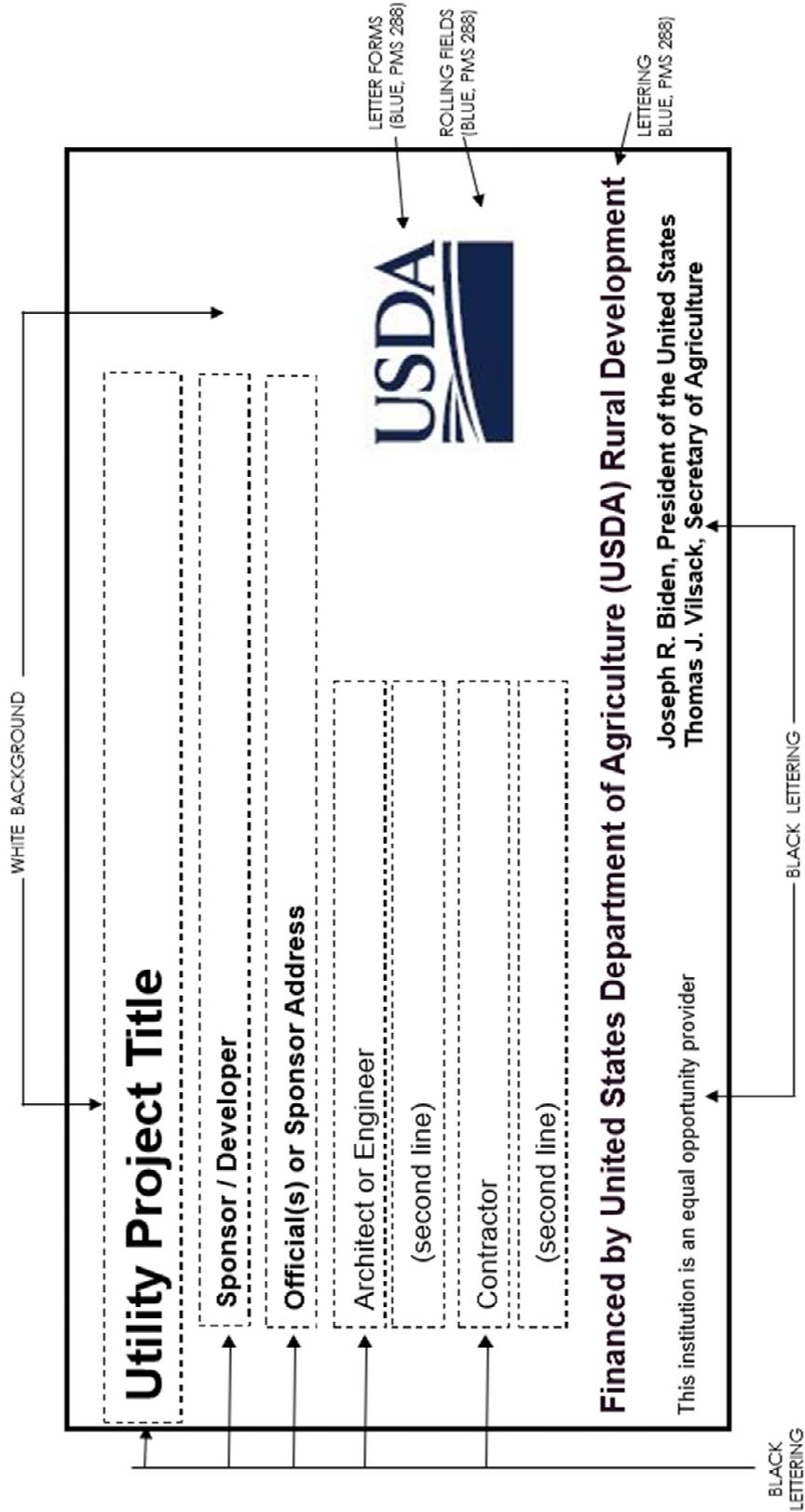
(date)

(title)

oOo

(08-21-91) PN 171

**TEMPORARY UTILITY CONSTRUCTION SIGN FOR
RURAL DEVELOPMENT PROJECTS**



MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")
 EXTERIOR PLYWOOD (A-B GRADE)
 MINIMUM LETTERING SIZE: 5 CM (2-INCHES)

GENERAL CONTRACTOR RESPONSIBILITY

Bid Documents: The following shall be submitted with the bid:

- Compliance Statement (RD 400-6).
- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (AD-1048).
- RD Instruction 1940-Q, Exhibit A-1, Certification for Contracts, Grants, and Loans.

Utility Construction Project Sign: At the start of the project, the Contractor shall provide and erect a project sign as detailed and specified in the attachment to these supplementary conditions. The location of the sign shall be as directed by the Engineer. No other contractor, subcontractor, or material references will be permitted on the sign. The Contractor shall maintain and keep the project sign in good condition until the work is completed when the sign will be removed. Provide adequate supports for the sign as site conditions may require and keep sign a proper distance above prevailing grade to permit public viewing.

American Iron and Steel (AIS) Requirements: Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel requirement to this project. Additional information can be found at the web site for Rural Development: www.rd.usda.gov.

Specific requirements are presented in RUS Bulletin 1780-35 which is incorporated and made a part hereof. The complete RUS Bulletin 1780-35 can be found at http://www.rd.usda.gov/sites/default/files/UWP_Bulletin_1780-35.pdf

All listed iron and steel products used in this project must be produced in the United States.

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

The term "construction materials" means the following products: wire rod, bar, angles; concrete reinforcing bar, wire, wire cloth; wire rope and cables; tubing; framing; joists; trusses; fasteners (i.e. nuts and bolts); welding rods; decking; grating; railings; stairs; access ramps; fire escapes; ladders; wall panels; dome structures; roofing; ductwork; surface drains; cable hanging systems; manhole steps; fencing and fence tubing; guardrails; doors; and stationary screens.

ABBREVIATIONS

AIS – American Iron and Steel
ANTHC – Alaska Native Tribal Health Consortium
AWWA – American Water Works Association
CFR – Code of Federal Regulations
EO – Executive Order
NIST – National Institute of Standards and Technology
NSF – National Sanitation Foundation
OGC – Office of General Counsel
PL – Public Law
PER – Preliminary Engineering Report
RAVG – Rural Alaska Village Grant
RD – Rural Development
RUS – Rural Utilities Service
USC – United States Code
USDA – United States Department of Agriculture
WEP – Water and Environmental Programs
WWD – Water and Waste Disposal

DEFINITIONS

“Assistance recipient” is the entity that receives funding assistance from programs required to comply with Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. This term includes owner and/or applicant.

“Certifications” means the following:

- *Manufacturers’* certification is documentation provided by the manufacturer or fabricator to various entities stating that the iron and steel products to be used in the project are produced in the United States in accordance with American Iron and Steel (AIS) Requirements. If items are purchased via a supplier, distributor, vendor, etc. vs. from the manufacturer or fabricator directly, then the supplier, distributor, vendor, etc. will be responsible for obtaining and providing these certification letters to the parties purchasing the products.
- *Engineers’* certification is documentation that plans, specifications, and bidding documents comply with AIS.
- *Contractors’* certification is documentation submitted upon substantial completion of the project that all iron and steel products installed were produced in the United States.

“Coating” means a covering that is applied to the surface of an object. If a coating is applied to the external surface of a domestic iron or steel component, and the application takes place outside of the United States, said product would be considered a compliant product under the AIS requirements. Any coating processes that are applied to the external surface of iron and steel components that would otherwise be AIS compliant would not disqualify the product from meeting the AIS requirements regardless of where the coating processes occur, provided that final assembly of the product occurs in the United States. This exemption only applies to coatings on the *external surface* of iron and steel components. It does not apply to coatings or linings on internal surfaces of iron and steel products, such as the lining of lined pipes. All manufacturing processes for lined pipes, including the application of pipe lining, must occur in the United States for the product to be compliant with AIS requirements.

“Construction materials” are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”. See Exhibit F for examples.

Note: Mechanical and electrical components, equipment and systems are not considered construction materials. See definition of mechanical and electrical equipment.

“Consulting engineer” is an individual or entity with which the owner has contracted to perform engineering/architectural services for water and waste projects funded by the programs subject to AIS requirements).

“De minimis incidental components” are various miscellaneous low-cost components that are essential for, but incidental to, the construction and are incorporated into the physical structure of

the project. Examples of incidental components could include small washers, screws, fasteners (such as “off the shelf” nuts and bolts), miscellaneous wire, corner bead, ancillary tube, signage, trash bins, door hardware etc.

Costs for such de minimis incidental components cumulatively may comprise no more than a total of five percent of the total cost of the materials used in and incorporated into a project; the cost of an individual item may not exceed one percent of the total cost of the materials used in and incorporated into a project.

“General contractor” is the individual or entity with which the applicant has contracted (*or is expected to*) to perform construction services (or for water and waste projects funded by the programs subject to AIS requirements). This includes bidders, contractors that have received an award from the applicant and any party having a direct contractual relationship with the owner/applicant. A general contractor is often referred to as the prime contractor.

“Iron and steel products” are defined as the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. Only items on the above list made primarily of iron or steel, permanently incorporated into the project must be produced in the United States. For example, trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

“Manufacturers” meaning a supplier, fabricator, distributor, materialman, or vendor is an entity with which the applicant, general contractor or with any subcontractor has contracted to furnish materials or equipment to be incorporated in the project by the applicant, contractor or a subcontractor.

“Manufacturing processes” are processes such as melting, refining, forming, rolling, drawing, finishing, and fabricating. Further, if a domestic iron and steel product is taken out of the United States for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin. Raw materials, such as iron ore, limestone, scrap iron, and scrap steel, can come from non-U.S. sources.

“Mechanical equipment” is typically that which has motorized parts and/or is powered by a motor. “Electrical equipment” is typically any machine powered by electricity and includes components that are part of the electrical distribution system. AIS does not apply to mechanical equipment.

“Minor components” are components *within* an iron and/or steel product otherwise compliant with the American Iron and Steel requirements. This is different from the de minimis definition where de minimis pertains to the entire project and the minor component definition pertains to a single product. This waiver, would allow non-domestically produced miscellaneous minor

components comprising up to five percent of the total material cost of an otherwise domestically produced iron and steel product to be used. However, unless a separate waiver for a product has been approved, all other iron and steel components in said product must still meet the AIS requirements. This waiver does not exempt the whole product from the AIS requirements only minor components within said product and the iron or steel components of the product must be produced domestically. Valves and hydrants are also subject to the cost ceiling requirements described here. Examples of minor components could include items such pins and springs in valves/hydrants, bands/straps in couplings, and other low cost items such as small fasteners etc.

“Municipal castings” are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and solid waste infrastructure. See Exhibit E for examples.

“National Office” refers to the office responsible for the oversight and administration of the program nationally. The National Office sets policy, develops program regulations, and provides training and technical assistance to help the state offices administer the program. The National Office is located in Washington, D.C.

“Owner” is the individual or entity with which the general contractor has contracted regarding the work, and which has agreed to pay the general contractor for the performance of the work, pursuant to the terms of the contract for water and waste projects funded by the programs subject to AIS requirements. For the purpose of this Bulletin, this term is synonymous with the term “applicant” as defined in 7 CFR 1780.7 (a) (1), (2) and (3) and is an entity receiving financial assistance from the programs subject to the AIS requirements.

“Pass through Entities” is an entity that provides a subaward to a loan and/or grant recipient to carry out part of a Federal program. Examples are grantees utilizing the Revolving Loan Program and Household Water Well Program and Alaska Native Tribal Health Consortium (ANTHC) or the State of Alaska from the RAVG Program.

“Primarily iron or steel” is defined as a product made of greater than 50 percent iron or steel, measured by cost. The cost should be based on the material costs. An exception to this definition is reinforced precast concrete (see Definitions). All technical specifications and applicable industry standards (e.g. NIST, NSF, AWWA) must be met. If a product is determined to be less than 50 percent iron and steel, the AIS requirements do not apply.

For example, the cost of a fire hydrant includes:

- (1) The cost of materials used for the iron portion of a fire hydrant (e.g. bonnet, body and shoe);
and
- (2) The cost to pour and cast to create those components (e.g. labor and energy).

Not included in the cost are:

- (1) The additional material costs for the non-iron and steel internal workings of the hydrant (e.g. stem, coupling, valve, seals, etc.); and
- (2) The cost to assemble the internal workings into the hydrant body.

“Produced in the United States” means that the production in the United States of the iron or steel products used in the project requires that all manufacturing processes must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives.

“Project” is the total undertaking to be accomplished for the applicant by consulting engineers, general contractors, and others, including the planning, study, design, construction, testing, commissioning, and start-up, and of which the work to be performed under the contract is a part. A project includes all activity that an applicant is undertaking to be financed in whole or part by programs subject to AIS requirements. The intentional splitting of projects into separate and smaller contracts or obligations to avoid AIS requirements is prohibited.

“Reinforced Precast Concrete” may not consist of at least 50 percent iron or steel, but the reinforcing bar and wire must be produced in the United States and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the United States. The cement and other raw materials used in concrete production are not required to be of domestic origin. If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are considered to be a construction material and must be produced in the United States.

“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbonsteel, alloy steel, stainless steel, tool steel, and other specialty steels.

“Structural steel” is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees, and zees. Other shapes include but are not limited to, H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

“Ultimate recipient” is a loan or grant recipient receiving funds from a pass-through entity. Examples include: (1) a loan recipient from the Revolving Loan Fund; (2) a loan recipient from the Household Water Well Program; and (3) a grant recipient from ANTHC or the State of Alaska from the RAVG Program.

“United States” means each of the several states, the District of Columbia, and each Federally Recognized Indian Tribe.

1 BACKGROUND

- a Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, applies a new American Iron and Steel (AIS) requirement to the following programs:
- (1) Water and Waste Disposal Loan and Grant program;
 - (2) Guaranteed Loan Funds;
 - (3) Revolving Loan Funds;
 - (4) Emergency Community Water Assistance Grants;
 - (5) Section 306C Colonias and Tribal Set-Aside Grants;
 - (6) Rural Alaskan Native Village Grants;
 - (7) Household Water Well System Grants; and
 - (8) Rural Economic Area Partnership Zone projects.
- b The basic concept of this new requirement is that all iron and steel products used in projects funded by RUS WEP must be produced in the United States. Iron and steel products are specifically defined and does not include every item consisting of any quantity of iron and/or steel.
- c Statutory Language: SEC. 746 Division A Title VII the Consolidated Appropriations Act of 2017.
(a)(1) No Federal funds made available for this fiscal year for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, 306E, and 310B of the Consolidated Farm and Rural Development Act ([7 U.S.C. 1926 et seq.](#)) shall be used for a project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron and steel products used in the project are produced in the United States.
(2) In this section, the term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Secretary of Agriculture (in this section referred to as the “Secretary”) or the designee of the Secretary finds that—

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Secretary or the designee receives a request for a waiver under this section, the Secretary or the designee shall make available to the public on an informal basis a copy of the request and information available to the Secretary or the designee concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Secretary or the designee shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Department.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

(e) The Secretary may retain up to 0.25 percent of the funds appropriated in this Act for “Rural Utilities Service—Rural Water and Waste Disposal Program Account” for carrying out the provisions described in subsection (a)(1) for management and oversight of the requirements of this section.

(f) Subsection (a) shall not apply with respect to a project for which the engineering plans and specifications include use of iron and steel products otherwise prohibited by such subsection if the plans and specifications have received required approvals from State agencies prior to the date of enactment of this Act.

(g) For purposes of this section, the terms “United States” and “State” shall include each of the several States, the District of Columbia, and each federally recognized Indian tribe.

d American Iron and Steel (AIS) refers to requirements mandated by Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.

e The statute refers to Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent

statutes mandating domestic preference.

2 APPLICABILITY

- a The requirements of AIS apply only to projects that construct, alter, enlarge, extend, maintain, repair or otherwise improve rural water, sanitary sewage, solid waste disposal, and storm wastewater disposal facilities.
- b The requirements apply to projects using funds from programs listed in Section 1 a of this Bulletin. Any amount of funding from these programs requires compliance with the AIS requirements. Use of funds from these programs is not allowed unless the requirements for AIS are met for the entire project. Projects that leverage funds from other funding sources are also subject the requirements.
- c The requirements apply in the United States as defined in Section 746 (g) of the statute and therefore do not apply to projects located in Puerto Rico, the Virgin Islands, or the Western Pacific Territories.
- d The requirements apply to any used AIS products to be constructed in the project.
- e The requirements do not apply to projects for which any funds were obligated on or before May 5, 2017. The requirements therefore do not apply to subsequent obligations of funds for projects which had an initial obligation of funds on or before May 5, 2017.
- f The requirements do not apply to contracts which were executed prior to or on May 5, 2017, regardless of the date of obligation.
- g The requirements do not apply to projects for which contracts were executed and/or construction is already underway and/or completed prior to applying to USDA funding.
- h The requirements do not apply to products primarily composed of iron and/or steel (composed of more than 50 percent) if they are not listed in the statute.
- i The requirements do not apply to raw materials used in the production of iron or steel such as iron ore, limestone, scrap iron and scrap steel.
- j The requirements do not apply to any items that are at the construction site temporarily, such as scaffolding, trench boxes, or equipment temporarily used or stored on site.
- k The requirements do not apply when the sole purpose of the loan and/or grant is to fund non-construction activities such as capacity/connection fees or the acquisition of a system.

- l The requirements supersede any regulation on full and open competition stated in 7 CFR 1780.70 (b) and 2 CFR Part 200.319. For example, if an iron and steel product that is compliant with AIS is made by only one manufacturer provided documentation is submitted and verified, sole source procurement of said product may be used.
- m The requirements only apply to the final product as delivered to the work site and incorporated into the project. The need for compliance of an item with AIS depends on whether or not the final assembled product is listed. Components of a final product even if they are listed, do not need to comply with the AIS requirements. In the case of an assembled product where the primary component is not listed in the 2017 Consolidated Appropriations Act and includes components/appurtenances that are specifically listed, said assembled product is not subject to AIS (e.g. pump assembly).

3 CONSTRUCTION CONTRACTOR RESPONSIBILITIES

- a Construction contractors must use and install iron and steel products that are compliant with AIS as part of the permanent work.
 - (1) Bid submittal: for proposed equals and substitutes, **provide** manufacturers' certification letter (see Exhibit D) to verify the products comply with AIS.
 - (2) Award: **Obtain** copies of manufacturers' certification letters (see Exhibit D) from the consulting engineer for approved sole source products specified by the consulting engineer.
 - (3) Shop drawing submittal: For proposed equals, substitutes and any iron and steel product subject to AIS, **provide** manufacturers' certification letters (see Exhibit D) to verify the products comply with AIS.
 - (4) Prior to construction: **Ensure** that copies of manufacturers' certification letters including those from others (e.g. consulting engineer, owner, etc.) for any AIS products to be used in the project is in the project file on site prior to installation.
 - (5) Change Order: For any AIS products proposed in a change proposal, **provide** manufacturers' certification letter (see Exhibit D) to the consulting engineer to verify the products comply with AIS.
 - (6) **Acknowledge** responsibility for compliance with AIS requirements by signing change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC).
 - (7) **Keep** all manufacturer certification letters (including those from the engineer, general contractor and any manufacturer providing AIS products) on site during construction in the construction project file.
 - (8) Substantial completion of the project: **Provide** the general

contractor's certification (see Exhibit C) letter to the engineer that all iron and steel products installed comply with AIS. This certification is to be submitted upon substantial completion of the project to the project engineer.

4 MANUFACTURER, SUPPLIER, DISTRIBUTOR RESPONSIBILITIES

(1) If iron and steel products are produced in the United States as defined in this Bulletin, *prepare* (applicable to manufacturers and fabricators) or *obtain* (applicable to suppliers, distributors, vendors, etc.) manufacturers' certification letters (see Exhibit D) and make available upon request to consulting engineers, general contractors, etc.

5 PURCHASE OF EQUIPMENT AND MATERIALS

Irrespective of who purchases AIS products, owner, contractor or other parties must ensure that the products were produced in the United States as defined in this Bulletin. It is the manufacturers' responsibility to provide manufacturers' certification letters to ensure compliance with AIS requirements. The AIS requirements supersede any regulation on full and open competition stated in 7 CFR 1780.70(b) and (d) and 2 CFR Part 200.319. For example, if an iron and steel product that is compliant with AIS is made by only one manufacturer, sole source procurement of said product may be used.

6 NON-COMPLIANCE

No Federal funds made available for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, 306E, and 310B of the Consolidated Farm and Rural Development Act ([7 U.S.C. 1926 et seq.](#)) shall be used for a project for the construction, alteration, maintenance, or repair of a public utility system unless all of the iron and steel products used in the project are produced in the United States.

Noncompliance occurs when funds are used from these programs for construction, alteration, maintenance, or repair using non-domestic iron or steel products and the product is not covered by either a project-specific or a national waiver. Loan and grant recipients should avoid noncompliance at all times as it is a violation of a Federal statute.

Process for Noncompliance

- (1) Identify the noncompliant product.
- (2) The loan or grant recipient or pass through entity notifies appropriate USDA RD State or National Office contact.
- (3) If USDA RD State Office is notified, the Program Director will notify the National Office, Director of EES.
- (4) USDA will apply remedies for noncompliance as per 2 CFR 200 §§338 – 342.

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UTILITY POLICY No. 2021-1

AMERICAN IRON AND STEEL VS. BUY AMERICA REQUIREMENTS FOR
UTILITY WORK PERFORMED UNDER MAINE DOT PROJECT CONTRACTS

7 USE OF EXHIBITS

The following explains the purpose of each Exhibit to this Bulletin:

a GENERAL (PRIME) CONTRACTOR'S CERTIFICATION OF COMPLIANCE:

Exhibit C consists of a letter to be completed and signed by the general contractor certifying that he/she will ensure that all iron and steel products installed for this project by their company and by any and all subcontractors and manufacturers their company has contracted with comply with the AIS requirements. This certification letter is to be submitted upon substantial completion of the project to the project engineer.

b EXAMPLE OF A MANUFACTURER'S CERTIFICATION LETTER OF COMPLIANCE:

Exhibit D is an example of a letter to be completed and signed by the manufacturer certifying that he/she will ensure that all iron and steel products and/or materials shipped or provided for the subject project are in full compliance with the American Iron and Steel requirement. This includes listing each individual item/product/material provided to the project and providing the location of this/these item(s) being manufactured including assembly. All manufacturers' certification letters must be kept in the engineer's project file and on site during construction.

c EXAMPLES OF MUNICIPAL CASTINGS:

Exhibit E provides a sample list of iron and steel products that are subject to the AIS requirements. This list is not exhaustive and is meant to provide examples.

d EXAMPLES OF CONSTRUCTION MATERIALS:

Exhibit F provides a sample list of construction materials that are subject to the AIS requirements. This list is not exhaustive and is meant to provide examples.

e EXAMPLES OF NON-CONSTRUCTION MATERIALS:

Exhibit G provides a sample list of items that are not subject to the AIS requirements. This list is not exhaustive and is meant to provide examples.

GENERAL (PRIME) CONTRACTOR'S CERTIFICATION OF COMPLIANCE WITH PROVISIONS OF THE AMERICAN IRON AND STEEL REQUIREMENTS OF SECTION 746 OF TITLE VII OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2017 (DIVISION A - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017) AND SUBSEQUENT STATUTES MANDATING DOMESTIC PREFERENCE

DATE:

**RE: PROJECT NAME
APPLICANT
CONTRACT NUMBER**

I hereby certify that to the best of my knowledge and belief all iron and steel products installed for this project by my company and by any and all subcontractors and manufacturers my company has contracted with for this project comply with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference or are the subject of a waiver approved by the Secretary of Agriculture or designee.

This certification is to be submitted upon completion of the project to the project engineer.

Name of Construction Company (PRINT)

By Authorized Representative (SIGNATURE)

Title

EXAMPLE OF A MANUFACTURER'S CERTIFICATION LETTER OF COMPLIANCE WITH PROVISIONS OF THE AMERICAN IRON AND STEEL (AIS) REQUIREMENTS OF SECTION 746 OF TITLE VII OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2017 (DIVISION A - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017) AND SUBSEQUENT STATUTES MANDATING DOMESTIC PREFERENCE

Date:

Company Name:

Company Address:

Subject: AIS Step Certification for Project (X), Owner's Name, and Contract Number

I, (company representative), certify that the (melting, bending, galvanizing, cutting, etc.) processes for (manufacturing or fabricating) the following products and/or material shipped or provided for the subject project is in full compliance with the AIS requirement as mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.

Item, Products and/or Materials, and location of delivery (City, State):

- 1.
- 2.

Such processes for AIS took place at the following location:

(City, State)

This certification is to be submitted upon request to interested parties (e.g. municipalities, consulting engineers, general contractors, etc.)

If any of the above compliance statements change while providing materials to this project, please immediately notify the person(s) who is requesting to use your product(s).

Authorized Company Representative Signature

(Note: *Authorized signature shall be manufacturer's representative not the material distributor or supplier*)

EXAMPLES OF MUNICIPAL CASTINGS (*includes but not limited to*):

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

EXAMPLES OF CONSTRUCTION MATERIALS (*includes but not limited to*):

Wire rod, bar, angles
Concrete reinforcing bar, wire, wire cloth
Wire rope and cables
Tubing
Framing
Joists
Trusses
Fasteners (i.e., nuts and bolts)
Welding rods
Decking
Grating
Railings
Stairs
Access ramps
Fire escapes
Ladders
Wall panels
Dome structures
Roofing
Ductwork
Surface drains
Cable hanging systems
Manhole steps
Fencing and fence tubing
Guardrails
Doors
Stationary screens

EXAMPLES OF NON-CONSTRUCTION MATERIALS – *(includes but not limited to):* (NOTE: *includes appurtenances necessary for their intended use and operation and are not subject to AIS*)

Pumps
Motors
Gear reducers
Drives (including variable frequency drives (VFDs))
Electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators)
Mixers
Gates (e.g. sluice and slide gates)
Motorized screens (such as traveling screens)
Blowers/aeration equipment
Compressors
Meters (flow and water meters)
Sensors
Controls and switches
Supervisory control Data acquisition (SCADA)
Membrane bioreactor systems
Membrane filtration systems (includes RO package plants)
Filters
Clarifier arms and clarifier mechanisms
Rakes
Grinders Disinfection systems
Presses (including belt presses)
Conveyors
Cranes
HVAC (excluding ductwork)
Water heaters
Heat exchangers
Generators
Cabinetry and housings (such as electrical boxes/enclosures)
Lighting fixtures
Electrical conduit
Emergency life systems
Metal office furniture
Shelving
Laboratory equipment
Analytical instrumentation
Dewatering equipment.

AIS De Minimis Tracking Form



AISDeMinimisReport
Form.xlsx

APPENDIX E

AIS Funding Agency Documents for Both a Rural Development Funded Utility and a SRF Funded Utility in a MaineDOT Project Contract



United States
Department of
Agriculture

STATE REVOLVING FUND & USDA RURAL DEVELOPMENT

Utility Construction Contract Requirements To Supplement the Maine Department of Transportation (MDOT) General Conditions



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UTILITY POLICY No. 2021-1

AMERICAN IRON AND STEEL VS. BUY AMERICA REQUIREMENTS FOR
UTILITY WORK PERFORMED UNDER MAINEDOT PROJECT CONTRACTS

Last Updates: October 2021

STATE REVOLVING FUND (SRF) & USDA RURAL DEVELOPMENT(USDA)

UTILITY CONSTRUCTION CONTRACT REQUIREMENTS
TO SUPPLEMENT THE
MAINE DEPARTMENT OF TRANSPORTATION
GENERAL CONDITIONS

Last Updates: October 2021

Utility Construction Supplementary Conditions

Gratuities

If Owner finds after a notice and hearing that Contractor, or any of Contractor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise) to any official, employee, or agent of Owner or Agency in an attempt to secure this Contract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Contract, Owner may, by written notice to Contractor, terminate this Contract. Owner may also pursue other rights and remedies that the law or this Contract provides. However, the existence of the facts on which Owner bases such findings shall be an issue and may be reviewed in proceedings under the dispute resolution provisions of this Contract. In the event this Contract is terminated as provided in above paragraph, Owner may pursue the same remedies against Contractor as it could pursue in the event of a breach of this Contract by Contractor. As a penalty, in addition to any other damages to which it may be entitled by law, Owner may pursue exemplary damages in an amount (as determined by Owner) which shall not be less than three nor more than ten times the costs Contractor incurs in providing any such gratuities to any such officer or employee.

Environmental Requirements

When constructing a project involving trenching and/or other related earth excavations, Contractor shall comply with the following environmental constraints:

1. Floodplains – When disposing of excess, spoil, or other construction materials on public or private property, Contractor shall not fill in or otherwise convert 100 year floodplain areas delineated on the latest Federal Emergency Management Agency Floodplain Maps, or other appropriate maps, i.e., alluvial soils on NRCS Soil Survey Maps.

2. Endangered Species – Contractor shall comply with the Endangered Species Act, which provides for the protection of endangered and/or threatened species and critical habitat. Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of Contractor, Contractor will immediately report this evidence to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

Utility Construction Project Sign

At the start of the project, the Contractor shall provide and erect a project sign as detailed and specified in the attachment to these supplementary conditions. The location of the sign shall be as directed by the Engineer. No other contractor, subcontractor, or material references will be permitted on the sign. The Contractor shall maintain and keep the project sign in good condition until the work is completed when the sign will be removed. Provide adequate supports for the sign as site conditions may require and keep sign a proper distance above prevailing grade to permit public viewing.

Alternate methods of publicizing may be considered on a project specific basis for projects with a contract value less than \$250,000. Prior to the start of the project, the Contractor must obtain Agency approval, through the Owner, for use of a proposed method. Alternate methods that may be considered include: posters or wall signage on public buildings or at a public location, newspaper advertising, online signage, and press releases. Minimum public awareness requirements and sample language can be obtained from the Agency.

SRF Disadvantaged Business Enterprises Program

The contractor must maintain all records documenting its compliance with the requirements of this part, including documentation of its good faith efforts (such as copies of solicitation letters and emails) and data relied upon in formulating its fair share objectives.

1. During the bidding period, the Contractor is required to make the following good faith efforts if they will be awarding subcontracts:
 - (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. This will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
 - (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
 - (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
 - (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
 - (f) Employ the good faith efforts described above even if the prime contractor has achieved its fair share objectives under subpart D of this part.
2. The Contractor must comply with the following provisions when submitting their bid:
- (a) The contractor must complete and submit SRF Form 6100–4, ‘DBE Program Subcontractor Utilization Form’ (copy attached) as part of the prime contractor’s bid or proposal package to the Owner. Note, only DBE subcontractors should be listed. If no DBE subcontractors are to be used, the contractor must still complete and submit the form.
 - (b) The contractor must have each of its proposed DBE subcontractors complete the SRF Form 6100–3, ‘DBE Program Subcontractor Performance Form’ (copy attached). The completed forms must be submitted as part of the prime contractor’s bid or proposal package to the Owner.
3. Prior to contract award, as the Successful Bidder, the Contractor must comply with the following provisions:
- (a) The contractor must submit to the Owner documentation of its good faith efforts (such as copies of solicitation letters and emails) and data relied upon in formulating its fair share objectives. Solicitation documentation must include proof of receipt. The records must be submitted to the Owner even if the goals were met.
 - (b) The contractor must submit to the Owner a bidders list of all firms that bid or quote on subcontracts, including both MBE/WBEs and non-MBE/WBEs. The purpose of a bidders list is to provide contractors who conduct competitive bidding with as accurate a database as possible about the universe of MBE/WBE and non-MBE/WBE subcontractors. The list must include the following information:
 - (1) Entity's name with point of contact;
 - (2) Entity's mailing address, telephone number, and e-mail address;
 - (3) The procurement on which the entity bid or quoted, and when; and
 - (4) Entity's status as an MBE/WBE or non-MBE/WBE.
4. Following contract award, the Contractor must comply with the following additional provisions:
- (a) The contractor must provide SRF Form 6100–2, ‘DBE Program Subcontractor Participation Form’ (copy attached) to all DBE subcontractors listed on Form 6100-4. SRF Form 6100–2 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 during the course of the project, for example, reasons why the DBE subcontractor believes it was terminated

by the prime contractor. If DBE subcontractors choose to complete this form, the completed form should be given to the SRF Project Manager.

- (b) Complete the SRF Progress Report of DBE Subcontractor Utilization Form (copy attached) for all contractor pay applications whether or not they include invoiced amounts from DBE subcontractors. The progress report should be attached to the corresponding pay application for processing through the Owner.
- (c) Pay subcontractors for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the Owner.
- (d) Notify the Owner in writing prior to any termination of a DBE subcontractor for convenience by the prime contractor.
- (e) If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the good faith efforts described above if soliciting a replacement subcontractor. Documentation of good faith efforts shall be submitted to the Owner upon request.

American Iron and Steel (AIS) Requirements

The Contractor acknowledges, to and for the benefit of the Owner, the State (Maine Department of Environmental Protection and the Maine Department of Health and Human Services), and USDA Rural Development that it understands the goods and services under this Agreement are being funded with monies made available by the State Revolving Fund (SRF) and USDA Rural Development that have statutory requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement. See attached Public Law 113-76, Section 436 and Section 746 of Title VII of the Consolidated Appropriations Act of 2017. The Contractor hereby represents and warrants, to and for the benefit of the Owner, the State, and USDA Rural Development, that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Owner, the State or USDA Rural Development. While the Contractor has no direct contractual privity with the State or USDA, as a lender to the Owner for the funding of its project, the Owner and the Contractor agree that the State and USDA is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State and USDA.

The Owner shall maintain files on the project site for American Iron and Steel (AIS) manufacturer certifications. The Contractor and subcontractors shall provide step manufacturer certifications to the Owner for each AIS item delivered to the site. The files shall be made available to State and Federal officials for inspection upon request. See sample Step Manufacturer Certification attachment for information that should be included. The Contractor and its subcontractors shall submit to the Owner, an AIS Compliance Certification (see form attached) with each contractor pay application. The

Owner, shall in turn, submit this certification from the Contractor, with their AIS Compliance Certification (see form attached), to the State and USDA with the pay requisition. The Contractor will submit the General Contractor's Certification of Compliance with AIS (RUS Bulletin 1780-35, Exhibit C) upon substantial completion and prior to any release of retainage. The nationwide waiver to the American Iron and Steel law permits the use of products when they occur in de minimis incidental components of such projects funded by the Act that may otherwise be prohibited under section 436(a). Funds used for such de minimis incidental components cumulatively may comprise no more than a total of 5 percent of the total cost of the materials used in and incorporated into a project; the cost of an individual item may not exceed 1 percent of the total cost of the materials used in and incorporated into a project. It is the State's and USDA's interpretation that all SRF/USDA projects will contain incidental components that might not comply with the law and therefore it is likely that the Owner will use the de minimis waiver. The Contractor is required to provide the necessary documentation. See attached sample de minimis tracking form. Owners should, in consultation with their contractors, determine the items to be covered by this waiver, must retain relevant documentation (i.e., invoices) as to those items in their project files, and must summarize the items to which this waiver is applied, the total cost of incidental components covered by the waiver, and the calculations by which they determined the total cost of materials used in and incorporated into the project. The Owner shall maintain files on the project site for this documentation. The files shall be made available to State and Federal officials for inspection upon request. The Contractor shall refer to the attached guidance taken from an EPA Memorandum. Additional information regarding the AIS requirements can be found on this website http://water.epa.gov/grants_funding/aisrequirement.cfm

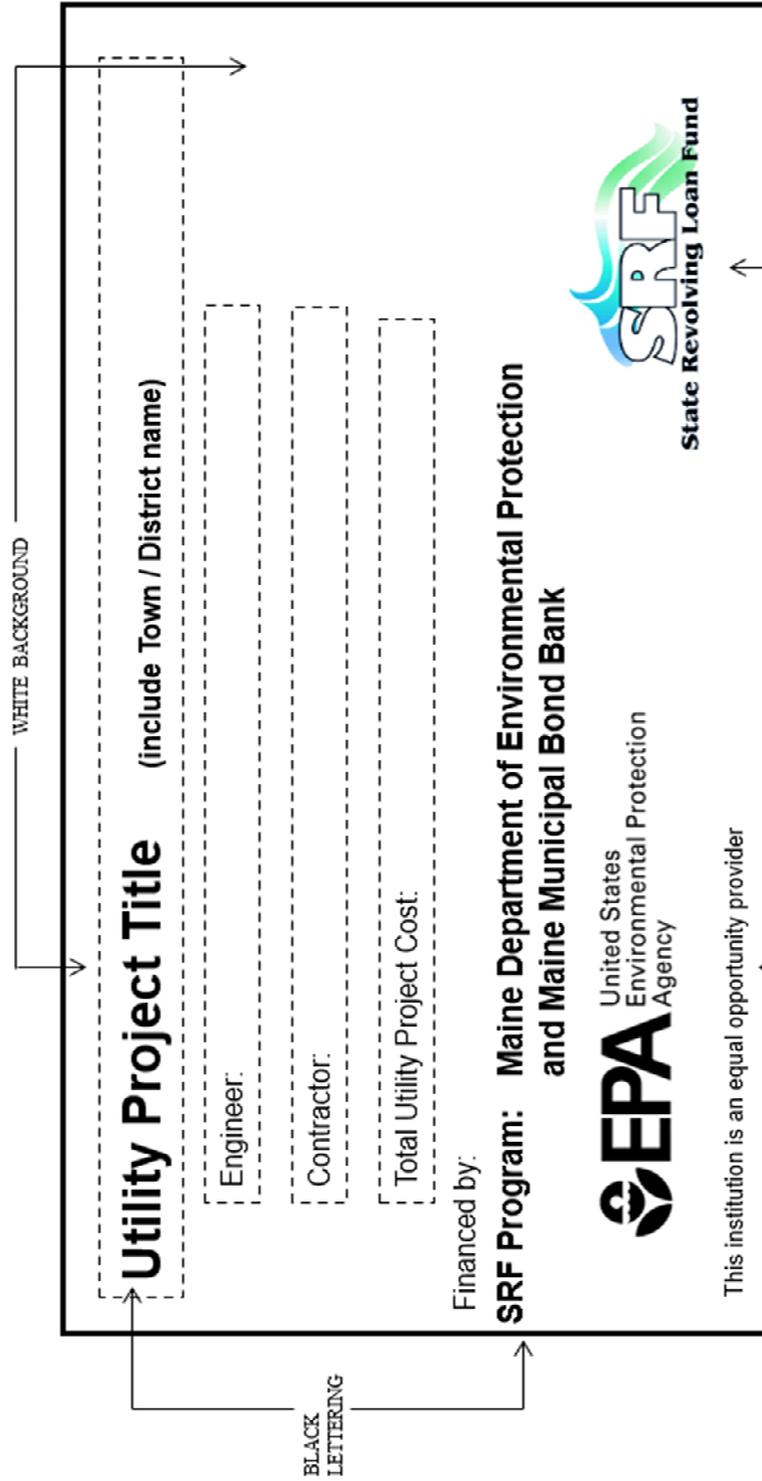
List of Attachments to the Utility Supplementary Conditions

(ALL attachments should follow this list)

- Utility Construction Project Sign Drawing
- DBE Program Subcontractor Utilization Form - SRF 6100-4
- DBE Program Subcontractor Performance Form - SRF 6100-3
- DBE Program Subcontractor Participation Form - SRF 6100-2
- Progress Report of DBE Subcontractor Utilization Form
- AIS Covered Products Q &A
- AIS Law
- AIS Certification by Owner
- AIS Certification by Contractor
- AIS Step Manufacturer Certification
- AIS De Minimis Tracking Form
- GC's AIS Certification (RUS Bulletin 1780-35, Exhibit C)
- 400-6 Compliance Statement
- AD-1048 Certification Regarding Debarment
- 1940-Q, Exhibit A-1 Certification for Contracts, Grants and Loans

Select Utility Construction Project Sign Drawings As Appropriate

Temporary Utility Construction Sign for CWSRF Projects

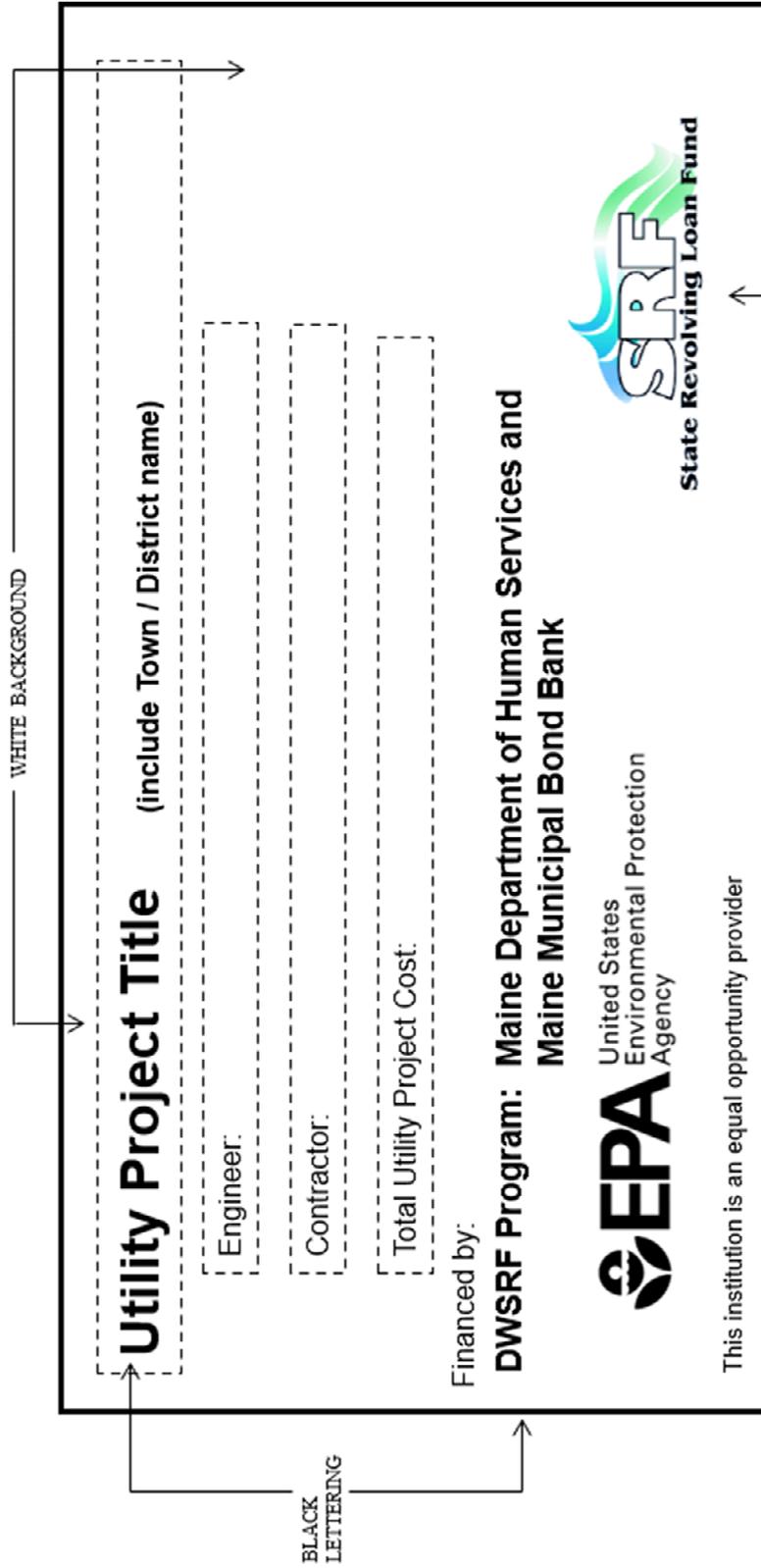


MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")

EXTERIOR PLYWOOD (A-B GRADE)

MINIMUM LETTERING SIZE: 5 CM (2-INCHES)

Temporary Utility Construction Sign for DWSRF Projects



MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")
 EXTERIOR PLYWOOD (A-B GRADE)
 MINIMUM LETTERING SIZE: 5 CM (2-INCHES)

Temporary Utility Construction Sign for CWSRF & DWSRF Projects

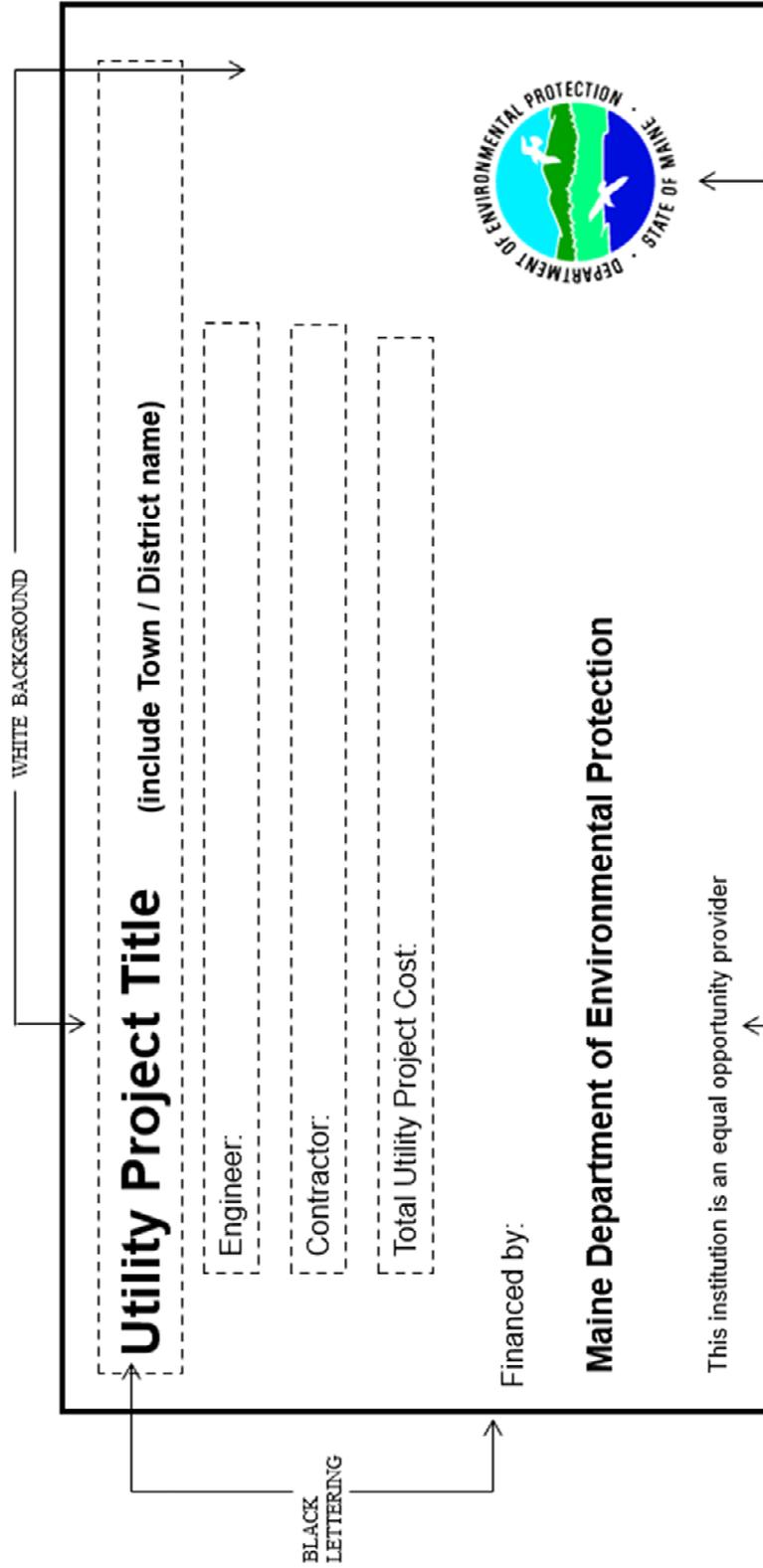


MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")

EXTERIOR PLYWOOD (A-B GRADE)

MINIMUM LETTERING SIZE: 5 CM (2-INCHES)

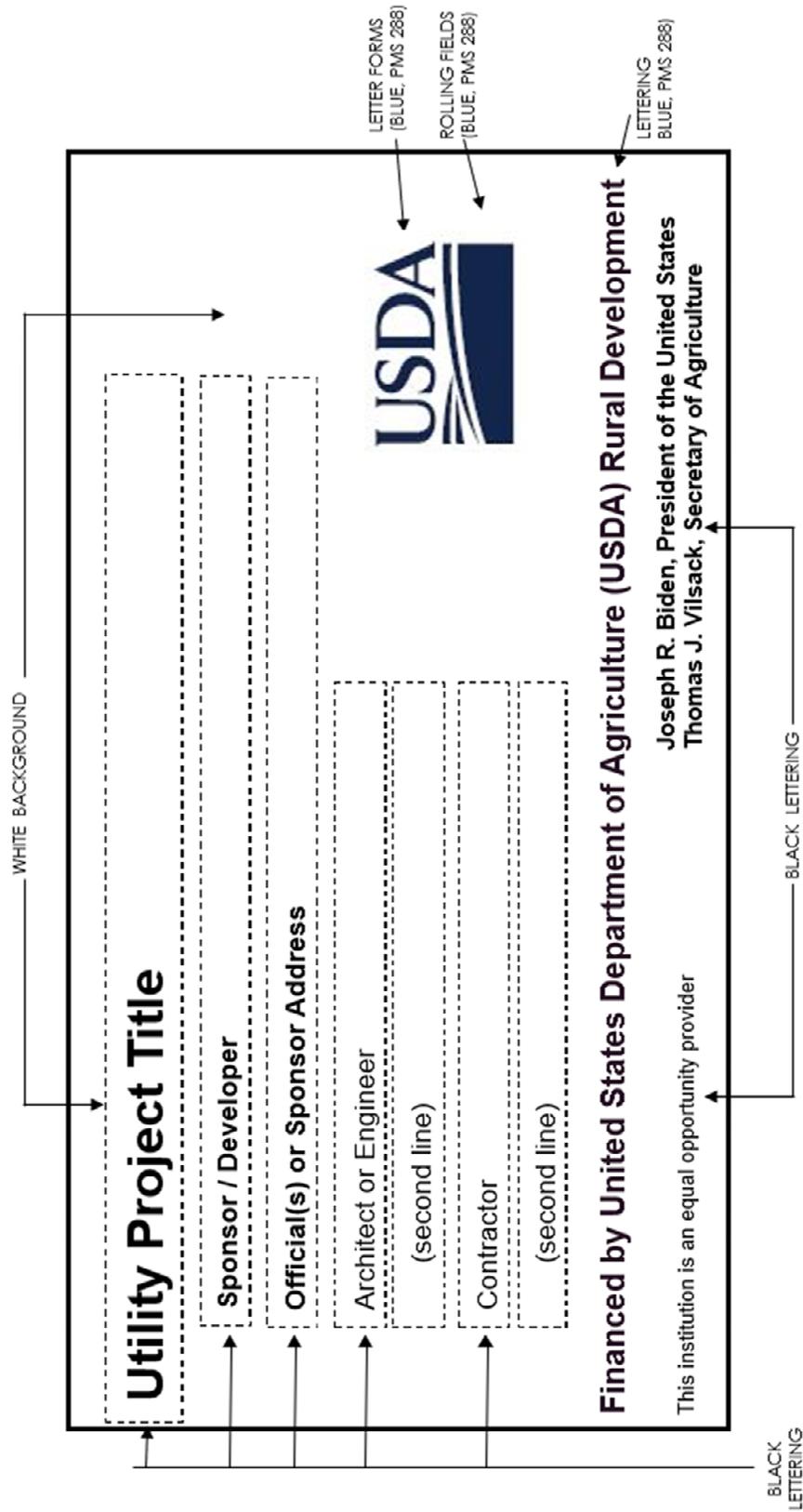
Temporary Utility Construction Sign for DEP Grant Projects



SKY - LIGHT BLUE, PMS 300 @ 50% SCREEN
 MOUNTAINS - DARK GREEN, PMS 354
 SHORE - LIGHT GREEN, PMS 354 @ 50% SCREEN
 WATER - DARK BLUE, PMS 300

MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")
 EXTERIOR PLYWOOD (A-B GRADE)
 MINIMUM LETTERING SIZE: 5 CM (2-INCHES)

TEMPORARY UTILITY CONSTRUCTION SIGN FOR RURAL DEVELOPMENT PROJECTS

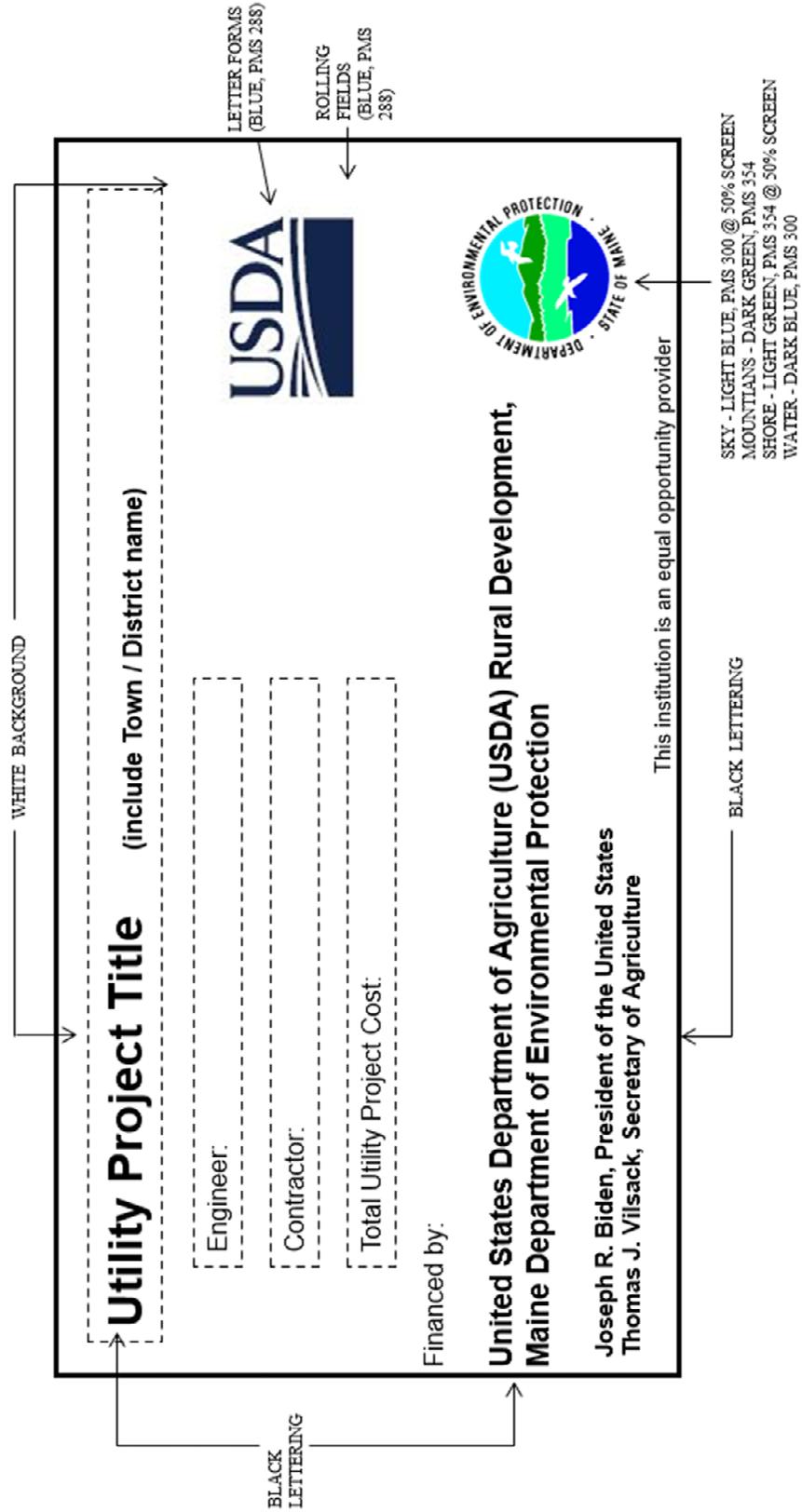


MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")

EXTERIOR PLYWOOD (A-B GRADE)

MINIMUM LETTERING SIZE: 5 CM (2-INCHES)

Temporary Utility Construction Sign for RD and DEP Grant Co-funded Projects



MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")

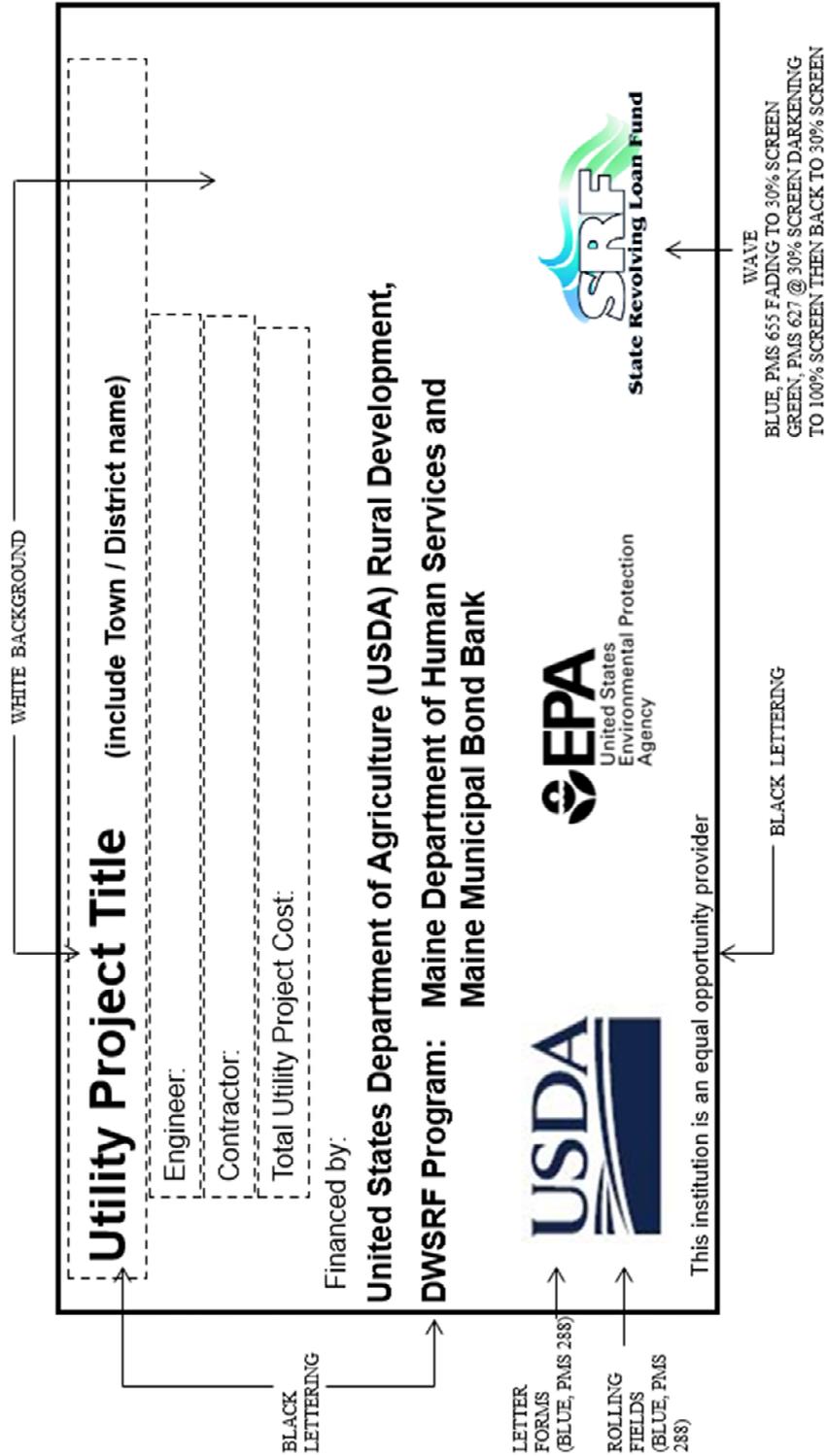
EXTERIOR PLYWOOD (A-B GRADE)

MINIMUM LETTERING SIZE: 5 CM (2-INCHES)

Temporary Utility Construction Sign for RD and CWSRF Co-funded Projects



Temporary Utility Construction Sign for RD and DWSRF Co-funded Projects

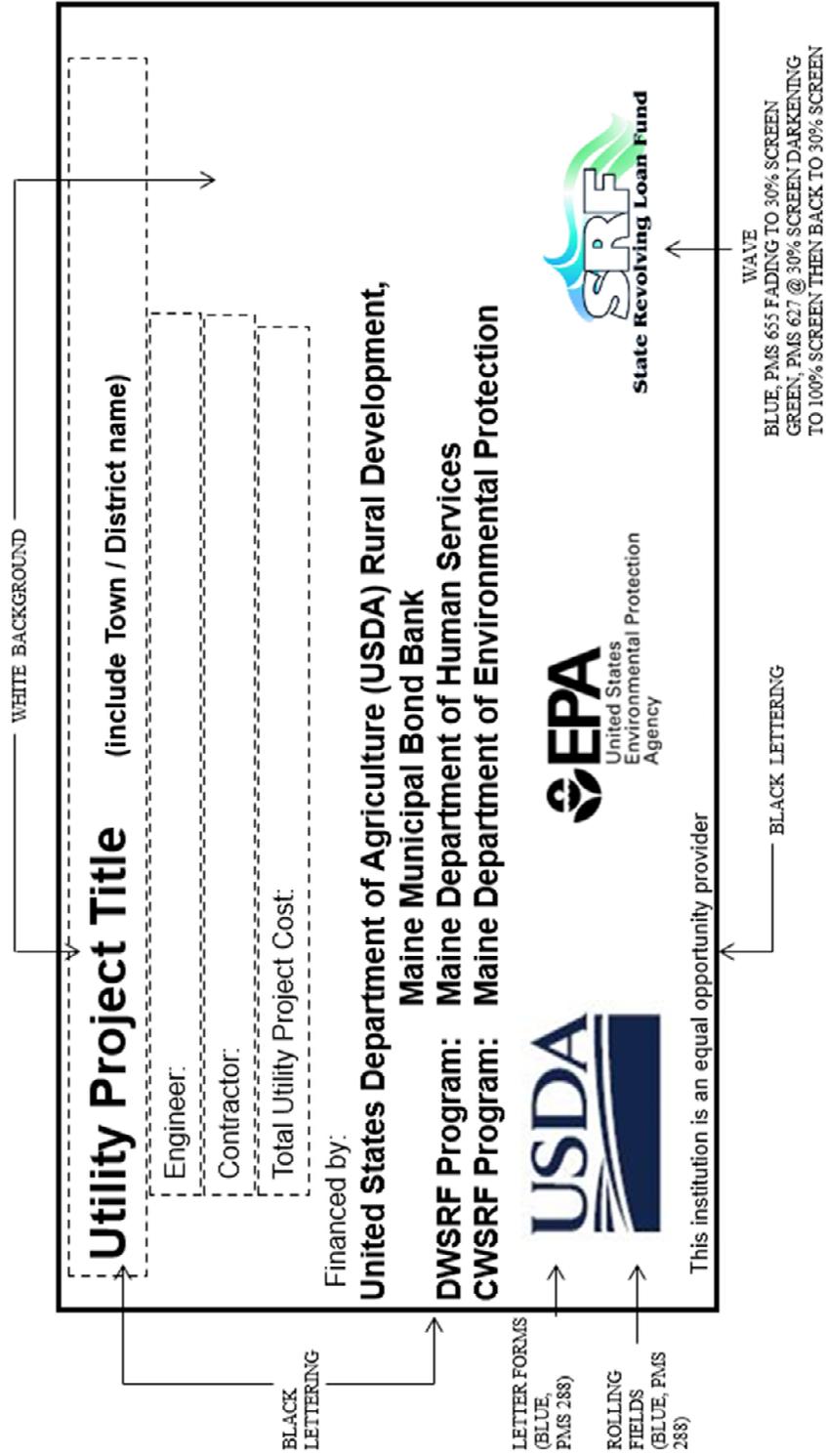


MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")

EXTERIOR PLYWOOD (A-B GRADE)

MINIMUM LETTERING SIZE: 5 CM (2-INCHES)

Temporary Utility Construction Sign for RD, DWSRF and CWSRF Co-funded Projects



MINIMUM SIGN DIMENSIONS: 1200 x 2400 x 19 MM (4' x 8' x 3/4")

EXTERIOR PL YWOOD (A-B GRADE)

MINIMUM LETTERING SIZE: 5 CM (2-INCHES)



Disadvantaged Business Enterprise Program

(DBE) PROGRESS REPORT OF DBE SUBCONTRACTOR UTILIZATION FORM

TO ENSURE PROMPT PAYMENT THE FOLLOWING INFORMATION MUST BE SUBMITTED WITH ALL REIMBURSEMENT REQUESTS WHETHER THEY INCLUDE INVOICED AMOUNTS FROM A QUALIFYING WBE OR MBE PARTICIPANT OR NOT:

Municipality/District: _____ SRF #: _____

Name of Project: _____ Contractor: _____

Contractor's Payment Request No. _____ Period covered by the request _____

The accompanying Reimbursement Request includes the following WBE/MBE participation:

Name & Address of WBE/MBE firm to be paid	WBE	MBE	Source of Certification, i.e., DOT, EPA or SBA	Amount to be paid this request	Type of Work
	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>			

This attachment must be signed by an authorized representative of the contractor.

Signature: _____ Date: _____

Name: _____ Title: _____

Address: _____

Phone: _____ E-Mail: _____



Disadvantaged Business Enterprise Program (DBE) Subcontractor Participation Form

DBE Subcontractor Participation Form) SRF FORM 6100-2, Page 1 of 2

An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE¹ subcontractor² the opportunity to describe work received and /or report any concerns regarding the EPA-funded project (e.g. in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the DEP DBE Coordinator at any time during the project period of performance.

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

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services, Equipment or Supplies	Amount Received by Prime Contractor

¹A 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.

²Subcontractor 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.

Please use the space below to report any concerns regarding the above EPA-funded project:

Subcontractor Signature	Print Name
Title	Date



Disadvantaged Business Enterprise Program (DBE) Subcontractor Participation Form

DBE Subcontractor Performance Form) SRF FORM 6100-3, Page 1 of 2

This form is intended to capture the DBE¹ subcontractor's² description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

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

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services, Equipment or Supplies	Price of Work Submitted to the Prime Contractor
DBE Certified By: <input type="checkbox"/> DOT <input type="checkbox"/> SBA <input type="checkbox"/> Other: _____		Meets/exceeds EPA certification standards? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Unknown

¹A 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.

²Subcontractor 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.

DBE Subcontractor Performance Form) SRF FORM 6100-3, Page 2 of 2

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form doesnot 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 33Section 33.202 (c).

Prime Contractor Signature	Print Name
Title	Date

Subcontractor Signature	Print Name
Title	Date



Disadvantaged Business Enterprise Program (DBE) Subcontractor Participation Form

DBE Subcontractor Utilization Form) SRF FORM 6100-4, Page 1 of 2

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	<input type="checkbox"/> _ YES	<input type="checkbox"/> _ 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 ?

¹A 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.

²Subcontractor 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 or financial assistance.

DBE Subcontractor Utilization Form) SRF FORM 6100-4, Page 2 of 2

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 that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Section 33.202 (c).

Prime Contractor Signature	Print Name
Title	Date

Link to AIS Covered Products Q & A

<https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-guidance-and-questions-and-answers>



From the “Consolidated Appropriations Act, 2014”

H.R. 3547 (PL113-76, enacted 1/17/2014)

USE OF AMERICAN IRON AND STEEL

“SEC. 436. (a)(1) None of the funds made available by a State water pollution control revolving fund as authorized by title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or made available by a drinking water treatment revolving loan fund as authorized by section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States.

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

- (g) Subsection (a) shall not apply in any case or category of cases in which the Administrator of the Environmental Protection Agency (in this section referred to as the “Administrator”) finds that—
- (1) applying subsection (a) would be inconsistent with the public interest;
 - (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
 - (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.
- (h) If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.
- (i) This section shall be applied in a manner consistent with United States obligations under international agreements.
- (j) The Administrator may retain up to 0.25 percent of the funds appropriated in this Act for the Clean and Drinking Water State Revolving Funds for carrying out the provisions described in subsection (a)(1) for management and oversight of the requirements of this section.
- (k) This section does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency’s capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of the enactment of this Act.”



**CERTIFICATION BY THE OWNER
OF COMPLIANCE WITH THE
USE OF AMERICAN IRON AND STEEL LAW
enacted on 1/17/2014**

(To be attached to each Utility Construction SRF requisition submitted for payment)

We, the Owner named, _____, having obtained funding from the State of Maine, State Revolving Fund (SRF), for the Utility Construction Project named _____, hereby submit to the SRF program, certification from each contractor working on the Utility Construction Project that the use of American Iron and Steel in the construction of the project complies with the law, or that a waiver has been obtained from the U.S. Environmental Protection Agency. Thereby, it is to the best of the Owner's knowledge that the costs being requested with this SRF requisition # _____ are in compliance with the Use of American Iron and Steel Law.

Signature of Official

Printed name

Date

Attachment: Certification by Contractor



United States Department of Agriculture

Sample Step Manufacturer Certification

(Documentation must be provided on company letterhead)

Date

Company Name

Company Address

City, State Zip

Subject: American Iron and Steel Step Manufacturer Certification

Project Name _____

I, _____ (company representative), certify that the _____ (melting, bending, coating, galvanizing, cutting, etc.) process for _____ (manufacturing or fabricating) the following products and/or materials shipped or provided for the project is in full compliance with the American Iron and Steel requirement as mandated in EPA’s State Revolving Fund Programs.

Item, Products and/or Materials:

- 1. _____
- 2. _____
- 3. _____

Such process took place at the following location: _____(address)

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Company representative

Signature

Date

AIS De Minimis Tracking Form



AISDeMinimisReport
Form.xlsx

GENERAL (PRIME) CONTRACTOR'S CERTIFICATION OF COMPLIANCE WITH PROVISIONS OF THE AMERICAN IRON AND STEEL REQUIREMENTS OF SECTION 746 OF TITLE VII OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2017 (DIVISION A - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017) AND SUBSEQUENT STATUTES MANDATING DOMESTIC PREFERENCE

DATE:

RE: PROJECT NAME

APPLICANT CONTRACT NUMBER

I hereby certify that to the best of my knowledge and belief all iron and steel products installed for this project by my company and by any and all subcontractors and manufacturers my company has contracted with for this project comply with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference or are the subject of a waiver approved by the Secretary of Agriculture or designee.

This certification is to be submitted upon completion of the project to the project engineer.

Name of Construction Company (PRINT)

By Authorized Representative (SIGNATURE)

Title

This form is available electronically.

Form Approved – OMB No. 0505-0027

Expiration Date: 04/30/2022



Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion AD-1048 Lower Tier Covered Transactions

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, and 2 C.F.R. §§ 180.300, 180.335, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880. Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud privacy, and other statutes may be applicable to the information provided.

(Read instructions on page two before completing certification.)

The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;

Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ORGANIZATION NAME	PR/AWARD NUMBER OR PROJECT NAME
NAME(S) AND TITLE(S) OF AUTHORIZED REPRESENTATIVE(S)	
SIGNATURE(S)	DATE

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint (<https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer>) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442.

Instructions for Certification

- (10) By signing and submitting this form, the prospective lower tier participant is providing the certification set out on page 1 in accordance with these instructions.
- (11) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- (12) The prospective lower tier participant shall provide immediate written notice to the person(s) to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (13) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549, at 2 C.F.R. Parts 180 and 417. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- (14) The prospective lower tier participant agrees by submitting this form 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 by the department or agency with which this transaction originated.
- (15) The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (16) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the System for Award Management (SAM) database.
- (17) Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (18) Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

CERTIFICATION FOR CONTRACTS, GRANTS AND LOANS

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

1.No Federal 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 Federal grant or Federal loan, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant or loan.

2.If any funds other than Federal 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 Federal contract, grant or loan, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," 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 contracts, subcontracts, and subgrants under grants and loans) 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.

(name) (date)

(title)

(08-21-91) PN 171

COMPLIANCE STATEMENT

This statement relates to a proposed contract with _____

(Name of borrower or grantee)

who expects to finance the contract with assistance from either the Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), or the Rural Utilities Service (RUS) or their successor agencies, United States Department of Agriculture (whether by a loan, grant, loan insurance, guarantee, or other form of financial assistance). I am the undersigned bidder or prospective contractor, I represent that:

1. I have, have not, participated in a previous contract or subcontract subject to Executive Order 11246 (regarding equal employment opportunity) or a preceding similar Executive Order.

2. If I have participated in such a contract or subcontract, I have, have not, filed all compliance reports that have been required to file in connection with the contract or subcontract.

If the proposed contract is for \$50,000 or more and I have 50 or more employees, I also represent that:

3. I have, have not previously had contracts subject to the written affirmative action programs requirements of the Secretary of Labor.

4. If I have participated in such a contract or subcontract, I have, have not developed and placed on file at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor.

I understand that if I have failed to file any compliance reports that have been required of me, I am not eligible and will not be eligible to have my bid considered or to enter into the proposed contract unless and until I make an arrangement regarding such reports that is satisfactory to either the RHS, RBS or RUS, or to the office where the reports are required to be filed.

I also certify that I do not maintain or provide for my employees any segregated facilities at any of my establishments, and that I do not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I certify further that I will not maintain or provide for my employees any segregated facilities at any of my establishments, and that I will not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I agree that a breach of this certification is a violation of the Equal Opportunity clause in my contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms 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 are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or

otherwise. I further agree that (except where I have obtained identical certifications for proposed subcontractors for specific time periods)I 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; that I will retain such certifications in my files; and that I will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods): (See Reverse).

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0018. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Position 6

RD400-6 (Rev. 4-00)

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS OF NON-SEGREGATED FACILITIES

A certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e. quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

DATE _____

(Signature of Bidder or Prospective Contractor)

Address (including Zip Code)