

A 5.

DAVIS BACON WAGE SCHEDULE

| | | |
|--------------------------------------|-----------|------|
| Pipelayer..... | \$ 7.828 | tx18 |
| Power equipment operators: | | |
| Backhoe..... | \$ 10.804 | |
| Crane..... | \$ 10.942 | |
| Front End Loader..... | \$ 9.163 | |
| Tunneling Machine (48" or less)..... | \$ 9.163 | |
| TRUCK DRIVER..... | \$ 8.528 | |

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

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

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

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

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number

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where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

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

Survey Rate Identifiers

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

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

Union Average Rate Identifiers

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

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

WAGE DETERMINATION APPEALS PROCESS

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

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

On survey related matters, initial contact, including requests

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for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

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

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

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

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

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

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

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

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

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" END OF GENERAL DECISION

A 5. MINIMUM WAGE SCHEDULE

SCHEDULE B (12-2099)
Highway/Heavy Construction Prevailing Wage Rates 2012

| Classification | Prevailing Rate |
|--|------------------------|
| Asphalt Distributor Operator | \$15.32 |
| Asphalt Paving Machine Operator | \$13.99 |
| Asphalt Raker | \$12.69 |
| Broom or Sweeper Operator | \$11.74 |
| Concrete Finisher – Paving and Structures | \$14.12 |
| Concrete Paving Finishing Machine | \$16.05 |
| Concrete Paving Saw Operator | \$14.48 |
| Crane Operator, Lattice Boom 80 Tons or Less | \$17.27 |
| Crane Operator, Lattice Boom over 80 Tons | \$20.52 |
| Crane, Hydraulic 80 Tons or Less | \$18.12 |
| Crawler Tractor | \$14.07 |
| Electrician | \$19.80 |
| Excavator, 50,000 Pounds or Less | \$17.19 |
| Excavator, over 50,000 Pounds | \$16.99 |
| Flagger | \$10.06 |
| Form Builder/Setter, Structures | \$13.84 |
| Form Setter - Paving & Curb | \$13.16 |
| Foundation Drill Operator, Crawler Mount | \$17.99 |
| Foundation Drill Operator, Truck Mount | \$21.07 |
| Front End Loader 3 CY or Less | \$13.69 |
| Front End Loader, over 3 CY | \$14.72 |
| Laborer – Common | \$10.72 |
| Laborer - Utility | \$12.32 |
| Loader / Backhoe | \$15.18 |
| Mechanic | \$17.68 |
| Milling Machine | \$14.32 |
| Motor Grader, Fine Grade | \$17.19 |
| Motor Grader, Rough | \$16.02 |
| Pavement Marking Machine | \$13.63 |
| Pipe Layer | \$13.24 |
| Reclaimer / Pulverizer | \$11.01 |
| Roller, Asphalt | \$13.08 |
| Roller, Other | \$11.51 |
| Scraper | \$12.96 |
| Servicer | \$14.58 |
| Small Slipform Machine | \$15.96 |
| Spreader Box | \$14.73 |

SCHEDULE B - Prevailing Wage Rates

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| | |
|--|---------|
| Steel Worker (Reinforcing) | \$16.18 |
| Truck Driver - Lowboy - Float | \$16.24 |
| Truck Driver - Off Road Hauler | \$12.25 |
| Truck Driver - Single Axle | \$12.31 |
| Truck Driver - Single or Tandem Axle Dump Truck | \$12.62 |
| Truck Driver - Tandem Axle Tractor with Semi Trailer | \$12.86 |
| Truck Driver - Transit Mix | \$14.14 |
| Tunnel Boring Machine Operator (greater than 48") | \$13.61 |
| Tunneling Machine Operator (48" or less) | \$ 9.16 |
| Welder | \$14.84 |
| Work Zone Barricade Servicer | \$11.68 |

If the construction project involves the expenditure of federal funds of \$2,000 or more, the minimum wages to be paid various classes of laborers and mechanics will be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on the project of a character similar to the contract work in the City of Dallas.

Except for work on legal holidays, the "General Prevailing Rate of Per Diem Wage" for the various crafts or type of workers or mechanics is the product of (A) the number of hours worked per day, except for overtime hours, times (B) the above respective rate per hour.

For legal holidays, the "General Prevailing Rate of Per Diem Wage" for the various crafts or type of workers or mechanics is the product of (A) one and one-half times the above respective rate per hour times (B) the number of hours worked on the legal holiday.

The "General Prevailing Rate for Overtime Work" for the crafts or type of workers or mechanics is one and one-half times the above respective rate per hour.

Under the provisions of Chapter 2258 of the Government Code, the contractor shall forfeit as a penalty to the entity on whose behalf the contract is made or awarded, sixty dollars (\$60.00) for each laborer, worker or mechanic employed, for each calendar day, or portion thereof, such laborer, worker or mechanic is paid less than the said stipulated rates for any work under the contract, by him, or by any subcontractor under him.

A 6. PROPOSAL TABULATION:

Proposals for the project will be tabulated only as shown on the Summary at the end of the Proposal.

A 7. TIME:

Time is the essence of the Contract. The time allotted for the completion of this Contract is **As Specified Per Special Provision S-7**.

A 8. SPECIFICATIONS:

Besides this Part A, the following are a part of this Contract:

1. Part "T", Technical Specifications (where this part is required). A copy of the DWU Standard Technical Specifications for Water & Wastewater Construction, October 2017 (or Latest Edition) which includes a link to the website for the DWU Approved Materials List for Water and Wastewater Construction, May 2019, in the Preface (P-2) can be obtained at:
http://dallascityhall.com/departments/waterutilities/Pages/dwu_design_standards.aspx.
2. Part "T", Technical Specifications (where this part is required). A copy of the DWU Approved Materials List for Water and Wastewater Construction, May 2019, can be obtained at:
http://dallascityhall.com/departments/waterutilities/Pages/dwu_design_standards.aspx.
3. DWU American Iron and Steel Approved Materials List for Texas Water Development Board Water Construction – January 2019
http://dallascityhall.com/departments/waterutilities/Pages/dwu_design_standards.aspx.
4. Contracts and Bond Forms
5. Drawings
6. Proposal
7. Standard Specifications for Public Works Construction - North Central Texas Council of Governments (Fourth Edition - 2004), A copy may be obtained from the North Central Texas Council of Governments, 616 Six Flags Dr., Arlington, Texas 76005, Telephone: (817) 640-3300.
8. City of Dallas 2011 ADDENDUM to the Public Works Construction - North Central Texas Council of Governments - Fourth Edition – October 2004, October 1, 2011, (or Latest Edition). A copy of the City of Dallas ADDENDUM to the NCTCOG General Specifications can be obtained at
http://dallascityhall.com/departments/waterutilities/Pages/dwu_design_standards.aspx.

9. Dallas Water Utilities Standard Drawings for Water & Wastewater Construction, October, 2017 (or Latest Edition). - A copy of the City of Dallas Standard Drawings can be obtained at http://dallascityhall.com/departments/waterutilities/Pages/dwu_design_standards.aspx.
10. Occupational Safety and Health Standards - Excavation, 29 CFR Part 1926, effective January 2, 1990.
11. City of Dallas BID Plan – October 22, 2008 (last modification). A copy of the Plan may be obtained at Dallas City Hall, Office of Procurement Services, 1500 Marilla Street, 3FN, Dallas, Texas 75201, 214-670-3325, or on their website at https://dallascityhall.com/departments/procurement/pages/business_inclusion_development.aspx.
12. A revised copy with Ordinance 29993 attached amending the Department of Public Works and Transportation Pavement Cut and Repair Standards Manual (October 2003 or latest edition) may be purchased from the Office of the Director of Public Works and Transportation, Public Works and Transportation Department, 320 E. Jefferson Boulevard, Room 102, Dallas, Texas 75203.
13. City of Dallas Department of Public Works Standard Construction Details 251D-1, September 2002, or latest edition. A copy can be obtained at <http://dallascityhall.com/departments/public-works/pages/constructionstandards.aspx>.

A 9. ADDENDA:

All Bidders are required to acknowledge receipt of all Addenda.

A 10. Business Inclusion and Development Plan - MWBE PARTICIPATION

Overview

On October 22, 2008, the City Council adopted the following amendments to the City's Good Faith Effort (GFE) plan:

- Changed the name from GFE Plan to the Business Inclusion and Development (BID) Plan to reflect both inclusion and developing M/WBE firms.
- Implemented an evaluation process which assigns points to encourage meaningful inclusion of M/WBE firms in response to the evaluation of proposals, including best value bids estimated to be in excess of \$250K.
- Encouraged bidders and proposers on City projects to create Joint Ventures-when feasible-to increase capacity and build stronger and larger M/WBE firms in the market.
- During Fiscal Year 08-09, the City of Dallas was \$30M (or 29%) above our M/WBE Goal.

Policy Statement

It is the policy of the City of Dallas to involve Minority and Women-Owned Business Enterprises (M/WBEs) to the greatest extent feasible on the City's construction, procurement and professional services contracts. It is the policy of the City of Dallas to encourage the growth and development of M/WBEs that can successfully compete for contracting opportunities. The City and its contractors shall not discriminate on the basis of race, color, religion, national origin, or sex in the award and performance of contracts. In consideration of this policy, the City of Dallas has adopted the Business Inclusion and Development (BID) Plan for all City of Dallas contracts.

Scope of BID Plan

The BID Plan shall apply to all contracts for the purchase of goods or services over \$50,000 with special emphasis on those contracts with first tier subcontracting opportunities. The provision of the BID Plan takes precedence over any departmental plans or procedures in conflict herewith, except for specific requirements mandated by the terms or conditions of agreements in force between the City and the Federal Government or the State of Texas that require different procedures than those described in the BID Plan.

The BID Plan Goals

The BID Plan establishes standard requirements for all prospective City of Dallas bidders/proposers to ensure a reasonable degree of participation by M/WBEs in all City contracts. It is the goal of the City that a certain percentage of work under each contract be performed by one or more M/WBEs.

On March 24, 2004, the City Council approved the following M/WBE participation goals (Council Resolution #041033). These goals were adopted without consideration for ethnicity or gender.

- Construction: 25.00%
- Architectural & Engineering: 25.66%
- Other Professional: 36.30%
- Other Services: 23.80%
- Goods: 18.00%

Prospective bidders/proposers are required to make a "good faith effort" to meet the established participation goals and must document their good faith effort to include M/WBEs in the contract.

Definitions of a M/WBE

- A. Minority/Women Business Enterprise means a business:
1. Which is at least 51% owned and controlled by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, of which at least 51% of the stock is owned by one or more socially and economically disadvantaged individuals;
- B. "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) who are:
1. African American (persons having origins in any of the Black racial tribes of Africa);
 2. Hispanic Americans (persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race);
 3. Native Americans (persons who are American Indians, Eskimos, Aleuts or Native Hawaiians);
 4. Asian Pacific Americans (persons whose origins are from Japan, China, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas);
 5. Asian-Indian Americans (persons whose origins are from India, Pakistan, and Bangladesh);
 6. Women (regardless of race, ethnicity or origin); or
 7. Any other minorities or individuals found to be disadvantaged by the Small Business Act.
 8. Disabled will be evaluated on a case-by-case basis

- C. The phrase “owned and controlled” as used in this definition means a business is:
1. a sole proprietorship legitimately owned by an individual who is a minority or a female;
 2. a partnership or joint venture controlled by minority individuals and/or females, and in which at least 51% of the beneficial ownership interests legitimately are held by minority and/or female individuals; or
 3. a corporation or other entity controlled by a minority or women, or both, and in which at least 51% of the voting interests and 51% of the beneficial ownership interests are legitimately held by minority individuals or women, or both. In addition, these persons must control the management and operation of the business on a day-to-day basis.

Responsibilities of the City and M/WBEs in the Bidding/Proposal Process

- A. M/WBE Directory
1. The City of Dallas will maintain a directory to identify M/WBEs relevant to general contracting requirements and to particular bid/proposal solicitations. The directory will consist of certified M/WBEs who are also registered City of Dallas vendors. BDPS will make the M/WBE Directory available to potential contract awardees to assist in efforts to meet BID goals and requirements.
 2. The following information will be maintained on each M/WBE firm listed in the M/WBE Directory: name of business, address, telephone number, email address, services and products of the firm. The directory will include M/WBEs who manufacture, produce, lease, sell, distribute or produce equipment or professional services procured by the City. This information will be used to notify M/WBEs of opportunities for participation in City contracts and to provide other business enterprises with contacts for subcontracting and joint ventures with M/WBEs.
- B. Certification of M/WBEs Desiring to Participate in the City’s M/WBE Certification Program
1. The City of Dallas is a member of the North Central Texas Regional Certification Agency (NCTRCA). The agency certifies ownership and control of M/WBEs and provides a centralized M/WBE certification service for public agencies and municipalities. M/WBEs seeking certification can utilize NCTRCA for certification purposes. Copies of application forms for certification are available from BDPS and from the NCTRCA website: www.nctrca.org However, the City of Dallas, upon authorization from the Director of BDPS, will accept certification of M/WBEs from agencies of

similar guidelines whether from private certification agencies, municipalities, state or federal government entities. All businesses wishing to be certified as an M/WBE business will be required to provide documentation needed by the City to certify such firms as M/WBEs.

Compliance Procedures

A. Description of BID Documentation Forms

Forms are provided to all apparent low bidders/most advantageous proposers for use in documenting M/WBE subcontractor participation and compliance with the BID Plan. As a prerequisite for City Council award, all primes who have been identified as the apparent low bidder/most advantageous proposer must complete the appropriate forms.

All bid documents and proposal packages must include the signed BID affidavit confirming the bidder/proposer's intent to comply with the City's BID Plan. No other BID documentation will be required at time of bid.

1. BID Affidavit

This form is turned in with the bid packet or proposal package and certifies that the bidder/proposer agrees to comply with the City's BID Plan.

2. Schedule of Work and Actual Payment Form

This form provides information on:

- a. Verification of the prime contractor's use of 100% of its own workforce to complete the contract (if applicable);
- b. First tier subcontractors, suppliers or sub consultants participating with the prime contractor on the contract;
- c. Payments made to the subcontractor, supplier or sub consultant through the term of the contract;
- d. Contracts over \$1M report payments on a monthly basis; contracts under \$1M report payments on a quarterly basis.

3. Ethnic Workforce Composition Report

This form provides information on the ethnic and gender composition of the prime's workforce.

4. Subcontractor Intent Form

This form is to be completed by the apparent low bidder/most advantageous proposer and all M/WBE subcontractors, suppliers or sub consultants participating on the anticipated contract. One form for each M/WBE subcontractor, supplier or sub consultant will be required.

5. BID Documentation Form

This form is to be completed by the apparent low bidder/most advantageous proposer who will NOT meet the applicable BID goal. The form documents a bidder's/proposer's BID efforts to obtain M/WBEs for subcontracting or sub consulting opportunities in compliance with the BID Plan.

6. Change of M/WBE Subcontractor/Supplier Form

This form is to be completed by prime contractors to document subcontractor, supplier or sub consultant changes during the term of the contract.

B. Submission of BID Documentation Forms

BID forms are submitted by the apparent low bidder/most advantageous proposer. The apparent low bidder/most advantageous proposer has up to five (5) business days after the City has issued notification of intent to award the contract. The apparent low bidder / most advantageous proposer shall submit BID forms to Business Development and Procurement Services (BDPS).

1. Prime contractors who will meet or exceed the BID goal must submit the following forms:
 - a. Schedule of Work and Actual Payment Form
 - b. Ethnic Composition Workforce Report
 - c. Subcontractor Intent Form(s)

2. Prime contractors who will not meet the BID goal must submit the following forms:
 - a. Schedule of Work and Actual Payment Form
 - b. Subcontractor Intent Form(s)
 - c. Ethnic Composition Workforce Report
 - d. BID Documentation

C. Changes to the Schedule of Work

Once a contract has been approved by City Council, the prime contractor is expected to utilize M/WBE subcontractors or suppliers or listed on the Schedule of Work. In making a M/WBE subcontractor or supplier change, the prime contractor must make a BID to replace the subcontractor or supplier with a M/WBE subcontractor or supplier. Failure to comply with the City's BID Plan in subcontractor, supplier or sub consultant substitutions may result in sanctions. During the course of contract performance, valid reasons to make changes or substitutions to the Schedule of Work are:

1. An increase or decrease in the scope of work;
2. Poor performance by the M/WBE subcontractor or supplier;
3. M/WBE subcontractor, supplier or sub consultant is unable or unwilling to perform the work;
4. M/WBE subcontractor, supplier or sub consultant does not have the equipment or workforce to perform the work; or
5. Other documented reasons

D. All M/WBE subcontractor or supplier changes require submission of a Change of M/WBE Subcontractor/Supplier Form. The prime contractor must submit the following documentation to the City of Dallas project manager prior to any changes in the Schedule of Work:

1. Completed Change of Subcontractor/Supplier Form (signed by the City's project manager) including documentation of BID made to obtain M/WBE subcontractor.
2. Revised Schedule of Work reflecting the revised participation percentages.
3. Subcontractor Intent Form(s) signed by the new M/WBE subcontractor, supplier or sub consultant.
4. Other BID documentation deemed necessary to adequately justify the proposed change and to document the prime contractor's efforts to obtain M/WBE participation.

Acts of Business Inclusion and Development

Determination of BID is based on the apparent low bidder's /most advantageous proposer's documented efforts to obtain M/WBE participation. BID documentation must be submitted and approved by BDPS prior to award of the contract by City Council. To determine whether a BID Plan was made to obtain M/WBE participation, an apparent low bidder/most advantageous proposer that does not meet the established BID goal must demonstrate that a sufficient reasonable BID Plan was made to obtain M/WBE participation in their bid/proposal.

A. Documented efforts include:

1. Contact with the BDPS RLT for assistance in locating M/WBE subcontractors
2. Methods used to identify M/WBE subcontractors:
 - a. Industry relationships
 - b. City of Dallas M/WBE Directory
 - c. Written notices sent to certified M/WBEs
 - d. Assistance from other City Staff (provide names and departments)
 - e. Other (provide appropriate documentation)
3. Communication with 5% of M/WBE companies listed on the City's M/WBE Directory:
 - a. Copy of email communication between prime contractor and solicited subcontractor, supplier or sub consultant
 - b. Documented phone conversation including name and number of contacts
 - c. Other documentation supporting contacts
4. Copy of type of information provided to M/WBE firms contacted
 - a. Plans and specifications
 - b. Scope of work and project schedule
 - c. Industry certification requirements or
 - d. Equipment requirements

If the apparent low bidder/most advantageous proposer does not receive a response from the contacted M/WBE, the apparent low bidder/most advantageous proposer must advise BDPS that no response has been received.

5. The apparent low bidder/most advantageous proposer must consider all sub-bids, quotes and proposals received from M/WBEs and cannot reject M/WBEs as unqualified without sound reasons based on a thorough understanding of their capabilities. If a subcontract is not awarded to an M/WBE because the quote was not competitive, the apparent low bidder/most advantageous proposer must be able to demonstrate that the sub-bid or price quote was not competitive. The apparent low bidder/most advantageous proposer must also show that the sub-bid, price quote or proposal accepted was for the same work or supply of materials as quoted by the M/WBE. M/WBE subcontractors, suppliers or sub consultants who repeatedly fail to respond to requests for sub-bids, price quotes or proposals will be removed from the M/WBE Directory.

Commercially Useful Function

A prime contractor may count towards its M/WBE participation only expenditures to M/WBEs that perform a commercially useful function in the work of a contract. A M/WBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a M/WBE is performing a commercially useful function, the City will take into account the amount of work subcontracted, industry practices, and other relevant factors.

Consistent with normal industry practice, M/WBE subcontractors may subcontract a portion of their work. If a M/WBE contractor subcontracts a significantly greater portion of the work than would be expected on the basis of normal industry practices, the M/WBE will be presumed to not be performing a commercially useful function. The M/WBE may present evidence to the City to rebut this presumption.

Only payments to M/WBEs that perform a Commercially Useful Function (CUF) under the City's contract will count toward the BID goals. A firm is considered to perform a CUF when:

- A. It is responsible for the execution of a distinct element of work on the contract;
- B. It carries out its responsibilities by actually performing, managing, and supervising the work involved; and
- C. The M/WBE owners control the operation of the business.

BID Plan Credit (Local vs. Non-local)

BID goals for M/WBE subcontracting are set by the City Council based on the availability of M/WBEs within a designated market area. Only first tier, local (within City of Dallas limits) M/WBE participation can be counted toward achieving the goals. Participation of M/WBEs located outside City of Dallas limits will be considered as evidence of compliance with the BID Plan, but are not counted towards the determination of whether the goal was achieved.

Counting M/WBE Participation

An M/WBE's certification must be kept current for the entire term of the contract for the City to continue to count the M/WBE's participation toward the BID goals. If an M/WBE's certification lapses during the performance of the contract, only payments received by the M/WBE prior to its de-certification will be counted toward the BID goals. If the M/WBE is re-certified during the term of the contract, 100% of the M/WBE's participation will be counted for the full term of the contract.

Only first tier subcontractors, suppliers or sub consultants will be counted towards the BID goal.

First tier Definition

Only local certified M/WBE subcontractors, suppliers or subconsultants with a direct contractual relationship with the prime contractor will count toward the BID goal. A prime contractor is a company or firm who is awarded a City contract by either the City Council or by Administrative Action. Contracts awarded by the City Council or by Administrative Action that are assigned to a construction manager are also considered prime contractors, with their subcontractors, suppliers and sub consultants counted as first tier.

In addition, first tier subcontractors, suppliers or subconsultants can utilize subcontractors/suppliers consistent with normal industry practice. If, however, the arrangement erodes the ownership, control or independence of the subcontractor/supplier or does not meet the commercially useful function requirement, the contractor shall receive no credit toward the City's BID goal. Also, prime contractors who have subcontractors, suppliers or sub consultants that do not perform a commercially useful function or first tier subcontractors, suppliers or sub consultants that do not perform the majority (51% of the subcontract amount, or normal industry practice) of the work on a contract will not be given credit toward the BID goal.

On contracts for alternative delivery methods for facility construction, (e.g. construction manager at risk, design build, or construction manager-agent), each construction package awarded will be required to fulfill the BID requirements for subcontractor/ supplier participation. Only the first tier subcontracts within the awarded construction packages will be counted towards the BID goals.

Prompt Payment to the Subcontractor

State Law, V.T.C.A., Government Code Section 2251.022, requires prime contractors to pay subcontractors within ten (10) days from receipt of payment from the City.

Right to Audit

In accordance with its contracting policy, the City reserves the right to audit/review any or all parts of a project at any time. Such an audit/review may include information from the prime contractor and any subcontractors, suppliers or sub consultants.

Complaints

All complaints regarding the administration of or compliance with the City's BID Plan will be directed to City of Dallas Department of Business Development and Procurement Services. Formal complaints should be filed with the City Auditor's Office for thorough investigation.

Sanctions for Failure to Comply with BID Requirements

The failure of a contractor to adequately comply with the BID Plan shall be considered by the City in the award of future contracts.

- A. A contractor who fails to adequately document that a BID Plan was made to subcontract with M/WBE firms or to purchase significant material supplies from M/WBE firms may be denied award of the contract by the City on the grounds of nonresponsibility.

- B. If, during the performance of the contract, the contractor is found not to be fulfilling commitments to utilize M/WBE subcontractors/sub consultants and no acceptable justification has been offered by the prime, this failure to fulfill commitments may be considered in the award of future contracts and may result in the denial of such future contracts to the prime contractor.

- C. A prime contractor may be disqualified for contract awards for a three-year period upon the City Council's determination that the contractor:
 - 1. Is non-responsible based upon poor performance
 - 2. Is engaged in pass-through brokering
 - 3. Is engaged in payrolling

A 11.

**DRUG-FREE JOBSITE
ON CITY CONSTRUCTION PROJECTS**

I. In the interest of job safety and to protect the general public, other Contractors and the Owner's employees from the consequences of accidents that are caused by Worker abuse of controlled substances on City construction projects, the Bidder certifies by submission of its bid that it will make a good faith effort to maintain a drug-free jobsite, and also certifies that to further this objective it will:

(a) Establish a controlled substance abuse program that will test for controlled substance use:

(1) Employees utilized by the Bidder on this project in safety-sensitive positions; for purposes of this provision a "safety sensitive" position is a position performed at the jobsite, which if performed by a person impaired by the effects of a controlled substance, would or could:

(i) Pose a serious risk of death or personal injury to the employee, fellow employees or other persons in the vicinity; or

(ii) Compromise the quality of construction in such manner as would impose a significant public safety risk in the use or operation of the City improvement in question;

(2) Employees when there is a reasonable suspicion that an employee is using a controlled substance on the jobsite, or off the jobsite in a manner that affects jobsite performance;

(3) Employees as part of a voluntary drug testing program; or

(4) Employees as part of or as a follow-up to counseling for or rehabilitation from abuse of a controlled substance;

(b) Establish a program that will test an employee utilized by the Bidders on this project in a safety-sensitive position when there is a reasonable suspicion that the employee is impaired by the effects of alcohol on the jobsite; for purposes of this provision, a safety-sensitive position is a position performed at the jobsite which, if performed by a person impaired by the effects of alcohol, would or could:

(1) Pose a serious risk of death or personal injury to the employee, fellow employees or other persons in the vicinity; or

- (2) Compromise the quality of construction in such manner as should impose a significant public safety risk in the use or operation of the City improvement in question.
 - (c) Publish a statement notifying employees that the unlawful manufacture, distribution, selling, dispensing, possession or use of controlled substance is prohibited on the jobsite and specifying the actions that will be taken against employees for violations of such prohibitions,
 - (d) Establish a drug-free awareness program to inform employees about the danger of drug abuse on the jobsite, about the Bidder's policy regarding a drug-free jobsite, about available counseling and rehabilitation programs, and about the penalties that may be imposed upon employees for drug abuse violations occurring on the jobsite; and
 - (e) Provide a copy of the statement required by subsection (c) to all employees of the Bidders who will be involved in performance of the Contract.
- II Employees who test positive for controlled substance use in one of the tests conducted pursuant to paragraph I.(a), or who are impaired by the effects of alcohol on the jobsite pursuant to paragraph I.(b), shall be considered unfit for purposes of Item 108.4 of the Standard Specifications for Public Works Construction, Fourth Edition, As Amended
- III For purposes of Section I. above, the term "controlled substance" means a drug substance or immediate precursor listed in Schedules I through V of Subchapter 2 or Penalty Groups 1 through 4 of Subchapter 4 of the Controlled Substances Act, Article 4476-15; Texas Revised Civil Statues.
- IV The Bidder shall be solely responsible for the maintenance and administration of the program required in Section I above. Nothing in these provisions shall be construed on the Owner's part, as authorizing, permitting or requiring the Bidder to engage in conduct that is otherwise illegal or that otherwise constitutes an unreasonable or unlawful invasion of privacy under Texas or Federal law.

A 12.

PERMITS

A 27.

CEMENT USE ON PUBLIC PROJECTS

A 27. CEMENT USE ON PUBLIC PROJECTS

Item **303.3.6.COD: Cement Used on Public Projects - Sustainable Air Quality**, as shown in the *City of Dallas Addendum to the North Central Texas Council of Governments Public Works Construction Standards (Fourth Edition, October 2004), Latest Edition*, is hereby replaced with the following:

(Page 303-14. Add the following:)

303.3.6.COD: CEMENT USED ON PUBLIC PROJECTS – SUSTAINABLE AIR QUALITY:

(A) Pursuant to Section 271.907 of the Texas Local Government Code, as amended, the OWNER will give a bid preference to the Bid of a CONTRACTOR who certifies in the Bid that, in the purchase of concrete or other products using Portland cement in construction of the Project, the CONTRACTOR will utilize Portland Cement from manufacturers who:

- (1) are in compliance with all applicable state and federal environmental standards relating to the emission of NO_x, including all applicable TCEQ and EPA rules and regulations; and
- (2) operate kilns with emissions that exceed the standards for NO_x emissions set out in 30 Tex. Admin. Code § 117.3110(a)(1)-(4) (as provided presently and as may be amended in the future) by the following percentage amounts:
 - (a) for each long wet kiln, 10 percent lower than the standard for long wet kilns located in Ellis County, Texas as set out in 30 Tex Admin Code § 117.3110(B);
 - (b) for each long dry kiln, 20 percent lower than the standard for long dry kilns located in Ellis County, Texas, as set out in 30 Tex. Admin. Code § 117.3110(a)(2);
 - (c) for each preheater kiln, 20 percent lower than the standard for preheater kilns located in Ellis County, Texas, as set out in 30 Tex. Admin. Code § 117.3110(a)(3); and
 - (d) for each preheater-precalciner or precalciner kiln, 35 percent lower than the standard for preheater-precalciner and precalciner kilns located in Ellis County, Texas, as set out in 30 Tex. Admin. Code § 117.3110(a)(4). *[Reference: City Council Resolution No. 11-0657, passed by the Dallas City Council on March 9, 2011.]*

- (B) The preference shall apply only to the extent that the CONTRACTOR'S Bid, as certified, is not greater than 105 percent of the lowest responsible Bid of a CONTRACTOR who does not or cannot certify that it will utilize Portland cement from a cement kiln meeting the above-mentioned emission standards. The OWNER reserves the right to pursue any remedies it has under the CONTRACT Documents in the event the CONTRACTOR falsely certifies to the requirements stated above, including but not limited to termination of the CONTRACT, adverse evaluation at final completion of the CONTRACT, or debarment from participation in future construction contracts the OWNER may advertise or award. The OWNER also reserves the right to reject any load or item of Portland cement, concrete, or other product containing Portland cement delivered in the event it is discovered that the Portland cement used in the load or item was not manufactured as certified.
- (C) When a bidding preference has been granted as provided herein and any load or item of Portland cement, concrete, or other product which contains Portland cement is delivered to the Project site for use, the CONTRACTOR shall obtain and present to the OWNER a sworn-to certification, using a certification form approved by the OWNER, from the Portland cement or concrete manufacturer that the load or item delivered contains no Portland cement other than Portland cement meeting the requirements as specified in Paragraph (A). The CONTRACTOR shall also obtain a manifest for each Portland cement or concrete load showing the quantity of Portland cement or concrete delivered and the location of the manufacture of the Portland cement, along with the name of a designated representative of the Portland cement manufacturer for purposes of contact by the OWNER if necessary. On a monthly basis or other frequency desired by the OWNER, the CONTRACTOR shall furnish for inspection by the OWNER of a copy of the delivery manifests obtained. The CONTRACTOR shall certify in writing that the manifests are true and correct to the best of the CONTRACTOR'S knowledge. Notwithstanding the manufacturer's certification, the CONTRACTOR will be held responsible in the event the OWNER discovers that the cement used was not manufactured in accordance with the requirements of Paragraph (A).
- (D) The OWNER reserves the right to pursue any remedies it has under the CONTRACT Documents in the event the CONTRACTOR fails to comply with this materials specification, including but not limited to termination of the CONTRACT, adverse evaluation at final completion of the CONTRACT, or debarment from participation in future construction contracts the OWNER may advertise or award. The OWNER also reserves the right to reject any load or item of Portland cement, concrete, or other product containing Portland cement delivered in the event it is discovered that the Portland cement used in the load or item was not manufactured as certified.
- (E) Copies of the required forms are found on the following pages:

CEMENT PREFERENCE CERTIFICATION

I, _____, the _____ [state title of officer of company] of _____ [legal name of bidder company], do hereby certify that my bid for concrete products utilizes Portland cement produced by vendors who:

- (1) are in compliance with all applicable state and federal environmental standards relating to the emission of NOx, including all applicable TCEQ and EPA rules and regulations; and
- (2) operate kilns with emissions that exceed the standards for NOx emissions set out in 30 Tex. Admin. Code § 117.3110(a)(1)-(4) (as provided presently and as may be amended in the future) by the following percentage amounts:
 - (a) for each **long wet kiln**, 10 percent lower than the standard for long wet kilns located in Ellis County, Texas as set out in 30 Tex. Admin. Code § 117.310(a)(1)(B) ***[As of 3-9-11, wet kiln NOx emissions can NOT exceed 3.6 lbs per ton of clinker produced.]***;
 - (b) for each **long dry kiln**, 20 percent lower than the standard for long dry kilns located in Ellis County, Texas, as set out in 30 Texas. Admin. Code § 117.3110(a)(2) ***[As of 3-9-11, dry kiln NOx emissions can NOT exceed 4.1 lbs per ton of clinker produced.]***;
 - (c) for each **preheater kiln**, 20 percent lower than the standard for preheater kilns located in Ellis County, Texas, as set out in 30 Tex. Admin. Code § 117.3110(a)(3) ***[As of 3-9-11, preheater kiln NOx emissions can NOT exceed 3.0 lbs per ton of clinker produced.]***; and
 - (d) for each **preheater-precalciner or precalciner kiln**, 35 percent lower than the standard for preheater-precalciner and precalciner kilns located in Ellis County, Texas, as set out in 30 Tex. Admin. Code § 117.3110(a)(4) ***[As of 3-9-11, preheater-precalciner or precalciner kiln NOx emissions can NOT exceed 1.8 lbs per ton of clinker produced.]***.

BIDDER:

Print Name and Title

SUBSCRIBED and SWORN TO before me this ____ day of _____, 20__.

[Seal]

Notary Public, State of Texas

My commission expires: _____

CONCRETE/CEMENT DELIVERY CERTIFICATION

I, _____, the _____ [state title of officer of company] of _____ [legal name of Portland cement or concrete manufacturer], do hereby certify that the concrete/cement products delivered between _____ and _____ to the City of Dallas project known as _____ utilizes Portland cement produced by vendors who:

- (1) are in compliance with all applicable state and federal environmental standards relating to the emission of NOx, including all applicable TCEQ and EPA rules and regulations; and
- (2) operate kilns with emissions that exceed the standards for NOx emissions set out in 30 Tex. Admin. Code § 117.3110(a)(1)-(4) (as provided presently and as may be amended in the future) by the following percentage amounts:
 - (a) for each **long wet kiln**, 10 percent lower than the standard for long wet kilns located in Ellis County, Texas as set out in 30 Tex. Admin. Code §117.310(a)(1)(B) **[As of 3-9-11, wet kiln NOx emissions can NOT exceed 3.6 lbs per ton of clinker produced.];**
 - (b) for each **long dry kiln**, 20 percent lower than the standard for long dry kilns located in Ellis County, Texas, as set out in 30 Texas. Admin. Code §117.3110(a)(2) **[As of 3-9-11, dry kiln NOx emissions can NOT exceed 4.1 lbs per ton of clinker produced.];**
 - (c) for each **preheater kiln**, 20 percent lower than the standard for preheater kilns located in Ellis County, Texas, as set out in 30 Tex. Admin. Cod §117.3110(a)(3) **[As of 3-9-11, preheater kiln NOx emissions can NOT exceed 3.0 lbs per ton of clinker produced.];** and
 - (d) for each **preheater-precalciner or precalciner kiln**, 35 percent lower than the standard for preheater-precalciner and precalciner kilns located in Ellis County, Texas, as set out in 30 Tex. Admin. Code §117.3110(a)(4) **[As of 3-9-11, preheater-precalciner or precalciner kiln emissions can NOT exceed 1.8 lbs per ton of clinker produced.].**

CONCRETE/CEMENT MANUFACTURER:

Print Name and Title

SUBSCRIBED and SWORN TO before me this ____ day of _____, 20__.

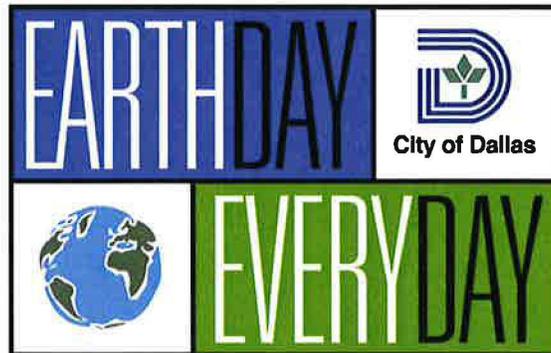
[Seal]

Notary Public, State of Texas

My commission expires: _____

A 28.

**ENVIRONMENTAL POLICY
&
OCCUPATIONAL SAFETY
&
HEALTH PROGRAM**



Environmental Policy

The City of Dallas is committed to a clean, safe, and healthy environment. As such, we will exercise environmental stewardship in our dealings with employees, other governments, citizens, City contractors, business and others in the community for our world today as well as for future generations. Caring for the environment is one of our core values, and this is demonstrated by ensuring our activities are in harmony with the natural world around us.

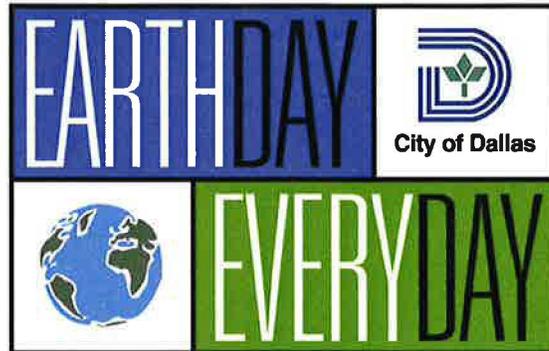
This commitment is embodied by the following actions:

- ❖ Implementation of programs and procedures with an intent to meet or exceed all applicable environmental laws and regulations.
- ❖ Continual improvement of our environmental performance through proactive environmental management and self-assessments and/or third-party assessments.
- ❖ Prevention of pollution at its source through implementation of best management practices and resource conservation measures to reuse, reclaim, and recycle materials we generate.
- ❖ Utilization of Environmental Management Systems, as appropriate for our operations, to provide a framework for systematically reviewing and reducing our environmental footprint.
- ❖ Employees will abide by all environmental regulations and demonstrate environmental compliance in their daily work practices.
- ❖ Educate City employees on Dallas' environmental policies and motivate and encourage employees to practice environmental stewardship by raising awareness and sensitivity to environmental issues through City policies, regulations, training, and interactive dialogue.
- ❖ Outreach to the citizens and businesses of our community by communication of this Policy and education on the importance of environmental stewardship for clean air and water and sustainable development for the City of Dallas.

Approved by Dallas City Council January 26, 2005.

Signed


T.C. Broadnax
City Manager



Política Ambiental

La Ciudad de Dallas tiene el compromiso de mantener un medio ambiente limpio, seguro y sano. Y por ende atenderemos al cuidado ambiental en nuestras relaciones con los empleados, otros gobiernos, ciudadanos, contratistas de la Ciudad, negocios y otros individuos de la comunidad, para bien de nuestro mundo de hoy y de las futuras generaciones. El cuidado del medio ambiente es uno de nuestros valores esenciales, y eso se demuestra asegurando que nuestras actividades estén en armonía con el mundo natural que nos rodea.

Este compromiso se manifiesta en las siguientes medidas:

- ❖ Puesta en práctica de programas y procedimientos con la intención de cumplir con, o rebasar en el cumplimiento de, todas las leyes y reglamentaciones ambientales pertinentes.
- ❖ Mejora continua de nuestro desempeño ambiental a través de control ambiental proactivo y de autoevaluaciones y/o evaluaciones de terceros.
- ❖ Prevención de la contaminación en su origen mediante la puesta en práctica de las mejores prácticas de control y de medidas de conservación de recursos para reutilizar, recuperar y reciclar materiales que generamos.
- ❖ Utilización de Sistemas de Control Ambiental (Environmental Management Systems), según sea apropiado para nuestras operaciones, a fin de proveer una estructura para revisar y reducir de forma sistemática las huellas que dejamos en el medio ambiente.
- ❖ Los empleados deberán respetar todas las reglamentaciones ambientales y demostrar cumplimiento con lo establecido respecto al medio ambiente en sus prácticas laborales diarias.
- ❖ Educar a los empleados de la Ciudad con relación a las políticas ambientales de Dallas, y motivar y exhortar a los empleados a practicar el cuidado del medio ambiente a través de la elevación de la conciencia y la sensibilidad respecto a los asuntos ambientales mediante políticas, reglamentaciones, capacitación y diálogo interactivo por parte de la Ciudad.
- ❖ Llegar a los ciudadanos y negocios de nuestra comunidad a través de la comunicación de esta Política y de educación sobre la importancia del cuidado del medio ambiente para tener aire y agua limpios y desarrollo sostenible de la Ciudad de Dallas.

Aprobado por el Concejo de la Ciudad de Dallas el 26 de enero de 2005.

Firmado por


T.C. Broadnax
Administradora de la Ciudad

City of Dallas

Occupational Safety and Health Policy

The City of Dallas strives to demonstrate excellence in protecting people and property, and minimizing exposure to financial loss. Every employee, contractor, and visitor or guest to our facilities will be encouraged to take personal responsibility for Safety by adhering to the following principles:

- **Safety:** Maintain a Safe workplace, plan our work, perform it safely and ensure accountability for the Safety of ourselves, co-workers, and guests.
- **Health:** Commitment to prevention of injuries and ill health within our workplace and community.
- **Compliance:** Achieve and comply with applicable legal requirements to which the City subscribes that relate to its Occupational Safety and Health hazards.
- **Community:** Maintain open, proactive and constructive relationships with our employees, neighbors, regulators, and other stakeholders.
- **Continual Improvement:** Make continual improvements in Occupational Safety and Health performance.

The Occupational Safety and Health program will undergo an annual review of the City's progress on meeting its goals and adherence to this policy and be sensitive to financial responsibility when reviewing compliance objectives.


T.C. Broadnax, City Manager

2/1/17
Date



Approved by Dallas City Council 02/11/09
Rev. 3

Ciudad de Dallas

Política de salud y seguridad ocupacional

La ciudad de Dallas se esfuerza en demostrar la excelencia en la protección de personas y bienes y minimizar la exposición a pérdidas financieras. Cada empleado, contratista y visitante o invitado a nuestras instalaciones se verán alentados a asumir la responsabilidad personal de seguridad adhiriéndose a los principios siguientes:

- **Seguridad:** Mantener un lugar de trabajo seguro, planificar nuestro trabajo, realizar de manera segura y asegurar la responsabilidad por la seguridad de nosotros mismos, colaboradores e invitados.
- **Salud:** Compromiso con la prevención de lesiones y problemas de salud en nuestro lugar de trabajo y comunidad.
- **Cumplimiento de normas:** Lograr y cumplir con requisitos legales aplicables que suscribe la ciudad que se relacionan con sus riesgos de seguridad y salud ocupacionales.
- **Comunidad:** Mantener relaciones abiertas, proactivas y constructivas con nuestros empleados, vecinos, reguladores y otras partes interesadas.
- **La mejora continua:** Continúas mejoras en el desempeño de seguridad y salud ocupacional.

El programa de seguridad y salud ocupacional a someterse a un examen anual de progreso de la ciudad en el cumplimiento de sus metas y el cumplimiento de esta política y ser sensible a la responsabilidad financiera al revisar los objetivos de cumplimiento.



T.C. Broadnax, administrador de la ciudad

2/1/17
Fecha



Aprobado por el Concejo Municipal de Dallas 11/02/09

3 Rev



**Texas Water Development Board
Supplemental Contract Conditions for
Clean Water State Revolving Fund
(Equivalency) and Drinking Water State
Revolving Fund**

**For Construction Services for Projects Funded
through the CWSRF Equivalency
and DWSRF Programs**

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Forms and Guidance:

The Texas Water Development Board (TWDB) forms and guidance documents noted in this instruction document may be accessed through the TWDB Financial Assistance website at:

<http://www.twdb.texas.gov/financial/instructions/index.asp>

Search by either the document number or name.

I. INSTRUCTIONS FOR APPLICANTS

1. Applicability

These Supplemental Contract Conditions contain provisions that are worded to comply with certain statutes and regulations which specifically relate to all Drinking Water State Revolving Fund (DWSRF) projects and Clean Water State Revolving Fund (CWSRF) Equivalency Program projects. Provisions which are applicable to the project's funding source or dollar value of the contract are so noted within these provisions.

2. Use of Conditions

The conditions and forms listed under *Section II: Instructions to Bidders* are to be included in the instructions to bidders for construction services. The provisions listed under *Section III: Construction Contract Supplemental Conditions* shall be included, in their entirety, with the other general and special conditions that are typically included in the construction contract documents by the design engineer.

3. Modifications to Provisions

These provisions shall be included as a stand-alone section in the contract documents. The Applicant may need to modify parts of these provisions to better fit the other provisions of the construction contract. The Applicant and the consulting engineer should carefully study these provisions before incorporating them into the construction contract documents. In particular, Water Districts and other types of Districts should be aware of statutes relating to their creation and operation which may affect the application of these conditions. The TWDB Project Engineer/Reviewer should be consulted if the Applicant thinks there is a need to modify parts of these provisions.

The Applicant is to determine and incorporate the affirmative action goals for the project into Supplemental Contract Condition No. 12. Supplemental Condition No. 15, Archeological Discoveries and Cultural Resources, and Condition No. 16, Endangered Species, may be superseded or modified by project specific conditions established during the environmental review process.

These documents may confer certain duties and responsibilities on the consulting engineer that are beyond, or short of, what the Applicant intends to delegate. The Applicant should ensure that the contractual agreement with the Engineer provides for the appropriate services. Otherwise the Applicant should revise the wording in these special conditions to agree with actually delegated functions.

4. Good Business Practices

There are other contract provisions that the Applicant and Engineer need to include as a matter of good business practice. It is recommended that provisions addressing the following matters be included in the construction contract.

- (a) Specifying the time frame for accomplishing the construction of the project, and the consequences of not completing on time, including liquidation damages.
- (b) Specifying the type and dollar value of and documentation of insurance the Contractor is to carry. At a minimum, the Contractor should carry worker's compensation, liability and builder's risk insurance.
- (c) Identifying the responsibility of the Contractor - responsibility and warranty of work.
- (d) Price reduction for defective pricing of negotiated costs.
- (e) Differing site conditions - notice and claims regarding site conditions differing from indicated conditions.
- (f) Covenants against contingent fees - prohibit contingent fees for securing business.
- (g) Gratuities - prohibitions against offering and accepting gratuities.
- (h) Audit and access records.
- (i) Suspension of work - conditions under which the Applicant may suspend work.
- (j) Termination - conditions under which the Applicant may terminate.
- (k) Remedies - how disputes will be remedied.

5. Other Requirements

There may be other local government requirements and applicable Federal and State statutes and regulations which are not included by these conditions. It is the Loan/Principal Forgiveness Applicant's responsibility to ensure that the project and all contract provisions are consistent with the relevant statutes and regulations.

6. Advertisements for Bids

State procurement statutes require advertising a contract for bid for at least two (2) consecutive weeks. By not following this requirement, the project may need to be re-advertised. The official advertisement for bids that is published in newspapers should include certain information such as, but not limited to, the following:

- (a) A clear description of what is being procured.
- (b) How to obtain plans and specifications (P&S), necessary forms and information.
- (c) The date and time by which bids are to be submitted (deadline).
- (d) The address where bids are to be provided.
- (e) This contract is contingent upon release of funds from the Texas Water Development Board (TWDB).
- (f) Any contract or contracts awarded under this Invitation for Bid (IFB), Request for Proposals (RFP), or Request for Qualifications (RFQ) are expected to be funded in part by financial assistance from the TWDB. Neither the U.S. Environmental Protection Agency (EPA) or the State of Texas, nor any of its departments, agencies, or employees, are or will be a party to this IFB, RFP, RFQ, or any resulting contract.
- (g) For CWSRF, include – Any contract(s) awarded under this Invitation for Bids is/are subject to the American Iron and Steel (AIS) requirements of Section 608 of the Federal Water Pollution Control Act.
For DWSRF, include – Any contract(s) awarded under this Invitation for Bids is/are subject to the American Iron and Steel (AIS) requirements of federal law, including federal appropriation acts.

- (h) This contract is subject to the Environmental Protection Agency's (EPA) Disadvantaged Business Enterprise (DBE) Program, which includes EPA-approved fair share goals toward procurement of Minority and Women-owned Business Enterprise (M/WBE) businesses. EPA rules require that applicants and prime contractors make a good faith effort to award a fair share of contracts, subcontracts, and procurements to M/WBEs through demonstration of the six affirmative steps. For more details of the DBE Program and the current, applicable fair share goals, please visit <http://www.twdb.texas.gov/dbe>.
- (i) Equal Opportunity in Employment - All qualified Applicants will receive consideration for employment without regard to race, color, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, age (40 or older), disability, or genetic information. Bidders on this work will be required to comply with the Department of Labor regulations at 41 CFR Part 60-4, relating to Construction Contractors--Affirmative Action Requirements, which include the President's Executive Order No. 11246, as amended by Executive Order No. 11375 and Executive Order No. 13672, in the award and administration of contracts awarded under TWDB financial assistance agreements. Failure by the Contractor to carry out these requirements is a material breach, which may result in the termination of the awarded financial assistance.
- (j) Acknowledgement of any special requirements such as mandatory pre-bid conference.
- (k) Right to reject any and all bids.
- (l) Davis-Bacon prevailing wage requirements apply to the construction, alteration or repair of treatment works carried out, in whole or in part, with assistance made available by the Clean Water State Revolving Fund (CWSRF) or a construction project financed, in whole or in part, from the Drinking Water State Revolving Fund (DWSRF).
- (m) The Davis-Bacon prevailing wage requirements apply to Contractors and Subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration or repair (including painting) of a treatment works project under the CWSRF or a construction project under the DWSRF.
- (n) For prime contracts in excess of \$100,000, Contractors and Subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The Fair Labor Standards Act may also apply to Davis-Bacon covered contracts.
- (o) Any contracts or subcontracts in excess of \$2,000 must include the provisions of the Davis-Bacon Wage Rate Requirements found in TWDB Guidance No. DB-0156.
- (p) Wage Determinations - U.S. Department of Labor (DOL) wage determination must be included in the bidding and contract documents. DOL wage determinations may be obtained online at <http://www.wdol.gov/>.
Once it is determined that Davis-Bacon wage rates will apply to a construction contract, the Applicant must state in the solicitation that Davis-Bacon prevailing wage rates are applicable and bid packages must include the current Davis-Bacon general wage determination for the area where construction will occur. While the solicitation remains open, the Applicant must monitor www.wdol.gov on a weekly basis to ensure that the wage determination contained in the solicitation remains current.

The Applicant must amend the solicitation if the DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the Applicant may request a finding from TWDB that there is not reasonable time to notify interested Contractors of the modification of the wage determination.

- (q) For additional information on Davis-Bacon Wage Rate Requirements and its applicability to this contract, please consult TWDB Guidance No. DB-0156.

7. Bid Proposal

The Bid proposal form should account for the following:

- (a) If a lump sum bid, include a list of the materials used and associated costs.
- (b) Distinguish Eligible and Ineligible items.
- (c) Accommodate Trench Safety requirements with separate per unit pay item for trench excavation safety protection, Health and Safety Code Chapter 756, Subchapter C.
- (d) Include space for the Contractor to acknowledge receipt of each Addendum issued during the bidding process.

8. Bidding Process

The Plans and Specifications, P&S, should include an explanation of how the bids will be processed and should include the following components:

- (a) Whether a Pre-bid Conference will be held, whether it is optional or mandatory, where and when it will be held.
- (b) Specify the criteria and process for determining responsiveness and responsibility of the bidder.
- (c) Specify the method of determining the successful bidder and award (e.g., award to the lowest responsive, responsible bidder, accounting for any multiple parts to bids).
- (d) Allow for withdrawal of a bid due to a material mistake.
- (e) Identify the time frame that the bids may be held by the Applicant before awarding a contract (i.e., typically for 60 or 90 days).
- (f) Acknowledge right of the Applicant to reject any and all bids.

9. Debarment and Suspension Certification

Financial assistant recipients must fully comply with the requirements of Subpart C of 2 CFR Part 180 – “*Responsibilities of Participants Regarding Transactions Doing Business with Other Persons*” - as implemented and supplemented by 2 CFR Part 1532. The recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180 – “*Covered Transactions*” – includes a term or condition requiring compliance with Subpart C.

The recipient is fully responsible for requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions.

Recipient acknowledges that failing to disclose the information required under 2 CFR 180.355 may result in the delay or negation of the financial assistance, or pursuance of legal remedies including debarment and suspension.

The recipient must complete and submit certification No. **SRF-404: Debarment / Suspension Certification**, certifying that it has checked the federal System for Award Management website (<http://www.sam.gov>) and determined that the Contractor is not an “excluded party” that is debarred, suspended or otherwise excluded from participation in federal assistance programs under Executive Order 12549, as required by 2 CFR Part 180 and 2 CFR Part 1532.

10. Release of Funds

Prior to the TWDB approval to issue a notice to proceed (NTP), and subsequent release of funds for construction (according to program specific requirements), the Applicant and its consultant shall provide the following bid documents:

(a) Submittal of Bid Documents to TWDB Project Engineer/Reviewer to allow contingent award of contract:

Advertisement and Affidavit of advertisement,
Bid tabulation,
All Addenda submitted and approved for the contract,
Bid proposal of apparent low bidder (or chosen bidder with explanation) with bid bond,
Entity’s Disadvantaged Business Enterprise forms TWDB 0216 and TWDB 373,
Contractor’s Disadvantaged Business Enterprise forms TWDB 0216, 0217, and 0373
Site Certificate (ED-101),
Consulting engineer’s recommendation to award letter,
A description of any bidding irregularities,
Construction inspection proposal,
Bidder’s Certifications Form (WRD-255).

(b) Following contingent award of the contract, TWDB Project Engineer/Reviewer should receive a bound copy of the executed contract documents (including specifications). This document should include:

Executed agreement,
Contractor’s Act of Assurance (TWDB Form ED -103),
Contractor’s Act of Assurance Resolution (TWDB Form ED-104),
Payment and Performance Bonds (must be executed on or after the date of the contract),
Contractor’s Certificate of Insurance,
Sufficiency of Funds letter.

After reviewing and approving the executed bid documents, the TWDB will issue an authorization for the Applicant to issue a notice to proceed. At this time, TWDB staff can begin releasing construction funds in accordance with program requirements.

Once construction begins, the Applicant must submit monthly, with each Outlay Request, the following documents:

- DB-0154 – Monthly Davis Bacon Wage Rate Certificate of Compliance.
- TWDB-1106-A – Monthly American Iron and Steel Certificate.

Failure to provide these certificates will result in denial of release of funds.

For any questions or proposed modifications to these conditions, please contact your TWDB Project Engineer/Reviewer.

II. INSTRUCTIONS TO BIDDERS

The language and conditions listed in this Section shall be included in the "Instructions to Bidders" section of the construction contract documents.

1. Contingent Award of Contract

This contract is contingent upon release of funds from the Texas Water Development Board. Any contract(s) awarded under this Invitation for Bids is/are expected to be funded in part by a loan or loan with principal forgiveness from the Texas Water Development Board and a grant from the United States Environmental Protection Agency, U.S. EPA. Neither the State of Texas, the U.S. EPA, nor any of its departments, agencies, or employees, are or will be a party to this Invitation for Bids or any resulting contract.

2. Disadvantaged Business Enterprise Goals

The Texas Water Development Board's (TWDB) Clean Water and Drinking Water State Revolving Fund programs receive federal funds from the U. S. Environmental Protection Agency (EPA). As a condition of federal grant awards, EPA regulations require that loan recipients make a "good faith effort" to award a fair share of work to Disadvantaged Business Enterprises (DBE) who are Minority Business Enterprises (MBE's), and Women-owned Business Enterprises (WBE's) whenever procuring construction, supplies, services and equipment. More information on DBE requirements is available in the Supplemental Contract Conditions section of this guidance No. 14. *Disadvantaged Business Enterprises.*

The current fair share goals for the State of Texas are as follows:

| <u>CATEGORY</u> | <u>MBE</u> | <u>WBE</u> |
|-----------------|------------|------------|
| Construction | 19.44% | 9.17% |
| Equipment | 16.28% | 11.45% |
| Services | 20.41% | 13.66% |
| Supplies | 25.34% | 8.82% |

3. Davis-Bacon Wage Rate Requirements

- (a) Davis-Bacon prevailing wage requirements apply to the construction, alteration or repair of treatment works carried out, in whole or in part, with assistance made available by the Clean Water State Revolving Fund (CWSRF) or a construction project financed, in whole or in part, from the Drinking Water State Revolving Fund (DWSRF).
- (b) The Davis-Bacon prevailing wage requirements apply to Contractors and Subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration or repair (including painting) of a treatment works project under the CWSRF or a construction project under the DWSRF.
- (c) For prime contracts in excess of \$100,000, Contractors and Subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek.

The Fair Labor Standards Act may also apply to Davis-Bacon covered contracts.

- (d) Any contracts in excess of \$2,000 must include the provisions of the Davis-Bacon Wage Rate Requirements. If the Owner (sub-recipient) is a governmental entity such as a city or district, it must insert in full the contract clauses found in TWDB Guidance DB-0156, Appendix 1: Section 3, Section 4 if the contract exceeds \$100,000, and Section 5. If the Owner (sub-recipient) is a non-governmental entity such as a water supply corporation or a private company, it must insert in full the contract clauses found in TWDB Guidance DB-0156, Appendix 2: Section 3, Section 4 if the contract exceeds \$100,000, and Section 5. The Owner (sub-recipient) must ensure all prime contracts require the same full text in any subcontracts. See TWDB Guidance DB-0156 for the text of the contract language that must be included.

Additional information on Davis-Bacon Wage Rate Requirements and its applicability to this contract can be found in TWDB Guidance DB-0156.

4. American Iron and Steel

Any contract(s) awarded under this Invitation for Bids is/are subject to the American Iron and Steel (AIS) requirements of 33 U.S.C §1388 for Clean Water State Revolving Fund projects or Public Law 114-113, Consolidated Appropriations Act, 2016, or subsequent appropriations acts, for Drinking Water State Revolving Fund projects. The Contractor must complete the statement of understanding regarding this requirement, found in Supplemental Contract Conditions, Item No. 9.

5. Equal Employment Opportunity and Affirmative Action

All qualified applicants will receive consideration for employment without regard to race, color, religion, sex (including pregnancy), sexual orientation, gender identity, national origin, age (40 or older), disability, or genetic information. Bidders on this work will be required to comply with the Department of Labor regulations at 41 CFR Part 60-4, relating to Construction Contractors--Affirmative Action Requirements, which include the President's Executive Order No. 11246, as amended by Executive Order No. 11375 and Executive Order No. 13672, in the award and administration of contracts awarded under TWDB financial assistance agreements. Failure by the Contractor to carry out these requirements is a material breach, which may result in the termination of the awarded financial assistance.

6. Debarment and Suspension Certification

This contract is subject to the federal requirements of Subpart C of 2 CFR Part 180 and Part 1532 regarding Debarment and Suspension. The Contractor will comply with the assurances provided with the bid that leads to a contract.

7. Bid Guarantee

Each bidder shall furnish a bid guarantee equivalent to five percent of the bid price (Water Code 17.183). If a bid bond is provided, the Contractor shall utilize a surety company which is authorized to do business in Texas in accordance with Surety Bonds and Related Instruments, Chapter 3503 of the Insurance Code.

Forms to be submitted with Bid:

- WRD-255, Bidder's Certifications regarding Equal Employment Opportunity and Non-Segregated Facilities.
- SRF-404, Certification Regarding Debarment, Suspension and Other Responsibility Matters, (to be completed and submitted by the sub-recipient).
- Disadvantaged Business Enterprise (DBE) Construction Contract Phase Forms

| Form | Prime Contractor | Submit Form To |
|-------------|-------------------------|-----------------------|
| TWDB-0216 | Required | TWDB |
| TWDB-0217 | Required | TWDB |
| TWDB-0373 | Required | TWDB |