

## Instructions for Compliance with SRF Cross-Cutters Bidding and Procurement Process



Several cross-cutters are included in the bidding and procurement process. The process is summarized below:

- Owner/Consulting Engineer includes SRF front-end documents in construction specifications. The “Required SRF Front-End Specifications” is designed as a packet to be placed directly into construction documents.
- Owner/Consulting Engineer completes “Request for Davis-Bacon Wage Determination Form” (included in this packet) and submits to the Iowa Finance Authority for correct wage determination to include in bid documents.
- Owner/Consulting Engineer submits construction specifications to DNR Project Manager with construction permit application.
- DNR Project Manager reviews and approves construction application and specifications and issues construction permit.
- Owner bids project using approved construction specifications and following State of Iowa requirements. Owner also follows the DBE Good Faith Efforts (discussed below).
- Bidders submit bid materials to Owner.
- Owner accepts bid proposal.
- Consulting Engineer prepares bid document packet (using the attached checklist) and submits it to SRF for concurrence in bid award.

Cross-cutting federal authorities are requirements of federal laws and executive orders that apply in federal financial assistance programs. They’re called cross-cutters because they cut across programs due to the federal funding source. Because the Iowa SRF is capitalized by federal grants, federal cross-cutters apply to wastewater and drinking water projects.

Many of the cross-cutters relate to the environmental review process. The items explained in this document are covered through the bidding and procurement process.

The award concurrence letter must be completed before SRF loan funds can be disbursed, along with the items listed below:

- DNR construction permit
- CX or FNSI
- SRF loan application
- Signed loan agreement

The table below provides a brief explanation of each of the cross-cutters addressed in the bidding and procurement process. SRF borrowers comply with these cross-cutters by:

1. Following the DBE Good Faith Efforts in procuring prime contractors; and
2. Including the SRF Front-End Documents in construction front-end specifications. Several attachments in the front-ends are forms that must be signed by bidders and returned to SRF with the bid document packet.

Cross-Cutter	Purpose	How to Comply	Source
Prevailing wages	To comply with labor standards in the Davis-Bacon Act	<ul style="list-style-type: none"> <li>• <b>Request Davis-Bacon wage determination from IFA by completing and sending “Request for Davis-Bacon Wage Determination” to <a href="mailto:lori.beary@iowa.gov">lori.beary@iowa.gov</a></b></li> </ul>	<ul style="list-style-type: none"> <li>• Federal Water Pollution Control Act 602(b)(6)</li> <li>• Drinking Water SRF appropriations</li> </ul>
Civil rights	To prohibit segregation in work facilities	<ul style="list-style-type: none"> <li>• <b>Owner must require bidders to sign and submit Attachment 1: Certification of Non-Segregated Facilities</b></li> <li>• <b>Owner/Consultant includes signed Attachment 1 in bid document packet sent to SRF</b></li> </ul>	<ul style="list-style-type: none"> <li>• 33 Federal Register 7808</li> </ul>
Debarment and suspension	To curb fraud and abuse in federal government programs	<ul style="list-style-type: none"> <li>• <b>Owner must require bidders to sign and submit Attachment 2: Certification Regarding Debarment, Suspension</b></li> </ul>	<ul style="list-style-type: none"> <li>• Executive Order 12549</li> </ul>

		<ul style="list-style-type: none"> <li>• Bidders using subcontractors must also require them to sign and submit Attachment 2</li> <li>• Owner/Consultant includes signed Attachment 2 in bid document packet sent to SRF</li> </ul>	
Non-discrimination in employment and disadvantaged business enterprises	To commit assistance recipients, contractors and subcontractors to refrain from discrimination in its treatment of employees and to increase the participation of disadvantaged business enterprises, such as those owned by women and minorities, as well as small businesses in rural areas, in contracts awarded by state and local recipients of federal assistance	<ul style="list-style-type: none"> <li>• Owner must follow DBE Good Faith Efforts (discussed below) in procuring prime contractors</li> <li>• Owner must require bidders to document their good faith efforts to use disadvantaged business enterprises on Attachment 5: DBE Solicitation</li> <li>• Bidders and their subcontractors complete forms on Attachments 4 providing information about their business arrangements</li> <li>• Owner/Consultant includes completed and signed Attachments 4 and 5 in bid document packet sent to DNR</li> </ul>	<ul style="list-style-type: none"> <li>• Executive Orders 11625, 11246, 12138, and 12432</li> <li>• 40 CFR Part 31.36 (e)</li> <li>• 41 CFR Part 60-4</li> <li>• Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988 (P.L. 100-5909)</li> <li>• Public Law 102-389 (42 U.S.C. 4370d)</li> <li>• Public Law 101-549, Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note)</li> </ul>
Neutrality in contracts	To preserve open competition and government neutrality regarding labor relations in contracting	<ul style="list-style-type: none"> <li>• Owner checks bid specifications, project agreements, and other documents for construction contracts to ensure that they do not require or prohibit agreements with labor organizations</li> </ul>	<ul style="list-style-type: none"> <li>• Executive Order 13202 as amended by Executive Order 13208</li> </ul>
Historical and archeological	To ensure that contractors stop work if historical or archeological materials are found	<ul style="list-style-type: none"> <li>• Language is included in contract by reference</li> </ul>	<ul style="list-style-type: none"> <li>• National Historic Preservation Act</li> <li>• 36 CFR Part 800.11</li> </ul>
Prohibitions on procurement from Clean Air or Clean Water Act violators	To prohibit federal assistance or contracts going to facilities or suppliers that are listed as Excluded Parties	<ul style="list-style-type: none"> <li>• Language is included in contract by reference</li> </ul>	<ul style="list-style-type: none"> <li>• Section 306 of the Clean Air Act</li> <li>• Section 508 of the Clean Water Act</li> <li>• Executive Order 11738</li> </ul>
Use of American Iron and Steel	To ensure that domestically produced iron and steel products are used in SRF water and wastewater infrastructure construction projects	<ul style="list-style-type: none"> <li>• Language is included in contract (see Attachment 9)</li> </ul>	<ul style="list-style-type: none"> <li>• Federal Water Pollution Control Act 602(b)(6)</li> <li>• Drinking Water SRF appropriations</li> </ul>

### Davis-Bacon Prevailing Wages

The Davis-Bacon and Related Acts, 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 and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or

District of Columbia contracts. The Davis-Bacon Act prevailing wage provisions apply to the “Related Acts,” under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance.

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 overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts.

Under the Davis-Bacon and Related Acts (DBRA), covered contractors must maintain payrolls and basic records and submit certified weekly payrolls. Although use of [Form WH-347](#) is optional, the form will satisfy the requirements of Regulations, Parts 3 and 5 (29 CFR, Subtitle A), as to payrolls submitted in connection with contracts subject to the DBRA. Records to be maintained include:

- Name, address, and last four digits of social security number of each employee;
- Each employee's work classification(s);
- Hourly rate(s) of pay (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof);
- Daily and weekly numbers of hours worked;
- Deductions made; and
- Actual wages paid.

#### **Disadvantaged Business Enterprise Good Faith Efforts**

The Good Faith Efforts are methods employed by all EPA financial assistance recipients to ensure that disadvantaged business enterprises (DBEs) have the opportunity to compete for procurements funded by EPA financial assistance funds (including SRF loans).

DBEs must be certified through the Iowa Department of Transportation (IDOT). Information on certification requirements and a list of certified DBEs is on the IDOT website at [http://www.iowadot.gov/contracts/contracts\\_eoaa.htm](http://www.iowadot.gov/contracts/contracts_eoaa.htm).

SRF loan recipients must:

1. Ensure that DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities.
2. 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 solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. 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.
4. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
5. Use the services of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce. Both SBA and MBDA provide various means to help identify WBE and MBE firms to include in any promotion of contracting opportunities. SBA has a local office in Des Moines and contact info can be found at [www.sba.gov](http://www.sba.gov). MBDA has a regional office in Chicago covering Iowa, and various resources available online at [www.mbda.gov](http://www.mbda.gov).
6. If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs 1-5 above.

7. Require the prime contractor to pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient.
8. Require prime contractor to notify recipient in writing prior to termination of a DBE subcontractor for convenience.
9. Require the prime contractor to employ the six Good Faith Efforts to solicit a replacement subcontractor if a DBE subcontractor fails to complete work under a subcontract for any reason.
10. Include the following language in each procurement contract funded through an SRF loan:  
"The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies."

### **State of Iowa Bidding Requirements**

Projects receiving assistance through the State Revolving Fund must follow State of Iowa law on bidding. Effective January 1, 2007, a new Iowa Code Chapter 26 covers public construction bidding. This chapter includes:

- Definitions of projects and governmental entities;
- Exemptions to competitive bidding;
- Prohibited contracts;
- Notice to bidder requirements;
- Bid security;
- Award of contract;
- Bid-opening;
- Public hearing requirements; and
- Dollar thresholds for when competitive bidding is required.

Public borrowers are responsible for ensuring that they have complied with all applicable State of Iowa requirements. The Iowa League of Cities has information and resources on their web site at: <http://www.iowaleague.org>.

# REQUEST FOR DAVIS-BACON WAGE DETERMINATION

## State Revolving Fund Clean and Drinking Water Improvement Projects



### FAX/EMAIL

LORI BEARY  
IOWA FINANCE AUTHORITY  
PH: 515-725-4965  
FAX: 515-725-4901  
[lori.beary@iowa.gov](mailto:lori.beary@iowa.gov)

FROM:

FIRM:

ADDRESS:

CITY, STATE, ZIP:

PH:

EMAIL:

### PROJECT INFORMATION:

### ESTIMATED DATES:

RECIPIENT:

ADVERTISING:

SRF PROJECT #:

BID OPENING:

COUNTY of WORK SITE:

CONTRACT AWARD:

CONTRACT VALUE:

CONSTR. START:

### PERSON/ENTITY RESPONSIBLE FOR DAVIS-BACON COMPLIANCE:

NAME:

PHONE:

COMPANY:

EMAIL:

Please visit [www.iowafinanceauthority.gov/DavisBacon](http://www.iowafinanceauthority.gov/DavisBacon) for helpful compliance information.

IS THIS PROJECT RECEIVING CDBG FUNDS?  Yes  No

If **yes**, only complete information above and return to IFA.

If **no**, please also fill out the boxes below and return to request a wage determination from IFA.

Project description:

### TYPES OF CONSTRUCTION (For more detailed descriptions, consult IFA staff.)

**TREATMENT:** Construction of or improvements to mechanical drinking water or sewage treatment facilities.

**HEAVY:** Projects that are NOT improvements to a mechanical treatment facility. Most SRF projects fall into this category.

**BUILDING:** a sheltered enclosure with walk-in access for the purpose of housing persons, machinery, equipment or supplies. **If the building components of a treatment plant project (including the equipment in the building) are 20% of the project cost or \$1M, both Building and Treatment will be used for the project.**

### IFA USE ONLY

Determination No. & Date:

Date sent:

Issued by:

## SRF Bid Document Checklist



When bids are received and the Owner accepts a bid proposal, the Consulting Engineer prepares and submits to the SRF a packet of documents. Required documents are listed below. Please submit the completed checklist with the bid document packet. When all the information is complete, SRF issues to the Owner a letter of concurrence in award, which also explains the amount of bid that is eligible for SRF reimbursement.

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

From: \_\_\_\_\_

SRF Number: \_\_\_\_\_

The following documents are enclosed for review and approval prior to contract award:

### **Engineering Documents**

*Please note: If there have been any changes made to the DNR-approved plans and specifications, submittal of an as-bid set of plans and specifications is required. Where there have not been any changes made to the DNR-approved plans and specifications, project managers may request an as-bid set as needed.*

- As-bid set of plans and specifications or statement by Consulting Engineer that no changes to the DNR-approved plans and specifications have been made
- Tabulation of bids
- Consulting Engineer's written recommendation of award

### **Contractor Documents**

- Successful bid and/or proposal loan recipient chooses to accept
- Any addenda not previously submitted and bidder acknowledgment of all addenda
- Attachment 1: Certification of Non-Segregated Facilities Form
- Attachment 2: Certification Regarding Debarment and Suspension Form
- Attachment 3: Disadvantaged Business Enterprise Certification Form
- Attachment 4: DBE Program Subcontractor Performance Form
- Attachment 5: DBE Program Subcontractor Utilization Form
- Contract (if available)
- Bonds (if available)
- Notice to Proceed (if available)
- Davis-Bacon wage determination

***For more information, please contact Patti Cale-Finnegan at 515-725-0498 or [Patti.Cale-finnegan@dnr.iowa.gov](mailto:Patti.Cale-finnegan@dnr.iowa.gov). Send packets to State Revolving Fund, Iowa Department of Natural Resources, 502 E 9<sup>th</sup> Street, Des Moines IA 50319-0034.***