

December 8, 2009

Responsible Official, Title  
Applicant Water System Name  
Address  
City, State Zip

Dear Mr/Mrs Responsible Official:

**RE: Reporting Requirements: Jobs Created or Retained, Davis Bacon Act & Wage Determination, and Buy American Certification with Payment Requests**

As stated previously, the American Recovery and Reinvestment Act of 2009 (ARRA) requires that recipients of funds for projects funded all or in part by ARRA funds meet additional requirements and/or provisions beyond the standard loan agreement. By means of this memorandum, the Drinking Water Systems Improvements Revolving Loan Fund Program (DWSIRLF) is informing Loan Recipients of the provisions as they relate to the increased reporting requirements.

**About Reporting Requirements**

As mentioned previously and outlined in Loan Agreements in which ARRA funding is present, the award of funds requires as a condition that the recipient report on the use of Recovery Act funds. This information will be made available to the public. By federal statute, these reports are due within ten days after each calendar quarter in which the recipient receives the ARRA assistance funded in whole or in part. At this time, the Department will submit to [www.federalreporting.gov](http://www.federalreporting.gov) the required data elements. The information needed is outlined in section 1512(c) of the Recovery Act. It is as follows:

*(c) RECIPIENT REPORTS.—Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency (through the a State Agency) shall submit a report to that agency that contains—*

- (1) The total amount of recovery funds received from that agency;*
- (2) The amount of recovery funds received that were expended or obligated to projects or activities;*
- (3) A detailed list of all projects or activities for which recovery funds were expended or obligated, including—*
  - (A) The name of the project or activity;*
  - (B) A description of the project or activity;*
  - (C) An evaluation of the completion status of the project or activity;*
  - (D) An estimate of the number of jobs created and the number of jobs retained by the project or activity;*

*(E) For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency (water system) if there are concerns with the infrastructure investment.*

*(4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109–282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.*

To accomplish this, the loan recipient will need to submit monthly to the Bureau of Public Water Supply DWSIRLF Program the needed data. This will be done electronically through an Excel spreadsheet within five days after each calendar month. Shortly after the receipt of this letter, you and your consulting engineer will receive this spreadsheet and begin the monthly submittal process. Items needing input are listed on an attached document.

As a reminder, recipients of ARRA funding must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Duns and Bradstreet Number is required for the registration process.

#### *Jobs Created or Retained Reporting*

Obviously since the DWSRF is a program that constructs public drinking water infrastructure, the awarded contractor for a project will have to play an active role in assisting the loan recipient. They will be helping to compile job reports and other employment information as evidence to document the jobs created or retained by the contractor's workforce and any sub-contractors. Monthly reporting will only involve reporting numbers of jobs created or retained during each month while the project is under construction and a narrative of those job descriptions by the loan recipient. Documentation of any jobs created or retained should be maintained in an appropriate location with the loan recipient in the event of a possible hands-on audit by the appropriate officials.

**Please note: projects that have started construction will need to supply retroactive job reporting information from the beginning of the notice to proceed.**

#### *Davis Bacon Reporting*

The Davis Bacon Act applies to all laborers and mechanics employed by contractors or subcontractors. It requires both the payment of at least prevailing wages and weekly payment of wages.

In order to comply, weekly payrolls and compliance statements must be collected, periodic employee interviews for wage verification must be performed, plus documentation kept that verifies laborers or mechanics are properly classified, verification that any underpaid workers receive restitution, that proper information is posted at worksites, and management and compliance files are maintained.

Clearly with Davis Bacon implementation, a multitude of paperwork will be generated that must be maintained. It was originally proposed that all payroll records would be submitted to this office for the duration of the project. Upon further review, it has been determined that loan recipients will only be required to submit a “Statement of Compliance” at this time. A separate “Statement of Compliance” will be required for each payment request period. All other federally required Davis-Bacon Act documentation will be kept in a centralized location at the loan recipient’s choosing. As mentioned in the loan agreement, the DWSIRLF Staff may review that documentation at any time it is deemed necessary to ensure compliance. A sample certification is attached to this memo.

*Buy American Certification*

As previously discussed, the provision in ARRA known as “Buy American” requires that all of the iron, steel, and manufactured goods used in the project be produced in the United States (“Buy American Requirements”) including iron, steel, and manufactured goods provided by the Contractor pursuant to the Contractual Agreement. As suggested by the Environmental Protection Agency, the contractor will certify at the time of each payment request that the provisions of “Buy American” have been followed.

Since these conditions are required by ARRA, we are limited in what we can do to minimize them. Based on further directions from EPA and the Federal government, additional requirements could arise. If this occurs, the DWSRF Program Staff will assist you and your consulting engineers in any way possible.

If you have any questions concerning the implementation of these requirements or other ARRA requirements, please contact me at 601-576-7518 or by e-mail at [wmoody@msdh.state.ms.us](mailto:wmoody@msdh.state.ms.us).

Sincerely,

William F. Moody, P.E., BCEE  
Director, Drinking Water SRF  
Bureau of Public Water Supply

cc: Consulting Engineer

## Buy American Certification

### American Recovery and Reinvestment Act of 2009

“The Contractor acknowledges to and for the benefit of the \_\_\_\_ (Water System) \_\_\_\_\_ and the State that it understands the goods and services under this Agreement are being funded with monies made available by the federal American Recovery and Reinvestment Act of 2009 (ARRA) (or are being made available for a project being funded with monies made available by the federal ARRA) and such law contains provisions commonly known as “Buy American;” that requires all of the iron, steel, and manufactured goods used in the project be produced in the United States (“Buy American Requirements”) including iron, steel, and manufactured goods provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the Buy American requirements, (b) all of the iron, steel, and manufactured goods used in the project will be and/or have been produced in the United States in a manner that complies with the Buy American Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Buy American requirements, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this agreements, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense or cost (including without limitation attorney’s fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Authorized Official (printed or typed)

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title

**Drinking Water Systems Improvement Revolving Loan Fund (DWSIRLF)**

**Loan Recipient's Davis Bacon Certification**

Loan Recipient: \_\_\_\_\_  
Project Name: \_\_\_\_\_  
Project Number: \_\_\_\_\_  
Starting Date: \_\_\_\_\_ Ending Date: \_\_\_\_\_

I certify to the best of my knowledge and belief that the above referenced project complies with Section 1606 (Davis-Bacon and Related Acts) of the American Recovery and Reinvestment Act (ARRA) and that all laborers and mechanics employed by contractors and subcontractors during the above referenced period were paid wages at rates not less than those listed on the prevailing wage rate contained in the contract documents and that all applicable provisions of the Davis-Bacon and Related Acts have been met. I also certify that interviews and periodic reviews of a representative sample of the weekly payroll data have been performed to verify that contractors and subcontractors are paying the appropriate wage rate.

I understand that falsifying information on this certification may be grounds for termination of the ARRA loan agreement.

\_\_\_\_\_  
Signature of the Sponsor's Authorized Representative

\_\_\_\_\_  
Typed Name and Title of the Sponsor's Authorized Representative