



**American Recovery & Reinvestment Act of 2009 (ARRA)
Compliance Certification, EPA's Buy American Guidance
&
Required Contract Conditions and Forms**

**Clean Water Revolving Fund
&
Drinking Water Revolving Fund**

Minnesota Public Facilities Authority
First National Bank Building, Suite E200
St. Paul, MN 55101-1351

www.positivelyminnesota.com/community/assistance/pfa.htm

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Minnesota Public Facilities Authority American Recovery and Reinvestment Act (ARRA) of 2009 Requirements

This document contains information, required contract conditions and forms for Clean Water Revolving Fund (CWRF) and Drinking Water Revolving Fund (DWRf) projects that are funded in whole or in part with funds from the American Recovery and Reinvestment Act of 2009 (ARRA).

STANDARD CWRF and DWRf CONDITONS

All of the standard CWRF and DWRf Conditions detailed in the Application Packet and in the Contract Packet apply to the ARRA-funded projects as well. Items in the CWRF and DWRf Contract Packet must be included in bid and contract documents. The Application Packet and Contract Packet can be found on the PFA website at:

<http://www.positivelyminnesota.com/community/assistance/pfa.htm>

SUMMARY OF ADDITIONAL ARRA CONDITIONS

ARRA-funded projects must also comply with:

- **Reporting and Registration Requirements under Subtitle A, “Transparency and Oversight Requirements”**, of the American Recovery and Reinvestment Act (ARRA) of 2009, Public Law 111-5
- **Provisions of the Buy American Requirements under Section 1605** of the American Recovery and Reinvestment Act of 2009 for iron, steel and manufactured goods; and
- **Wage Rate Requirements under Section 1606** of the American Recovery and Reinvestment Act of 2009 (Davis-Bacon Act)
- **(New 6-9-09) Project Sign with ARRA logo** to be displayed at the project site informing the public that the project is an ARRA investment.

U. S. EPA OFFICE OF INSPECTOR GENERAL

Section 1514 and 1515 of the ARRA gives the Office of Inspector General (OIG) responsibility for review of ARRA funded projects and provides authority to examine all records of the borrower including contracts or subcontracts and anyone else involved in the project. OIG also has authority to interview individuals involved with the project. OIG will distribute information to PFA borrowers on fraud, waste and abuse.

OIG’s hotline for reporting fraud, waste and abuse is 1-888-546-8740.

<http://www.epa.gov/oig/hotline.htm>

REQUIREMENTS FOR RECIPIENTS OF ARRA FUNDS

The PFA will require all ARRA-funded recipients to:

1. Review, submit, certify and comply with the applicable federal and state laws, rules, regulations, including the ARRA requirements for ARRA funded projects (**APPENDIX 1**). As a condition of receiving funding, a borrower is required to comply with certain state and federal laws, rules and regulations, including the ARRA, and to ensure that their contractor(s) also comply with these regulations, laws and rules. **Appendix 1** lists and describes various compliances that apply and will be invoked as a condition of the PFA loan in both the loan agreement and general obligation bond to be executed by the borrower.
2. Include all standard DWRP and CWRP requirements, including **State Prevailing Wages**, in bid and contract documents. The Contract Packet is located on PFA's website: <http://www.positivelyminnesota.com/community/assistance/pfa.htm>
3. Include ARRA requirements in bid documents and in contracts
 - a. Davis Bacon contract requirements (**APPENDIX 4**)
 - b. Provisions of Buy American **SAMPLE** contract requirements (**APPENDIX 5**)
 - c. Buy American Bidder and **SAMPLE** contractor certification (**APPENDIX 6**)
4. Submit Buy American waiver requests directly to the Environmental Protection Agency and provide a copy to the PFA. The waiver process is detailed in the EPA Memorandum #ARRA 09-1 dated April 28, 2009 is at: http://www.epa.gov/water/eparecovery/docs/04-29-2009_BA_waiver_process_final.pdf (**PLEASE NOTE** that PFA will not award a contract for any project that requests a waiver from EPA until the EPA decision on the waiver request is known.)
5. Provide job and related project information to the PFA required under Subtitle A, "Transparency and Oversight Requirements", of ARRA. Job reporting information will be required from the borrower with each disbursement request. The reporting forms are attached (**APPENDIX 3**).
6. Complete and submit a "Notice of Contract Award" (**APPENDIX 2**) for all contracts awarded.
7. (**New! 9/14/09**) Submit a "Final Labor Standards Report" when project is completed (**APPENDIX 2A**). If requested by PFA, provide payrolls and certification (**APPENDIX 2B**) whether or not payrolls are in compliance with requirements.
8. Monitor the project for compliance with required laws, regulations and rules; retain all documentation and project records on file.
9. (**New 6/9/09**) Display a sign with the ARRA logo at the project site during the construction phase of the project. Information on sign requirements included in this packet.

SECTION 1512 JOBS REPORTING AND REGISTRATION REQUIREMENTS

With each disbursement request submitted to the PFA, borrowers will be required to complete and submit a Jobs Reporting Form (**APPENDIX 3**)

All ARRA recipients must register in the Central Contractor Registry (CCR). To register in the CCR, all borrowers will need to have a DUNS (Data Universal Numbering System) number.

DUNS numbers can be obtained from:

<http://fedgov.dnb.com/webform/displayHomePage.do;jsessionid=C632E8EBD4D7E1D7DA14B06B26A0BFC5>

CCR website: www.ccr.gov

SECTION 1605 BUY AMERICAN

Section 1605 of the Recovery Act requires that projects funded by the Recovery Act, for the construction, alteration, maintenance, or repair of a public building or public work use American iron, steel, and manufactured goods in the project unless one of the specified exemptions applies. The Act provides that this requirement be applied in a manner consistent with U. S. obligations under international agreements. State Revolving Funds (Clean Water Revolving Fund and Drinking Water Revolving Fund) **must follow the Environmental Protection Agency Guidance on Buy American** included in the EPA Memorandum #ARRA 09-1 dated April 28, 2009 (http://www.epa.gov/water/eparecovery/docs/04-29-2009_BA_waiver_process_final.pdf) The EPA Memorandum includes definitions, required contract conditions, a sample contractor certification and a waiver process for Buy American for the State Revolving Funds. The EPA Memorandum includes a sample contractor certification form for SRF applicants to obtain from their bidders and contractors. The sample contractor certification form is included in **APPENDIX 6**. PFA requires use of a bidder/contractor certification for Buy American.

(New 6/2/09) EPA Buy American nationwide waiver on de minimis incidental components: Federal Register Notice June 2, 2009 http://www.epa.gov/water/eparecovery/docs/BA_De_Minimus_Waiver.pdf
(Updated 9/14/09) And revised de minimis incidental components waiver: http://www.epa.gov/water/eparecovery/docs/2009_08_10_FR_Revised_De_Minimis.pdf

PLEASE NOTE that PFA will not award a contract for any project that requests a waiver from EPA until the EPA decision on the waiver request is known. EPA has indicated they will turn around waiver requests within two weeks.

PROJECT SIGN (New 6/9/09)

The Borrower will post a sign at the Project site during the construction phase that includes the ARRA logo to inform the public that the Project is an ARRA investment. **APPENDIX 7** contains an example sign format. General federal guidelines and specifications, including size and color requirements, for ARRA logo applications, can be found at: [http://www.epa.gov/ogd/forms/Recovery_emblem_guide_v1\[1\].pdf](http://www.epa.gov/ogd/forms/Recovery_emblem_guide_v1[1].pdf)

SECTION 1606 PREVAILING WAGES – DAVIS BACON ACT AND REQUIREMENTS

Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by Recovery Act Funds shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the U.S. Department of Labor has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section.

PLEASE NOTE: PFA will use a combination of funding (ARRA funds and non-ARRA funds) to finance projects. Both federal Davis Bacon prevailing wages and State of Minnesota prevailing wages (Minnesota Statute, sections 177.41-177.43) apply to this project. Payment of the wage and fringe benefits most beneficial to the employees are required. Overtime is governed by Minnesota Prevailing Wage statutes at M.S. 174.42 which requires overtime for over 8 hours per day and for more than 40 hours per week.

REQUIRED DAVIS BACON (FEDERAL PREVAILING WAGES) ACTIONS

- Wage decisions must be included in the bidding and contract documents Obtain federal Wage Determinations on line: <http://www.wdol.gov/>
- All construction, alteration, repair (including painting and decorating) contracts and subcontracts in excess of \$2,000 funded with ARRA funds must include the standard Davis Bacon contract clauses found in 29 CFR 5.5(a) (**APPENDIX 3**)
- Post the required Poster (WH 1321) and applicable wage rates at the construction site: <http://www.dol.gov/esa/whd/programs/dbra/wh1321.htm>
- Use either the DOL Payroll Form WH 347 and weekly Statement of Compliance or a payroll form with all of the same data elements as the DOL Payroll Form WH347 and a separate Statement of Compliance. Payroll Form WH347: <http://www.dol.gov/esa/whd/programs/dbra/wh347.htm>
- PFA Borrower's must submit a *NOTICE OF CONTRACT AWARD* (**APPENDIX 2**) to the PFA once information is known.
- (*New! 9/14/09*) Borrowers to submit a *FINAL LABOR STANDARDS REPORT* (**APPENDIX 2A**) at project completion. If requested by PFA, provide payrolls and certification (**APPENDIX 2B**) whether or not payrolls are in compliance with requirements.

ADDITIONAL DAVIS BACON RESOURCES

- The U. S. Department of Labor implementing regulations at 29 CFR Part 1, 29 CFR Part 3 and 29 CFR Part 5 are available at: www.dol.gov/esa/whd/reg-library.htm#1
- Federal Register Notice Vol. 73, No 245, Friday December 19, 2008 Page 77511-77512 amending 29 CFR Part 3 and Part 5
- U. S. Department of Labor – Wage & Hour Division Home Page: <http://www.dol.gov/esa/whd/programs/dbra/index.htm>
- Davis Bacon Act: <http://www.dol.gov/esa/whd/programs/dbra/whatdbra.htm>
- FAQ: <http://www.dol.gov/esa/whd/programs/dbra/faqs.htm>
- (*New! June 2, 2009*) U. S. Department of Labor ARRA information: <http://www.dol.gov/esa/whd/recovery/>

DAVIS BACON COMPLIANCE AND MONITORING – ADDITIONAL INFORMATION (New! 7/29/09 and updated 9/14/09)

The Environmental Protection Agency provided information on responsibilities and requirements for Davis Bacon compliance monitoring.

PFA Borrowers must:

- Obtain wage determination and incorporate the determination and contract conditions into solicitations and contracts.
- Apply modifications/supercedeas (issued by the U. S. Department of Labor) if issued more than 10 days before bids are opened.
- Apply modifications/supercedeas (issued by the U. S. Department of Labor) to contracts if the contract was not awarded within 90 days after bid opening.
- Review all subcontracts subject to Davis Bacon entered into by prime contractors to verify that the prime contractors have required its subcontractors to include the applicable wage determinations and contract conditions.
- Conduct compliance verification – for **Employee Interviews** and **Payroll Reviews**:
 - Periodically conduct spot checks of a representative sample of weekly payrolls and interview a sufficient number of employees entitled to Davis Bacon wages to verify that contractors or subcontractors are paying proper wages
 - All interviews must be conducted in confidence
 - Use [Standard Form 1445](#) (SF 1445) or equivalent document for the interviews.
 - Establish and follow a **Payroll Review** and **Employee Interview** schedule based on an assessment of the risks of noncompliance and length of the contract. **At a minimum:**
 - Conduct spot checks of a representative sample of payrolls and employee interviews with a representative group of covered employees within 2 weeks of each contractor's or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract.
 - Conduct more frequent interviews and payroll review if the initial interview and payroll review or other information indicates that there is a risk that the contractor or subcontractor is not complying with Davis Bacon.
 - Immediately conduct necessary interviews in response to alleged violation.
 - Verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.
 - Periodically review contractors and subcontractors use of apprentices and trainees. Verify registration and certification of apprentices and trainees with respect to apprenticeship and training programs approved by US Dept. of Labor or a state program; that contractors and subcontractors are not using a disproportionate number of laborers, trainees and apprentices. Conduct these reviews in accordance with the payroll and employee interviews.

- PFA Borrowers must **IMMEDIATELY** report potential violations of the Davis Bacon prevailing wage requirements both the
 - (New 9/14/09) Environmental Protection Agency
 - Darlene Hainer
 - U.S. EPA Region 5
 - Acquisition and Assistance Branch (MC-10J)
 - 77 W. Jackson Blvd.
 - Chicago, IL 60604-3590
 - Phone: 312-886-6017
 - FAX: 312-692-2540
 - E-mail: hainer.darlene@epa.gov

And the

- **Minneapolis District Office** -US Dept. of Labor
 - ESA Wage & Hour Division
 - Tri-Tech Center, Suite 920
 - 331 Second Avenue South
 - Minneapolis, MN 55401-1321
 - Phone: (612) 370-3371
 - 1-866-4-USWAGE
 - (1-866-487-9243)

Both Davis Bacon wage rates and provisions and Minnesota Prevailing wages and provisions apply to the ARRA projects. Payment of the wage and fringe benefits most beneficial to the employees are required. Overtime is governed by Minnesota Prevailing Wage statutes at M.S. 174.42 which requires overtime for over 8 hours per day and for more than 40 hours per week.

NOTE (New! 9/14/09): Maintain all LS records, **INCLUDING INFORMATION ON ANY RESTITUTIONS** (underpayments to laborers or mechanics), on file.

NOTE: PFA is requesting clarification from EPA on Davis Bacon compliance matters. Updates will be provided as they are available.

Direct any questions to your PFA loan officer.

APPENDIX 1
Minnesota Public Facilities Authority CWRP and DWRP
ARRA Funded Projects
Compliance with Federal and State Laws, Rules, Regulations

As a condition of receiving funding, a borrower is required to comply with certain state and federal laws, rules and regulations and to ensure that their contractor(s) also comply with these regulations, laws and rules. This form lists and describes various compliances that apply and will be invoked as a condition of the PFA loan in both the loan agreement and general obligation bond to be executed by the borrower.

1. Title VI of the Federal Water Pollution Control Act, more commonly known as the Clean Water Act.
2. Safe Drinking Water Act (P.L. 93-523)
3. National Environmental Policy Act (P.L. 91-190 (1970)); National Historic Preservation Act (P.L. 89-665 as amended, 80 Stat. 917 (1966)); Archeological and Historic Preservation Act (P.L. 93-291(1974)); Protection of Wetlands, Executive Order No. 11990 (1977), as amended by Executive Order No. 12608 (1997); Flood Plain Management, Executive Order No 11988 (1977), as amended by Executive Order No. 12148 (1979); Farmland Protection Policy Act (P.L. No 97-98 (1981)); Coastal Zone Management Act (P.L. 92-583 (1972), as amended); Coastal Barriers Resources Act (P.L. 97-378, 96 Stat 1653 (1982)); Wild and Scenic Rivers Act (P.L. 90-54, (1968); as amended); Endangered Species Act (P.L. 93-205 (1973), as amended); Magnuson-Stevens Fishery Conservation and Management Act (P.L. 94-265 (1976), as amended) Environmental Justice, E.O. 12898; Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended and; Clean Air Act (P.L. 95-95 (1977), as amended).
4. Title VI of the Civil Rights Act of 1964 (P.L 88-352), Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. Sec. 1251), Section 504 of the Rehabilitation Act of 1973 (P.L. 93-1123, 87 Stat. 355, 29 U.S.C. Sec. 794), The Age Discrimination Act of 1975 (P.L. 94-135 Sec. 303, 89 Stat. 713, 728, 42 U.S.C. Sec. 6102), and subsequent regulations, ensures access to facilities or programs regardless of race, color, national origin, sex, age or handicap.
5. Executive Orders 11246, as amended by Executive Orders 11375 and 12086 and subsequent regulations. Prohibits employment discrimination on the basis of race, color, religion, sex or national origin. Inclusion of the seven clauses in Section 202 of E. O. 11246 as amended by E. O. 11375 and 12086 are required in all project related contracts and subcontracts over \$10,000.
6. Executive Orders 11625, 12138 and 12432; 40 CFR part 33 Participation by Disadvantaged Business Enterprises in Procurement under Environmental Protection Agency (EPA) Financial Assistance Agreements; Section 129 of P. L. 100-590 Small Businesses Reauthorization & Amendment Act of 1988; Public Law 102-389 (42 U.S.C. 437d); a 1993 appropriations act (“EPA’s 8% statute”); Public Law 101-549, Title X of the Clean Air Acts Amendments of 1990 (42 U.S.C. 7601 note) (“EPA’s 10% statute”). Encourages recipients to award construction, supply and professional service contracts to minority, women’s business enterprises (MBE/WBE’s) and small businesses and requires recipients to utilize affirmative steps in procurement.
7. Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons).” (Executive Order 12549) Prohibits entering into contracts or sub-contracts with individuals or businesses who are debarred or suspended. Borrowers are required to check the status of all contractors (construction and professional services) and must require contractors to check the status of subcontractors for contracts expected to be equal to or over \$25,000 via this Internet address: <http://epls.arnet.gov/>.
8. Executive Order 13502, use of Project Labor Agreements for Federal Construction Projects.
9. OMB Circular A-133, issued pursuant to the Single Audit Act of 1984 ((P.L. 98-502), as amended 1996), which establishes audit requirements for state and local governments receiving federal funds.

Appendix 1 - Compliance with Federal/State Laws, Rules, Regulations – ARRA Funded

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10. Section 504 of the Federal Rehabilitation Act of 1973 (Pub. L. 93-112), supplemented by Executive Orders 11914 and 11250; Minn. Statutes 1990, Chapter 363 Minnesota Human Rights Act. Requires that all public spaces and programs be designed and constructed to be accessible to the physically handicapped.
11. Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended and subsequent regulations found at 49 CFR Part 24 (Pub L. 91-646). Identifies procedures for the acquisition of property and the relocation of persons and businesses.
12. Reporting and Registration Requirements under Subtitle A, “Transparency and Oversight Requirements”, of the American Recovery and Reinvestment Act (ARRA) of 2009, Public Law 111-5
13. Buy American Requirements under Section 1605 of the American Recovery and Reinvestment Act of 2009.
14. EPA Requirements for the provisions of Buy American as detailed in the EPA Memorandum #ARRA 09-1 *Implementation of Buy American provisions of P. L. 111-5, the “American Recovery and Reinvestment Act of 2009”* including obtaining a certification from contractors on Buy American and including Buy American language in bid and contract documents.
15. Wage Rate Requirements under Section 1606 of the American Recovery and Reinvestment Act of 2009 (Davis-Bacon Act).
16. The Borrower will post a sign at the Project site during the construction phase that includes the ARRA logo to inform the public that the Project is an ARRA investment.
17. Minnesota Statutes, Section 471.345, Uniform Municipal Contracting Law.
18. Minnesota Statutes, Section 574.26 to 574.32, the Public Contractors’ Performance and Payment Bond Act, as applicable.
19. Minnesota Statutes sections 176.181 - 176.182. Requires recipients and subcontractors to have worker’s compensation insurance coverage.
20. Minnesota Statutes, sections 177.41-177.43 (prevailing wage rate law). Requires that contractors pay laborers and mechanics prevailing wages established by the Minnesota Department of Labor and Industry for public works projects.
21. Minnesota Statutes 290.9705. Requires that 8 percent of payments made to out-of-state contractors be withheld once cumulative payments made to the contractor for work done in Minnesota exceed \$50,000 in a calendar year, unless an exemption is granted by the Department of Revenue.
22. Minnesota Statutes, Chapter 13, the Minnesota Government Data Practices Act.
23. Minnesota Statutes Chapter 363A, the Minnesota Human Rights Act.
24. Minnesota Executive Order 08-01 requiring use of E-verify for Newly Hired Employees in the Executive Branch and Requiring Certification of Compliance with Federal Immigration Laws for State Contract Vendors and Employers Receiving Business Subsidies.

The _____ certifies that it has or will comply with the above requirements and will include required contract conditions in bidding documents and contracts.

(Signature of Authorized Official)

Date

APPENDIX 2
Notice of Contract Award
Minnesota Public Facilities Authority - ARRA Funded Project

Borrowers please fill out one form for each contract awarded. This information is required for compliance of the Davis Bacon provisions of the ARRA funded projects.

Date: _____
PFA Project Number: _____
PFA Borrower Name: _____
Project Description: _____
Bid opening date: _____
Federal Wage decision number and modification number used in contract: _____
Effective date of wage decision used in contract: _____
Contract award date: _____
Construction start date: _____
Estimated completion of construction date: _____
Contract amount: _____
Contractor name: _____
Contractor address: _____

I certify the correct wage decision is being applied to the above noted project.

Date: _____
Signature: _____
Name: _____
Title: _____
Governmental Unit: _____

PLEASE NOTE: PFA will use a combination of funding (ARRA funds and non-ARRA funds) to finance projects. Both federal Davis Bacon prevailing wages and State of Minnesota prevailing wages (Minnesota Statute, sections 177.41-177.43) apply to this project. Payment of the wage and fringe benefits that are most beneficial to the employees are required.

WHEN AVAILABLE FROM EPA, ADDITIONAL INFORMATION WILL BE PROVIDED ON DAVIS BACON REPORTING AND MONITORING.

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APPENDIX 2A
Final Labor Standards Compliance Report (New! 9/14/09)
Minnesota Public Facilities Authority – ARRA Project

Please complete and submit this form to the PFA when each construction contract is completed. Submit the completed form via:

- E-mail with the form attached as a pdf file to your PFA loan officer, **or**;
- Fax to 651-296-8833; **or**
- Regular mail to:
 Minnesota Public Facilities Authority
 1st National Bank Building
 332 Minnesota Street, Suite E-200
 St. Paul, Minnesota 55101

Borrower Name: _____

Project Name: _____

1. Completion Date (mm/dd/yy): _____
2. Number of construction (face to face) wage interviews completed: _____
3. Number of interview forms mailed: _____
4. Number of trades reviewed through interviews, including mailed forms: _____

If no interviews were conducted or forms mailed, provide explanation in comments section.

If the answer to any of the following questions is "NO" please explain in comments

Are all payroll submissions complete and compliant?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Have all payrolls been reviewed?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Were wage interviews compared to payroll submissions?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	NA <input type="checkbox"/>
Have all known labor standards non-compliances been resolved?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	NA <input type="checkbox"/>
Have all known restitutions been received by employees?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	NA <input type="checkbox"/>
Were violations or complaints forwarded to DOL and EPA staff?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	NA <input type="checkbox"/>
Were the required postings observed on site?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	

Final Report Comments (if any) attach comments if additional space is needed:

I certify to the best of my knowledge that all laborers and mechanics employed by this construction contract were paid in accordance with labor provisions, except as noted. There are no outstanding or unresolved labor standards underpayments, complaints or disputes.

Signature: _____

Date: _____

Title: _____

(Individual signing the form should be the one responsible for payroll review and monitoring.)

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APPENDIX 2B
Compliance Certification for Submitted Payrolls (New! 9/14/09)
Minnesota Public Facilities Authority – ARRA Project

Please complete and submit this form along with requested payrolls to the PFA. Submit the completed form and requested payrolls via:

- E-mail with the form attached as a pdf file to your PFA loan officer, **or**;
- Regular mail to:
Minnesota Public Facilities Authority
1st National Bank Building
332 Minnesota Street, Suite E-200
St. Paul, Minnesota 55101

Borrower Name: _____

Project Name: _____

The payrolls for the week ending _____ (dd/mm/yy) are attached from the following prime contractor and subcontractors:

Prime Contractor (identify): _____

Subcontractors (identify):

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

I certify that for each payroll copy received, the above named Project (select):

IS IN COMPLIANCE with the requirements of 29 CFR 5.5(a)(1) based upon the most recent payroll copies for the week identified.

IS NOT IN COMPLIANCE with the requirements of 29 CFR 5.5(a)(1) based upon the most recent payroll copies for the week identified. (Provide explanation about non-compliance.)

Signature: _____

Date:

Title: _____

Note: Full text of 29 CFR 5.5(a)(1) available upon request. To summarize, 29CFR 5.5(a)(1) requires that employees be properly paid the full amount of required wages and fringes, that workers are compensated for the type of work performed according to the classification, and additional classifications, if needed, were sought and employees paid approved rate.

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**Clean Water and Drinking Water SRFs
American Recovery and Reinvestment Act
Job Reporting Requirements**

This job reporting is required for projects funded in whole or in part from the American Recovery and Reinvestment Act of 2009. Submit one form with each PFA project disbursement request.

Recipient: Name
 DUNS No.
 PFA grant/loan agreement ID#:

reporting form being submitted with PFA disbursement request #:

Professional Services & Construction Activity for the period: from to

This reporting form completed by: name
 phone
 e-mail

Reporting of time worked and related payroll, by contractor:

Engineering and Professional Services:

	company name	hours worked	total payroll
1	<input type="text"/>	<input type="text"/>	<input type="text"/>
2	<input type="text"/>	<input type="text"/>	<input type="text"/>
3	<input type="text"/>	<input type="text"/>	<input type="text"/>
4	<input type="text"/>	<input type="text"/>	<input type="text"/>
5	<input type="text"/>	<input type="text"/>	<input type="text"/>
6	<input type="text"/>	<input type="text"/>	<input type="text"/>

Construction Activity:

Prime Contractor:	company name	hours worked	total payroll
1	<input type="text"/>	<input type="text"/>	<input type="text"/>
2	<input type="text"/>	<input type="text"/>	<input type="text"/>

Subcontractors:	company name	hours worked	total payroll
1	<input type="text"/>	<input type="text"/>	<input type="text"/>
2	<input type="text"/>	<input type="text"/>	<input type="text"/>
3	<input type="text"/>	<input type="text"/>	<input type="text"/>
4	<input type="text"/>	<input type="text"/>	<input type="text"/>
5	<input type="text"/>	<input type="text"/>	<input type="text"/>
6	<input type="text"/>	<input type="text"/>	<input type="text"/>
7	<input type="text"/>	<input type="text"/>	<input type="text"/>
8	<input type="text"/>	<input type="text"/>	<input type="text"/>

FOR PFA USE: period totals: \$ -
 date received: FTE:
 date entered into database:

see instructions on back of form

Minnesota Public Facilities Authority**ARRA Job Reporting Form****Instructions**

This form, in excel format, will be provided to each borrower.

For each disbursement request submitted, send by e-mail the completed *ARRA Jobs Reporting Form* (excel document) to your PFA loan officer ¹. Please note that PFA can not disburse funds to a borrower unless the Jobs Reporting Form is submitted.

If you do not have access to e-mail, provide a hard copy of the completed form with each disbursement request to the PFA mailing address or fax ².

The first part of the form includes fixed information about the recipient: name, DUNS number and the PFA ARRA agreement number. Before using this form, please verify that the DUNS number shown is correct and that it is registered on the CCR (Central Contractor Registry (www.ccr.gov)).

The second section of the form includes information on each particular report submitted:

- The sequential number for this reporting form. This number will be the same as the number on the related *Disbursement Request Form* that is submitted to PFA.
- The period covered for the reporting form. This will be the same as the period on the related *Disbursement Request Form* that is submitted to PFA.
- Who completed the form, including telephone number and e-mail address.

The third section of the form provides space to report the hours worked for this reporting period and payroll associated with those hours reported. Information for this section will come from the consultants, prime contractors, and subcontractors. Please note that data on engineering / professional services, prime contractors and subcontractors are reported separately and includes:

- The company name.
- The total number of hours worked during the reporting period by all employees who worked on the project.
- The total amount of gross pay and fringe benefits for all of the worker hours during the report period.

The bottom of the form has formulas to calculate the totals for the period: hours, total payroll, and Full Time Equivalents (FTE)

¹ PFA loan officers:

Kathe Barrett	kathe.barrett@state.mn.us
Rae Lynn Herbster	rae.lynn.herbster@state.mn.us
Stephen Lafontaine	stephen.lafontaine@state.mn.us
Nancy Johnson	nancy.lc.johnson@state.mn.us
Becky Sabie	rebecca.sabie@state.mn.us

² PFA mailing address / fax:

MN Public Facilities Authority
1st National Bank Bldg., Suite E200
332 Minnesota Street
Saint Paul, MN 55101-1351

fax: 651 296-8833

technical note re MS Excel settings: please be sure that Tools Add-Ins Analysis ToolPak is checked.

Appendix 4
DAVIS BACON CONTRACT CONDITIONS
Minnesota Public Facilities Authority - ARRA Funded Project (updated 7/29/09)

PLEASE NOTE: PFA will use a combination of funding (ARRA funds and non-ARRA funds) to finance projects. Both federal Davis Bacon prevailing wages and State of Minnesota prevailing wages (Minnesota Statute, sections 177.41-177.43) apply to this project. Payment of the wages, fringe benefits and overtime rates that are most beneficial to the employees are required.

The “recipient” referred to throughout the Davis Bacon contract conditions is the PFA Borrower. The “PFA” is the Minnesota Public Facilities Authority.

This language must be included in all Davis Bacon covered construction contracts and subcontracts. (29 CFR Part 5.5)

(a) The Recipient shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in Sec. 5.1, the following clauses:

(1) **Minimum wages.** (i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in Sec. 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. Recipients may obtain wage determinations from the U. S. Department of Labor's web site, www.wdol.gov.

(ii)(A) The Recipient, on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The EPA award official shall approve an

additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Recipient agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Recipient to the PFA award official. The PFA award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the PFA award official or will notify the PFA award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Recipient do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the questions, including the views of all interested parties and the recommendation of the PFA award official, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) **Withholding.** The Recipient shall upon its own action or upon written request of the PFA, EPA award official or an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records.** (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Recipient. Such documentation shall be available on request of the PFA or EPA. As to each payroll copy received, the Subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5 (a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Recipient for transmission to the PFA or EPA, if requested by EPA, the PFA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the Recipient.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under Sec. 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under Sec. 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the PFA, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or PFA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees**--(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding

journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the Recipient, PFA, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility.** (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) **Contract Work Hours and Safety Standards Act.** The Recipient shall insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Sec. 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Recipient, upon its own action or upon written request of the EPA Award Official or an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in Sec. 5.1, the Recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the PFA, EPA and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

APPENDIX 5
Sample Buy American Contract Language
(from EPA Memorandum dated April 28, 2009 ARRA 09-01)
Minnesota Public Facilities Authority - ARRA Funded Project

THIS IS AN EXAMPLE OF WHAT COULD BE INCLUDED IN ALL CONTRACTS THAT MAY USE ARRA FUNDS. EPA MAKES NO CLAIMS REGARDING THE LEGALITY OF THIS CLAUSE WITH RESPECT TO STATE OR LOCAL LAW. IT IS IMPERATIVE THAT ANY PARTY INSERTING THIS CLAUSE INTO A CONTRACT VERIFY THAT IT IS LEGAL AND ENFORCEBLE ACCORDING TO STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES:

The Contractor acknowledges to and for the benefit of the City of _____ (“Purchaser”) and the Minnesota Public Facilities Authority (the “Authority”) that it understands the project, goods and services under this Agreement (collectively, the “Project”) are being funded, in whole or in part, with monies made available by the federal American Recovery and Reinvestment Act of 2009 (“ARRA”) and ARRA contains provisions commonly known as “Buy American” which require that all of the iron, steel, and manufactured goods used in the Project be produced in the United States (“Buy American Requirements”) including all 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 Authority that (a) the Contractor has reviewed and understands the Buy American Requirements, and (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 by the federal Environmental Protection Agency. The Contractor agrees to provide to the Purchaser and the Authority 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 from time to time by the Purchaser or the Authority. Notwithstanding any other provision of this Agreement, any failure of the Contractor to comply with this paragraph shall permit the Purchaser or the Authority to recover as damages against the Contractor any loss, expense or cost (including without limitation reasonable attorneys’ fees) incurred by the Purchaser or the Authority resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the Authority or any damages owed to the Authority by the Purchaser). While the Contractor has no direct contractual privity with the Authority, the Purchaser and the Contractor agree that the Authority, as a lender to the Purchaser for the funding of the Project, is a third-party beneficiary of the provisions contained in this paragraph and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph effect) may be amended or waived without the prior written consent of the Authority.

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APPENDIX 6
Sample Buy American Contractor Certification
EPA Memorandum dated April 28, 2009ARRA 09-01
Minnesota Public Facilities Authority - ARRA Funded Project

Sample Certification

FOLLOWING IS A SAMPLE CERTIFICATION THAT AN ASSISTANCE RECIPIENT MAY REQUIRE FROM A CONTRACTOR OR BIDDER. THIS IS ONLY A SAMPLE AND MAY BE USED AT THE DISCRETION OF THE ASSISTANCE RECIPIENT TO ENSURE COMPLIANCE WITH SECTION 1605 OF THE ARRA.

1. Identification of American-made Iron, Steel, and Manufactured Goods: Consistent with the terms of the Purchaser's bid solicitation and the provisions of ARRA Section 1605, the Bidder certifies that this bid reflects the Bidder's best, good faith effort to identify domestic sources of iron, steel, and manufactured goods for every component contained in the bid solicitation where such American-made components are available on the schedule and consistent with the deadlines prescribed in or required by the bid solicitation.
2. Verification of U. S. Production: the bidder certifies that all components contained in the bid solicitation that are American-made have been so identified, and if this bid is accepted, the Bidder agrees that it will provide reasonable, sufficient, and timely verification to the Purchaser of the U. S. production of each component so identified.
3. Documentation Regarding Non-American –made Iron, Steel, or Manufactured Goods: The bidder certifies that for any component or components that are not American-made and are so identified in this bid, the Bidder has included in or attached to this bid one or both of the following as applicable:
 - a. Identification of an citation to a categorical waiver published by the U.S. Environmental Protection Agency in the Federal Register that is applicable to such components or components, and an analysis that supports its applicability to the component or components;
 - b. Verifiable documentation sufficient to the Purchaser, as required in the bid solicitation or otherwise, that the Bidder has sought to secure American-made components but has determined that such components are not available on the schedule and consistent with the deadlines prescribed in the bid solicitation, with assurance adequate for the Bidder under the applicable conditions stated in the bid solicitation or otherwise.
4. Information and Detailed Justification Regarding Non-American-Made Iron, Steel, or Manufactured Goods: The Bidder certifies that for any such component or components that are not so available, the Bidder has also provided in or attached to this bid information, including but not limited to the verifiable documentation and a full description of the bidder's efforts to secure any such American-made component or components, that the Bidder believes are sufficient to provide and as far as possible constitute the detailed justification required for a waiver under section 1605 with respect to such component or components. The Bidder further agrees that, if this bid is accepted, it will assist the Purchaser in amending, supplementing, or further supporting such information as required by the Purchaser to request and, as applicable, implement the terms of a waiver with respect to any such component or components.

Date: _____

Signature: _____

Name: _____

Title: _____

Company Name: _____

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APPENDIX 7 – EXAMPLE ARRA SIGN

(Note: Refer to [http://www.epa.gov/ogd/forms/Recovery_emblem_guide_v1\[1\].pdf](http://www.epa.gov/ogd/forms/Recovery_emblem_guide_v1[1].pdf) for information on ARRA logo size and color requirements)

This project is financed by the Minnesota Public Facilities Authority including funds provided by the American Recovery and Reinvestment Act of 2009 (ARRA)



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