VIRGINIA CLEAN WATER REVOLVING LOAN FUND
CONTRACT INSERT
AMERICAN RECOVERY AND REINVESTMENT ACT FUNDED PROJECTS

The following document is to be inserted "verbatim" in all construction contracts either wholly or partially funded with funds provided through the American Recovery and Reinvestment Act of 2009 (ARRA). The ARRA includes special provisions not previously required for State Revolving Fund projects. The contract insert contains eleven subparts and eight attachments as follows:

Subpart A - Federal/State Nondiscrimination Provisions for Equal Employment Opportunities applicable to all construction and service contracts.

Subpart B - Notice to the prime contractor relative to certification on nonsegregational facilities.

Subpart C - Affirmative action requirements for the contractors and subcontractors for work involving any construction trade in excess of $10,000.

Subpart D - Civil Rights Act of 1964 requirements.

Subpart E - Requirements of Age Discrimination of 1975, Rehabilitation Act of 1973, and Section 13 of PL 92-500, the Federal Water Pollution Control Act.

Subpart F - Requirements under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act for contracts and subcontracts in excess of $100,000.

Subpart G - Procurement of goods and materials from Small Businesses in Rural Areas of the Commonwealth of Virginia wherever practical and feasible.

Subpart H – Provides that a contractor and subcontractors maintains a drug-free workplace during the performance of contract duties for any wastewater revolving loan assisted project.

Subpart I - Requirements for the "Buy American" provisions of the ARRA.

Subpart J – Requirements of Davis-Bacon Act for contracts and subcontracts in excess of $2,000, and the Contract Work Hours and Safety Standards Act (OSHA) for contracts and subcontracts in excess of $100,000.

Subpart K - Special Reporting Requirements and Records Retention.

Subpart L – Requirements for signs and public notice postings.

Attachment No. 1 – Instructions to Bidders/Offerers
Attachment No. 2 - Certification regarding EEO compliance
Attachment No. 3 - MBE/WBE Utilization Report
Attachment No. 4 – EPA DBE Forms 6100-2, 6100-3, and 6100-4
Attachment No. 5 - Buy American Certification Statement
Attachment No. 6 – Buy American Waiver Request
Attachment No. 7 – Buy American Waiver Request Checklist
Attachment No. 8 – Davis-Bacon Payroll Certification – WHD 347

SUBPART A

EQUAL EMPLOYMENT OPPORTUNITY

1. Executive Order 11246 (Contracts/subcontracts above $10,000)

(a) During the performance of this contract, the contractor and all subcontractors agree as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. At least one posting will be on the main worksite.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractors' noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

SUBPART B

NOTICE TO PRIME CONTRACTOR OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES

Bidders and offerors are cautioned as follows: By signing this bid or offer, the bidder or offeror will be deemed to have signed and agreed to the provisions of the "Certification of Nonsegregated Facilities" in this solicitation. The certification provides that the bidder or offeror does not maintain or provide for his employees facilities which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de factor basis. The certification also provides that he will not maintain such segregated facilities.

SUBPART C

CONSTRUCTION CONTRACTORS AFFIRMATIVE ACTION REQUIREMENTS EPA DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

1. The contractor shall implement the specific affirmative action steps as provided in excerpts below from:

FEDERAL REQUIREMENTS AND CONTRACT PROVISIONS FOR
SPECIAL APPROPRIATION ACT PROJECTS
US ENVIRONMENTAL PROTECTION AGENCY
REGION III
July 2008

EPA DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

EPA's Disadvantaged Business Enterprise Program rule applies to contract procurement actions funded in part or whole by the ARRA. The rule is found at Federal regulation Title 40, Part 33. Specific responsibilities are highlighted below.

Prime Contractor Responsibilities:

• Employ the Good Faith Efforts steps in paragraphs (a) through (e) (below) of § 33.301 if the prime contractor awards subcontracts (§ 33.301(f)).

a. ***Ensure awareness of contracting opportunities to fullest extent PRACTICABLE, including placing DBEs on solicitation lists;***

b. ***Make information on forthcoming opportunities available to DBEs. Adjust time frames and delivery schedules to encourage participation by DBEs. Allow reasonable time in the solicitation process for DBE subcontractors to allow an appropriate response before the closing date for proposals or bids;***

c. ***Divide total requirements when ECONOMICALLY FEASIBLE to permit maximum DBE participation;***

d. ***Encourage DBE consortiums for large contracts;***

e. ***Use Small Business Administration (SBA) and Minority Business Development Agency (MBDA) offices to obtain lists of DBE firms;***

• Provide EPA form number 6100-2 – *DBE Program Subcontractor Participation Form* and form number 6100-3 – *DBE Program Subcontractor Performance Form* to each DBE subcontractor (§ 33.302(e) and (f)).

• Complete EPA form number 6100-4 – *DBE Program Subcontractor Utilization Form* (§ 33.302(g).

• Submit to recipient the completed EPA form number 6100-4, plus an EPA form number 6100-3 for each DBE subcontractor used in the contractor's bid or proposal (§ 33.302(f) and (g)). ***These will be submitted within 21 days of determination of the apparent lowest, responsive, responsible bidder (Forms 6100-2, 6100-3, and 6100-4 are included as attachment 4).***

• Pay subcontractors for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient (§ 33.302(a)).

• Notify the recipient in writing **prior to prime contractor termination of a DBE subcontractor** for convenience (§ 33.302(b)).

• Employ the good faith efforts described in § 33.301 if soliciting a replacement subcontractor after a DBE subcontractor fails to complete work under the subcontract for any reason. (§ 33.302(c)).

• Employ the good faith efforts described in § 33.301 even if the prime contractor has achieved its fair share objectives under subpart D of Part 33. (§33.302(d)).

• Quarterly inform loan recipient of DBE participation achieved (§ 33.502).

• Maintain records documenting compliance with the requirements of Title 40 Part 33, including documentation of good faith efforts (§ 33.501(a)).

Subcontractor Responsibilities:

• May submit EPA form 6100-2 – *DBE Subcontractor Participation Form* to Romona McQueen, EPA Region 3 DBE Coordinator (§ 33.302(e)).

• Must complete EPA form 6100-3 – *DBE Program Subcontractor Performance Form*, and submit it to the prime contractor soliciting services from the subcontractor.

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the affirmative action goals for minority and female participation which is set forth in the solicitations from which this contract resulted.

3. The applicable "fair share" goals and dollar objectives for Virginia are as displayed below. The Contractor shall make every reasonable attempt to achieve the goals as stated and maintain all supporting documentation as described in 1 above.

	MBE%	WBE%
Construction	1.7	0.8
Equipment	0.4	0.5
Services	1.3	0.6
Supplies	0.8	0.5

4. The Contractor and all Subcontractors must maintain documentation and records of all solicitations of offers for subcontracts from disadvantage construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations. Within 21

days of determination of the apparent low bidder, the contractor must furnish to the loan recipient all pertinent documentation, which evidences or documents a good faith effort in DBE solicitation and projected utilization. Failure to comply with the submission of appropriate DBE documentation may result in the determination of a bidder as nonresponsible and shall be cause for the bid to be rejected.

5. Immediately following the award of contracts and continuing through the construction stage, all records of DBE utilization shall be maintained and reported in accordance with the Virginia Revolving Loan Fund MBE/WBE (DBE) Utilization Reporting Form. A MBE/WBE (DBE) Utilization Reporting Form shall be completed and submitted to the loan recipient on a calendar year quarterly basis during the construction period (Attachment 3).

SUBPART D

CIVIL RIGHTS ACT OF 1964

The Contractor and any subcontractors shall not, on the grounds of race, color, or national origin, or sex, exclude from participation in, deny the benefits of, or subject to discrimination, any person under any program or activity receiving federal financial assistance.

SUBPART E

SECTION 13 of PL 92-500; UNDER THE FEDERAL WATER POLLUTION CONTROL ACT; REHABILITATION ACT OF 1973; PL 93-112, AND AGE DISCRIMINATION ACT OF 1975

The Contractor and any subcontractors shall not on the grounds of race, color, national origin, or sex, exclude from participation in, deny the benefits of, or subject to discrimination any person under any program or activity funded in whole or in part with Federal funds. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

SUBPART F

COMPLIANCE WITH SECTION 306 OF THE CLEAN AIR ACT AND SECTION 508 OF THE CLEAN WATER ACT (CONTRACTS AND SUBCONTRACTS IN EXCESS OF $100,000)

The Contractor agrees that:

1. Any facility to be utilized in the performance of this contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to 40 CFR 15.20.

2. The Contractor and Subcontractors will comply with all requirements of Section 306 of the Clean Air Act, as amended, and Section 508 of the Clean Water Act, as amended, and all regulations and guidelines issued thereunder.

3. The Contractor will promptly notify the loan recipient and Department of Environmental Quality of any notification received from the Director of the Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

SUBPART G

UTILIZATION OF SMALL BUSINESSES IN RURAL AREAS

The contractor and subcontractors shall maintain a small business solicitation list and make appropriate attempts to procure needed equipment, supplies, and material from small businesses in rural areas of the Commonwealth of Virginia whenever they are a practical source for solicitation.

SUBPART H

TITLE 2.2, SECTION 2.2-4312, to CHAPTER 43 RELATING TO THE PROCUREMENT PRACTICES OF ALL PUBLIC BODIES

For every contract over $10,000 the contractor must maintain a drug-free workplace. During the performance of this contract, the contractor agrees to (I) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

SUBPART I

BUY AMERICAN
SECTION 1605 OF P. L. 111-5

Each local entity that receives ARRA water infrastructure financial assistance is required by Section 1605 of the ARRA to use American made iron, steel, and manufactured goods in this construction project. EPA has concluded that any project that is funded in whole or in part with ARRA funds, must comply with Buy American provisions.

The prime contractor must certify that all iron, steel, and manufactured goods which are retained as part of the project for which they are contracted to construct or supply materials or goods satisfy Section 1605 except those waivered by EPA. Within no more than 21 days of determination of the apparent low bidder, the contractor must submit to the loan recipient the certification included as Attachment 5. At the conclusion of the

project the contractor will certify with their final payment request that the original certification is still valid or document any changes or substitutions. If changes or substitutions are disallowed by EPA, part or all of the assistance funding may be forfeited by the loan recipient. As State or Federal law permits the loan recipient may seek damages from the contractor.

EPA has sole authority to approve waivers to the Buy American provisions of ARRA. The loan recipient may seek a waiver at any point before, during, or after the bid process if one or a combination of the three conditions below are met. The prime contractor may suggest to the owner waivers not listed in the bid document. The owner has sole determination whether or not to request a suggested waiver. The waiver request(s) must satisfy one of the following conditions and be approved by EPA:

1) Iron, steel, and manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

2) Inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or

3) Applying the Buy American requirements of ARRA would be inconsistent with the public interest.

The waiver request must include proper and sufficient documentation to support the request. Attachment 6 is a sample Waiver Request Form. A "Request Checklist for Waiver Review" (Attachment 7) is provided to assist the contractor and loan recipient in preparation of a waiver request. The information requested must be included with the waiver request letter. The checklist is not mandatory but the information requested must accompany the waiver request in one form or another. Upon approval of the waiver request by the Regional Administrator, EPA will notify the owner directly.

SUBPART J

COMPLIANCE WITH DAVIS-BACON ACT
PAYROLL REVIEW

The contractor and its subcontractors shall comply with provisions of the Davis-Bacon Act and Related Acts. Federal minimum wage laws are applicable to all construction contracts in excess of $2,000. The Davis-Bacon Act stipulates that all laborers and mechanics employed by the contractor or subcontractors on federally assisted projects shall be paid wages at rates not less than those prevailing on similar construction in the area as determined by the Secretary of Labor. The contractor and its subcontractors shall comply with provisions of the Contract Work Hours and Safety Standards Act generally applicable to any contracts is excess of $100,000.

Wage rates specified in the applicable wage determination for this construction trade and geographic area are included in the contract specifications immediately following these contract inserts. The wage determination must be posted at the site of the work in a prominent and accessible place. The contractor or subcontractor shall insert in any subcontract the clauses included in 29 CFR 5.5 (a) (1) through (12) (Contract Provisions and Related Matters) including the applicable wage rates and a clause requiring the subcontractor include these clauses in any lower tier subcontract. The prime contactor will be responsible for compliance by any subcontractor or lower tier subcontractor with all contract clauses in 29 CFR 5.5 (see Department of Labor website or a Federal regulations website).

By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm which has an interest in the contractor's firm is disbarred or suspended from bidding or working on a federally funded project. No part of this contract will be subcontracted to any person or firm who has been debarred or suspended from bidding or working on a federally funded project.

Any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage decision. Additional classifications shall be requested from the Department of Labor as specified in 29 CFR 5.5 or as amended (see Department of Labor Website for forms and instructions). Upon issuance of an additional classification the new wage rate including fringe benefits where appropriate shall be paid to all workers performing the work in the additional classification from the first day on which work is performed in the classification. The Department of Labor 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.

1) Payroll(s)

All mechanics and laborers employed upon the site of the work will be paid unconditionally and not less than once a week without subsequent deduction or rebate on any account the full amounts of wages and bona fide fringe benefits or cash equivalents thereof except as provided for by Department of Labor regulations issued in accordance with provisions of the Copeland Act. The payment shall be computed at wage rates not less than those contained in the "wage determination" included in these specifications regardless of any contractual relationship alleged to exist between the contractor or its subcontractors and such laborers and mechanics.

Each contractor and subcontractor shall furnish each week, in which any contract work is performed, to the loan recipient (owner) a payroll of wages paid to each of its employees engaged on work during the preceding weekly payroll period. The payroll submitted shall set out accurately and completely all of the information required to be maintained in the Records section below. Each payroll* submitted shall be accompanied by a Statement of Compliance* signed by the contractor or subcontractor or his/her agent who pays and supervises the payment of persons employed under the contract and shall certify the following:

1) that the payroll for the payroll period contains the information noted above and that such information is true and complete,
2) that such laborer or mechanic employed on the contract during the payroll period has been paid the full weekly wage 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 federal regulation(s), and
3) that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

*DOL WHD Form 347 (Attachment 8) is included as an example payroll and certification statement

Laborers and mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the actual time worked therein, provided, that the employee's payroll records accurately set forth the time spent in each classification in which work is performed.

Whenever the minimum 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 classification or pay another bona fide fringe benefit or an hourly cash equivalent thereof. If

the contractor does not make payment 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 may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. Contributions made or cost reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions above as well as regular contributions made or costs incurred for more than a weekly period (but not less 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.

2) Records

Payrolls and basic records shall be maintained by the contractor and each subcontractor for a period covering three years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work. Payrolls will include the name; his or her correct classification; hourly rates paid as wages paid including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof 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 wages of any laborer or mechanic include the amount of 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 the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, **that the plan or program has been communicated in writing to the laborers or mechanics affected**, and records 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.

3) Penalties and Withholding

Falsification of a payroll certification 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. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or delegated agent 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 guaranteed of funds.

The contractor or subcontractor shall make the payroll records required available for inspection, copying, or transcription by authorized representatives of the owner, DEQ, EPA, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. Failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CR 5.12.

A breach of the these contract clauses or the clauses continued 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.

The governing body, shall upon its own actions or upon written request of an authorized representative of the Department of Labor withhold from the contractor under this contract or any other federal contract with the same prime contractor, or any other 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 and

subcontractor, the full amount of wages required by the contract. In the event of failure to pay any laborer or a mechanic including any apprentice, trainee, or helper, employed or working on the site of the work all or part of the wages required by the contract, the State or the Department of Labor 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 guaranteed of funds.

SUBPART K

SPECIAL REPORTING REQUIREMENTS AND RECORDS RETENTION

The ARRA includes several reporting requirements. In order to fulfill these requirements the loan recipient, prime contractors, and subcontractors will be required to submit information to the state loan program manager (Department of Environmental Quality's "Construction Assistance Program"). Reporting requirements will include information pertaining to dates of contract award, notice to proceed, construction start and finish dates, job types and number created and/or retained, hours worked, number and cost of subcontracts. Failure by contractor or subcontractor to submit requested information may be cause to withhold payments otherwise due.

SUBPART L

SIGNS AND REQUIRED POSTINGS

A sign must be erected in a conspicuous place on each job site. The material can be plyboard or other firm material that will withstand wind and moisture. The sign should include the project owners name, project name, the contactors name, the funding agency name, assistance amount, and total project costs. **The American Recovery and Reinvestment Act of 2009 logo must be displayed prominently on the sign, see http://www.recovery.gov/?q=node/203).** Letter sizing and spacing must be approved by the owner.

In addition to the main sign the various regulations governing use of federal funds require the a number of program specific postings including an Equal Opportunity Employer poster, OSHA posters, the Wage Determination and any additional classifications approved for this specific contract, and a statement that the job site is a Drug Free Workplace. These and any other posters required by law should be posted in a conspicuous place available to workers and mechanics without constraint. The posters should be weather proof or protected from weather by some physical means.

ATTACHMENT #1

Instruction to Bidders/Offerers
Disadvantaged Business Enterprise Requirements

Bidder/Offeror Responsibilities

A. Affirmative Steps: Activities during preparation of bids and offers. Bidders/offerors shall take affirmative steps in compliance with the regulations, prior to submission of bids or closing data for receipt of initial offers, to encourage participation in projects by DBE firms. Such efforts include:

1. Establish and maintain a current solicitation list of minority and female recruitment sources, and assure DBE firms are solicited once they are identified.

2. When feasible, segment total work requirements to permit maximum DBE participation and establish delivery schedules to encourage DBE participation.

3. Assuring that DBE firms are solicited whenever they are potential sources of goods and services. This step may include:

   a. Sending letters or making other personal contact with DBE firms, private agencies and state associations (e.g., whose names appear on lists prepared by EPA or the recipient and other DBE/MBE/WBE known to the bidder/offeror). DBE firms should be contacted when other potential subcontractors are contacted, within reasonable time prior to bid submission or closing date for receipt of initial offers. Those letters or other contacts should communicate the following:

      (i) Specific description of the work to be contracted;

      (ii) How and where to obtain a copy of plans and specifications or other detailed information needed to prepare a detailed price quotation;

      (iii) Date the quotation is due to the bidder/offeror;

      (iv) Name, address, and phone number of the person in the bidder/offeror's firm whom the prospective DBE subcontractor should contact for additional information.

   b. Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprises of the U.S. Department of Commerce, or Virginia Department of Minority Business Enterprises.

B. Bidders/offerors must demonstrate compliance with DBE requirements to be deemed responsible. Demonstration of compliance may include the following information; however, the recipient may specify other methods of demonstrating compliance:

1. Names, addresses and phone numbers of DBE firms expected to perform work;

2. Work to be performed by the DBE firms;

3. Aggregate dollar amount of work to be performed by DBE firms, showing aggregate to MBE's and aggregate to WBE's separately;

4. Description of contacts to DBE organizations, agencies and associations which service DBE firms, including names of organizations, agencies and associations and dates of contacts;

5. Descriptions of contacts to DBE firms, including number of contacts, fields (i.e., equipment or material supplier, excavators, transport services, electrical subcontractors, plumbers, etc.) and dates of contacts.

C. Successful bidders/offerors should take reasonable affirmative steps to subcontract with DBE firms whenever additional subcontracting opportunities arise during the performance of the contract.

D. The successful bidder/offerors will submit EPA Form 6100-3 and Form(s) 6100-4 as required.

ATTACHMENT #2

BIDDER COMPLIANCE STATEMENT/CERTIFICATION
REGARDING EQUAL EMPLOYMENT OPPORTUNITY

Applicability: Bid exceeding ten thousand dollars for construction contract/subcontract of unlimited amount and non-construction contract/subcontract of less than one million dollars.

This statement relates to a proposed contract between _____ and _____ or
(contractor) (owner)

subcontract between _____ and _____) to be
(subcontractor) (contractor)

funded under a federally assisted project. Pursuant to Executive Order 11246 and its implementing regulations at 41 CFR 60-1.7(b)(1), as the undersigned bidder, I certify that:

1) Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.
_____Yes _____No

2) Bidder has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR 60-2 (applies only to non-construction contractor).
_____Yes _____No

3) Bidder has filed with the Joint Reporting Committee, the Director (Office of Federal Contract Compliance Programs, U.S. Department of Labor), and agency, or the Equal Employment Opportunity Commission, all reports due under the applicable filing requirements.
_____Yes _____No

I understand that if I have failed to file any compliance reports which have been required of me, or have failed to develop and have on file at each establishment affirmative action programs pursuant to 41 CFR 60-2, when required, I am not eligible to have my bid or proposal considered, or to enter into the proposed contact.

I further understand that if awarded the proposed contract, and the contract for the FIRST time brings me under the filing requirements or the written affirmative action programs that I will, as applicable: (a) within 30 days file with the Public Body Standard Form 100 (EEO-1); and (b) within 120 days from the commencement of the contract develop and submit to the Director of OFCCP for approval a Written Affirmative Action Plan.

NAME AND ADDRESS OF BIDDER (Include ZIP Code):

NAME AND TITLE OF SIGNER (Please Type):

SIGNATURE: DATE:

ATTACHMENT #3

VIRGINIA CLEAN WATER REVOLVING LOAN FUND
PART I - MBE/WBE UTILIZATION REPORTING

Year 20____
1st (Oct.-Dec.) _____ **2nd** (Jan.-Mar.) _____ **3rd** (Apr.-Jun.) _____ **4th** (Jul.-Sept.) _____

STIMULUS VCW Loan Recipient _____
City, Town, County, PSA, etc.

STIMULUS VCW Recipient Project No.: _____ _____
VCWSTM VCWSTG

The quarterly report should include a detailed report (Part II) for loan recipient activity if a contract was entered into with an MBE or WBE firm during the period, and a Part I for each contractor and an additional detailed report (Part II) for each prime contractor that entered into a subcontract with an MBE or WBE firm(s) during the reporting period.

For Submission by Prime Contractor to Loan Recipient:

Prime Contractor: _____ Contract Number: _____
(if more than one prime contractor is utilized include supplemental pages as applicable)

Have you subcontracted with an MBE or WBE firm this quarter? **Yes** (___) **No** (___)
Report Form Enclosed: Yes ( ) No ( )

Date for Start of Construction: _____-_____

Please sign and date below:

_____ _____
CONTRACTOR'S SIGNATURE **DATE**

If an MBE/WBE subcontract is rescinded, please give name of firm, date of rescission and amount of rescission.

_____

For Submission by Loan Recipient to funding agency:

Loan Recipient: Have you contracted with an MBE or WBE firm this quarter? **Yes** (___) **No** (___)
Report Form Enclosed: Yes ( ) No ( )

Please sign and date below:

_____ _____
LOAN RECIPIENT'S SIGNATURE **DATE** **EMAIL ADDRESS**

Send completed form to: Department of Environmental Quality,
Construction Assistance Program, 629 East Main Street, Virginia 23219.
[P. O. Box 1105, Richmond, VA 23218]

Reporting contact - Deborah Hawkins: (#804) 698-4130
Facsimile phone (#804) 698-4032

PART II - MBE/WBE UTILIZATION REPORTING

VCWSTM Project No.: _____ **VCWSTG Project No.:** _____

Year: **20**_____ Quarter: _____

Loan Recipient Name _____ or Prime Contractor Name _____

Business Enterprise		Dollar Value of Procurement	Date of Award (mm/dd/yy)	Type of Product or Service[1]	Name/Address (including zip code) of MBE/WBE Contractor or Vendor
Minority	Women				

[1] **Type of product or use service code below:**

1=Agriculture
2=Mining
3=Construction
4=Manufacturing

5=Transportation
6=Wholesale Trade
7=Retail Trade
8=Finance, Insurance, Real Estate

9=Services
a: Business
b: Professional
c: Repair
d: Personal

10=Other

ATTACHMENT #4

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

Environmental Protection Agency

Disadvantaged Business Enterprise Program
DBE Subcontractor Participation Form

NAME OF SUBCONTRACTOR[1]	PROJECT NAME
ADDRESS	CONTRACT NO.
TELEPHONE NO.	EMAIL ADDRESS
PRIME CONTRACTOR NAME	

Please use the space below to report any concerns regarding the above EPA-funded project (e.g., reason for termination by prime contractor, late payment, etc.).

CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR	AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR

Subcontractor Signature

Title/Date

[1]Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-2 (DBE Subcontractor Participation Form)

ATTACHMENT #4

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

Environmental
Protection Agency

Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR[1]	PROJECT NAME
ADDRESS	BID/PROPOSAL NO.
TELEPHONE NO.	E-MAIL ADDRESS
PRIME CONTRACTOR NAME	

CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR

Currently certified as an MBE or WBE under EPA's DBE Program? _____ Yes _____ No Signature of Prime Contractor Date Print Name Title _____

_____ Signature of Subcontractor Date

_____ Print Name Title

[1]Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)

ATTACHMENT #4

OMB Control No: 2090-0030
Approved: 05/01/2008
Approval Expires: 01/31/2011

Environmental
Protection Agency

Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form

BID/PROPOSAL NO.	PROJECT NAME
NAME OF PRIME BIDDER/PROPOSER	E-MAIL ADDRESS
ADDRESS	
TELEPHONE NO.	FAX NO.

The following subcontractors[1] will be used on this project:

COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATED DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?

I certify under penalty of perjury that the forgoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302(c).

Signature of Prime Contractor _____ Date _____

Print Name _____ Title _____

[1]Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-4 (DBE Subcontractor Utilization Form)

BUY AMERICAN CERTIFICATION STATEMENT

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 or 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 and citation to a categorical waiver published by the U.S. Environmental Protection Agency in the Federal Register that is applicable to such component or components, and 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 to be 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.

_____

Signature Date

_____

Name and Title of Signer (Please type)

BUY AMERICAN WAIVER REQUEST

A waiver from the Buy American provision of the American Recovery and Reinvestment Act of 2009 is requested for

_____
_____
_____
_____
_____
_____
_____

the following reason(s):

_____(1) Applying the Buy American Requirement would be inconsistent with the public interest;

_____(2) Iron, steel, and relevant manufactured goods are not produced in the United States in sufficient and reasonable available quantities and of a satisfactory quality; or

_____(3) Inclusion of iron, steel, and manufactured goods produced on the United Sates will increase cost of the overall project by more than 25%.

Relevant documentation to this request is enclosed. No materials will be installed prior to approval of this waiver request by EPA.

_____Additional sheets attached

This waiver request relates to a proposed contract between _____ and _____
(contractor) (owner)

in conjunction with _____ to be funded under a federally assisted project
(project)

_____
Signature Date

_____
Name and Title of Signer (Please type)

Review Checklist for Waiver Request

Review Items	Yes	No	N/A	Comments
• Waiver is requested on the basis of either Cost and/or Availability, as defined in the attached guidance *(Note: questions related to the public interest waiver criteria should be directed to the Regional point of contact)*				
• Waiver request includes the following information: — Description of the foreign and domestic construction materials — Unit of measure — Quantity — Price — Time of delivery or availability — Location of the construction project — Name and address of the proposed supplier — A detailed justification for the use of foreign construction materials				
• Waiver request was submitted according to the State's instructions to SRF assistance recipients				
• Assistance recipient made a good faith effort to solicit bids for domestic construction materials/manufactured goods, as demonstrated by language in requests for proposals, contracts, and communications with the prime contractor				
• Waiver request includes the following information: — Price Comparison Worksheet shown in Table 1, completed by the prime contractor — Relevant excerpts from the bid documents used by the prime contractor to complete the Price Comparison Worksheet				
— Supporting documentation indicating that the contractor made a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers				
• Waiver request includes the following supporting documentation necessary to demonstrate the availability, quantity, and/or quality of the materials for which the waiver is requested: — Bid documents or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials				
— Documentation of the assistance recipient's efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers.				
— Project schedule				
— Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials				
• Waiver request includes a statement from the prime contractor confirming the non-availability of the domestic construction materials for which the waiver is sought				
• Has the State received other waiver requests for the materials described in this waiver request, for comparable projects?				

Table 1: Foreign and Domestic Construction Materials Price Comparison Worksheet

Instructions: To be completed by the prime contractor. In column a), enter all construction materials and manufactured goods required to build the project as designed. In column b) enter the cost estimate for each component as supplied by domestic sources. In column c) enter the cost estimate for each component for which waivers are requested, as supplied by foreign sources.

(a) Construction Material	Unit of Measure	Quantity	(b) Price – Domestic Material*	(c) Price – Foreign Material*
			(d) Total Domestic Project Cost:	(e) Total Foreign Project Cost:

*Include all delivery costs to the construction site

ATTACHMENT #8

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/esa/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

U.S. Wage and Hour Division
Rev. Dec. 2008

OMB No.: 1215-0149
Expires: 12/31/2011

NAME OF CONTRACTOR ☐ OR SUBCONTRACTOR ☐

ADDRESS

PAYROLL NO.

FOR WEEK ENDING

PROJECT AND LOCATION

PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT. OR ST.	(4) DAY AND DATE / HOURS WORKED EACH DAY							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS: FICA	WITH-HOLDING TAX			OTHER	TOTAL DEDUCTIONS	(9) NET WAGES PAID FOR WEEK
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

ATTACHMENT #8

Date _____

I, _____ _____
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the
(Contractor or Subcontractor)

_____; that during the payroll period commencing on the
(Building or Work)

_____ day of _____, _____, and ending the _____ day of _____, _____,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

_____ from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

_____

_____

_____

_____

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ – in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ – Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.