

**GUIDANCE FOR WATER POLLUTION CONTROL REVOLVING LOAN
FUND PROJECTS FUNDED BEGINNING FEDERAL FY 2016
(OCTOBER 1, 2015 AND AFTER)**

Mississippi Department of Environmental Quality
Office of Pollution Control
Surface Water Division
Construction Branch

December 11, 2015

This document contains guidance for compliance with funding requirements from the FY 2016 Water Pollution Control Revolving Loan Fund (WPCRLF) Intended Use Plan (IUP) that differ from or are in addition to those of the WPCRLF Regulations for Projects Funded on and After December 19, 2004. Some of these requirements arise from the Water Resources Reform and Redevelopment Act of 2014, P.L. 113-121 (WRRDA) while others are cross-cutting federal authorities which have returned due to near exhaustion of banked cross-cutter compliance.

This guidance is based upon the best known information available as of the date above. However, it is possible that additional federal guidance will be issued, and this guidance is therefore subject to change accordingly.

As a project proceeds through the program, the Mississippi Department of Environmental Quality (MDEQ) Project Manager will document compliance with these requirements in the Checklist for WPCRLF Projects Funded Beginning FY 2016.

I. FACILITIES PLANNING

A. Endangered Species Act, Fish and Wildlife Coordination Act, Migratory Bird Treaty Act, and (only for projects located in Jackson, Harrison, and Hancock Counties) Coastal Barrier Resources Act (Cross-Cutters)

The Loan Recipient/Consultant must submit a map and description of the proposed project to the U.S. Fish & Wildlife Service (USFWS), Mississippi Ecological Services Field Office, Attention: Mr. David Felder, 6578 Dogwood View Parkway, Suite A, Jackson, MS 39213 (Phone: 601-965-4900). The USFWS's comments must be included in the facilities plan. If the USFWS requires further action (e.g. a vegetative/wildlife survey), such action should be taken and the resulting information submitted to the USFWS as soon as possible. (Also see Section II.B, below.)

B. Sole Source Aquifer (Cross-Cutter)

(Only applies to projects located in the Southern Hills Regional Aquifer System which is the area between the Mississippi and Pearl Rivers from and including Warren and Hinds Counties all the way south to the Louisiana State Line. See <http://www.epa.gov/region4/water/groundwater/r4ssa.html>.) The Loan Recipient/Consultant must submit a map and description of the proposed project to the USEPA Region IV, Grants and Drinking Water Protection Branch, Attention: Mr. Larry Cole, 61 Forsythe Street Southwest, Atlanta GA 30303 (Phone: 404-562-9474). The EPA's comments must be included in the facilities plan. Generally, if best management practices are implemented to protect groundwater, there will be no adverse comments.

C. Farmland Protection Policy Act (FPPA; Cross-Cutter)

The MDEQ Project Manager will complete this review in accordance with the FY 2015 Operating Procedure for FPPA. Once complete, copies of the compliance documentation will be provided to the Loan Recipient/ Consultant for their planning files.

D. Environmental Review {WRRDA Section 5002(1)}: In order for the project to comply with 40CFR35.3140(b) {Tier 1 NEPA-like review}, the following will be required:

1. Referring to the Facilities Plan Checklist (NPELF20 dated August 30, 2013), Section VI.C, the comparative evaluation of alternatives must also include any sensitive environmental issues that are identified during management of the project or through public participation. All other provisions of Section VI of the Facilities Plan Checklist still apply.
2. Referring to the Facilities Plan Checklist (NPELF20 dated August 30, 2013), Sections VIII.B and VIII.C no longer apply. Instead, a public hearing must be held for ALL projects. Topics to be discussed at the hearing include the facilities to be built, why they are needed, where they will be built, how much they will cost, the average monthly user charge, and the environmental

impact. The facilities plan must include proof that notice of the hearing was published in a newspaper of general circulation in the project area at least 30 days prior to the hearing date. The plan must also include minutes from the hearing, including any public comments. All other provisions of Section VIII of the Facilities Plan Checklist still apply.

When the facilities plan is complete, the MDEQ Project Manager will prepare the environmental document for the project in accordance with the FY 2015 Operating Procedure for Environmental Review.

E. Cost and Effectiveness {WRRDA Section 5002(4)}

The Cost and Effectiveness Certification (Attachment 7, PWFC96) must be submitted, confirming that, during development of the facilities plan, the Loan Recipient has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title; and has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account (i) the cost of constructing the project or activity; (ii) the cost of operating and maintaining the project or activity over the life of the project or activity; and (iii) the cost of replacing the project or activity.

NOTE: An otherwise complete facilities plan submittal will not be considered “complete” for the purposes of meeting the deadline for Priority List ranking until the Cost and Effectiveness Certification is submitted.

II. LOAN APPLICATION

A. Fiscal Sustainability Plan {WRRDA Section 5003(2)}

The Fiscal Sustainability Plan (FSP) Certification (Attachment 1, PWFC94) must be submitted, indicating that the Loan Recipient has either developed and implemented an FSP or will do so and submit a positive certification by 90% construction completion. (Also see Section V.B, below.)

B. Fish and Wildlife Coordination Act, Migratory Bird Treaty Act, and (only for projects located in Jackson, Harrison, and Hancock Counties) Coastal Barrier Resources Act (Cross-Cutters)

The clearance letter from the USFWS must be submitted to MDEQ.

C. Generally Accepted Accounting Principles (GAAP)/Governmental Accounting Standards Board (GASB) {WRRDA Section 5002}

The GAAP Certification (Attachment 2, PWFC95) must be submitted, indicating that the Loan Recipient will maintain project accounts in accordance with generally accepted government accounting standards, including standards related to the reporting of infrastructure assets.

D. Useful Life {WRRDA Section 5003(2)}

The MDEQ Project Manager will file a copy of Tony Caldwell's May 14, 2015, useful life determination memo in the Loan Application File.

E. Federal Procurement for A/E Services {WRRDA Section 5002(4)}

The Federal/State Procurement Certification (Attachment 8, PWFC74) must be submitted (instead of the standard NPELF74 Procurement Certification), confirming that the Loan Recipient has procured all contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or A/E services as defined in 40 U.S.C. 1102(2)(A-C), in accordance with the applicable requirements of 40 U.S.C. 1101 *et seq.*, and has procured all other contracts for professional services or construction equipment or supplies in accordance with state public purchasing law.

III. LAND ACQUISITION

Uniform Relocation Assistance and Real Property Acquisition Policies Act (Cross-Cutter)

The Loan Recipient must comply with the Uniform Act's implementing regulations at 49CFR24.101 through 24.105, and the Loan Recipient and Title Counsel must submit the attached Limited (Attachment 3) and Clear (Attachment 4) Site Certificates for Projects Funded Beginning FY 2015 (instead of NPELF71 and NPELF73) by the date specified in the loan agreement. Note that there are no Limited Site Certificates for projects including eligible land as no such projects are expected to proceed toward an FY 2016 loan award. If a given project will include eligible land, the Loan Recipient/Consultant should contact MDEQ regarding development of appropriate certificates.

The MDEQ Program Support Officer will use the Site Certificates for Projects Funded Beginning FY 2015 with his land acquisition reminder letter per Item No. 1 of the Real Property Acquisition Standard Operating Procedure (NPEP3) dated January 30, 2012.

The MDEQ Project Manager will use the Site Certificates for Projects Funded Beginning FY 2015 with his site certificate reminder letters per Item No. B.2 of the Management of Project Schedules Standard Operating Procedure (NPEP35) dated August 11, 2008.

IV. DESIGN

All construction contracts must include MDEQ's Supplementary Information for Bidders dated December 11, 2015 (Attachment 5) verbatim in order to comply with the following requirements:

A. Executive Order 12549-Debarment and Suspension (Cross-Cutter)

B. Executive Order 11246-Equal Employment Opportunity (Cross-Cutter)

C. American Iron and Steel (WRRDA Section 5004)

For details on what American Iron and Steel (AIS) products are covered by this requirement, see the AIS guidance memorandum entitled “Implementation of American Iron and Steel provisions of P.L. 113-76, Consolidated Appropriations Act, 2014” issued by EPA Headquarters on March 20, 2014. The information provided therein should be helpful to Loan Recipients and Consultants in crafting bidding documents and ensuring compliance for a given project. The Loan Recipient has the ultimate responsibility for compliance with the AIS requirement. Legal counsel should be sought as necessary.

There are basically four ways to comply: 1) Ensure and document that all of the iron and steel products used **in** the project are produced in the U.S., 2) Request and be granted an individual item/project waiver from EPA for foreign produced items, 3) Comply and document conformance with an existing categorical/nationwide waiver, or 4) (This is not applicable for any Mississippi WPCRLF Loan Recipients) Where a Loan Recipient has a direct international agreement with a foreign country with which the AIS clause conflicts, there are some very complicated exceptions.

A waiver can be based on a) the public interest, b) insufficient quality/quantity, or c) 25% total project (not item or contract) cost increase. Public interest waivers are expected to be nationwide, whereas the others are expected to be project/item specific.

On the basis of public interest, EPA Headquarters has issued a nationwide waiver for *de minimis* incidental components. These are miscellaneous, generally low-cost components where the country of origin and availability of alternatives are not readily or reasonably identifiable prior to procurement in the normal course of business. This waiver covers situations where the cost of such items is no more than 5% of the total cost of materials (not labor, rentals, etc.) used in and incorporated into the project (not the total contract cost) and no individual item exceeds 1% of the total cost of materials.

Additional documentation requirements apply if a waiver is being requested after the contract is executed; this is strongly discouraged.

Given the extensive documentation involved, the number of people involved, and the fact that these waivers are going to be reviewed for nationwide consistency and published on the EPA Headquarters website, one might expect that relatively few individual waivers will be issued.

Individual waiver requests must be submitted to MDEQ. The required content of such a request is described in the checklist included in Appendix 1 of EPA’s AIS guidance memorandum. In order to expedite processing, all waiver requests submitted to MDEQ must be accompanied by a copy of the checklist which has

been completed and notated to clearly identify where in the waiver request documents each specific checklist item is addressed. Once determined complete by MDEQ, the request will be sent to cwsrfwaiver@epa.gov with a copy to EPA Region IV.

The EPA AIS guidance memorandum, questions and answers, issued waivers, and other relevant information are available at:

http://water.epa.gov/grants_funding/aisrequirement.cfm

During design and bidding, good faith efforts must be made to identify and use domestic products. Contractors and suppliers should be contacted to determine availability and cost. If a specification is so strict as to rule out a domestic product, there must be strong justification and a waiver will be required.

Although unlikely, where the total project (not item or contract) cost might overrun 25% or more due to AIS requirements, an alternate bid for foreign products could be solicited as documentation to support a waiver request.

EPA is expecting that the construction contract documents will make compliance with this requirement a matter of bidder responsiveness and/or responsibility and/or a factor in determining the best bid, with significant penalty for noncompliance. The bidder is expected to provide domestic products and documentation to verify compliance where possible. Otherwise, the bidder is expected to provide complete, timely information necessary to demonstrate qualification for an existing nationwide waiver (e.g., *de minimis*) or such documentation necessary for the Loan Recipient to apply for an individual waiver.

In order to avoid delays and other issues associated with a potential bid protest, the information for bidders should be very clear regarding the method of award in cases where alternate bids are used and/or a waiver request is anticipated.

The project cannot be split up to use non-WPCRLF funds on a portion of a project in order to avoid the AIS requirement for that portion.

The AIS requirement should be discussed at a (perhaps mandatory) pre-bid meeting.

- D. EPA Public Awareness Notification {Non-statutory EPA Mandate}: A** project-specific EPA Public Awareness Notification (See Attachment 9 for the generic Notification, PWFC97) must be displayed on a bulletin board/sign in a prominent location at the project site for the duration of the contract, and should also be displayed in other prominent locations (Loan Recipient's office, website, court house, library, etc.) accessible to the public. The MDEQ Project Manager will provide electronic copies of the project-specific EPA Public Awareness Notification, for the Loan Recipient/consulting engineer to include in the contract documents immediately following Section D. of the Supplementary Information for Bidders. (Also see Section V.C, below.)

V. CONSTRUCTION

A. American Iron and Steel (WRRDA Section 5004)

1. For each construction contract, the MDEQ Project Manager will remind the Loan Recipient/Consultant of the AIS requirements herein at the time the executed construction contract documents are accepted by MDEQ per the Executed Contract Documents Standard Operating Procedure (NPEP29) dated July 29, 2013.
2. **Manufacturer Certification:** EPA recommends the use of a step certification process, similar to one used by the Federal Highway Administration. The step certification process is a method to ensure that producers adhere to the AIS requirement and Loan Recipients can verify that products comply with the AIS requirement. The process also establishes accountability and better enables States to take enforcement actions against violators.

Step certification creates a paper trail which documents the location of the manufacturing process involved with the production of steel and iron materials. A step certification is a process under which each handler (supplier, fabricator, manufacturer, processor, etc.) of the iron and steel products certifies that their step in the process was domestically performed. Each time a step in the manufacturing process takes place, the manufacturer delivers its work along with a certification of its origin. A certification can be quite simple. Typically, it includes the name of the manufacturer, the location of the manufacturing facility where the product or process took place (not its headquarters), a description of the product or item being delivered, and a signature by a manufacturer's responsible party. EPA's sample certification is in Attachment 6. These certifications should be collected and maintained by the Loan Recipient.

Alternatively, the final manufacturer that delivers the iron or steel product to the worksite, vendor, or contractor, may provide a certification asserting that all manufacturing processes occurred in the US. While this type of certification may be acceptable, it may not provide the same degree of assurance. Additional documentation may be needed if the certification is lacking important information. Step certification is the best practice.

3. *De Minimis* Items: To comply with this waiver (see Section IV.C above), throughout construction the Loan Recipient must maintain all relevant materials invoices. For each construction contract, the Loan Recipient must keep a running total of all material types and costs and those that fall under the waiver and must include this information in a report with calculations that demonstrate that the total cost of *de minimis* items falls under the 5% of total material cost threshold and that individual item cost falls under the 1% of total material cost threshold.
4. **MDEQ Site Visits:** During periodic site visits, the MDEQ Project Manager will discuss the AIS compliance status with the Loan Recipient and Consultant including the status of any waivers, *de minimis* reports,

manufacturer's certifications, etc. **If noncompliance is noted, Project Manager will inform Loan Recipient/Consultant that item must be removed/replaced (with other than WPCRLF funds); otherwise, entire project may be declared non-WPCRLF eligible, and immediate repayment of all project-related WPCRLF funds may be required.** Project Manager will also discuss with Engineering Coordinator and Branch Chief regarding how to proceed.

B. Fiscal Sustainability Plan {WRRDA Section 5003(2)}

If not done prior to loan award per Section II.A above, then, by 90% construction completion, the Loan Recipient must submit a positive FSP Certification (Attachment 1, PWFC94) indicating that they have developed and implemented their FSP.

C. EPA Public Awareness Notification {Non-statutory EPA Mandate}

The Loan Recipient must ensure that each contractor displays the EPA Public Awareness Notification on a bulletin board/sign in a prominent location at the project site for the duration of the contract. The Loan Recipient should also display the Notification in other prominent locations (Loan Recipient's office, court house, library, etc.) accessible to the public. The MDEQ Project Manager will verify that the Notification is properly displayed during construction observations. (Also see Section IV.D, above.)

VI. CLOSEOUT

- A. American Iron and Steel (WRRDA Section 5004):** The Loan Recipient must submit the final *de minimis* report (see Section IV.C above) to MDEQ within 30 days after the final construction observation *for each construction contract*.
- B.** After receipt of the final AIS *de minimis* report for the last construction contract, the MDEQ Project Manager will ensure that the Checklist for WPCRLF Projects Funded Beginning FY 2016 is fully completed and file it in the Project Closeout file.

ATTACHMENT 1
FISCAL SUSTAINABILITY PLAN CERTIFICATION
(PWFC94)

FISCAL SUSTAINABILITY PLAN CERTIFICATION

Loan Applicant/Recipient: _____

Loan Number: SRF-C280_____

We (the undersigned Authorized Representative and consulting engineer) do hereby certify as follows with regard to the Water Pollution Control Revolving Loan Fund (hereinafter "WPCRLF") project identified above:

[CHECK THE APPROPRIATE BLANK BELOW]

- _____ We certify that by the date that represents 90% of construction completion, the Loan Applicant/Recipient will develop and implement a Fiscal Sustainability Plan that includes:
- (I) an inventory of critical assets that are a part of the treatment works;
 - (II) an evaluation of the condition and performance of inventoried assets or asset groupings;
 - (III) a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan; and
 - (IV) a plan for maintaining, repairing, and, as necessary, replacing the treatment works and a plan for funding such activities; or

_____ We certify that the Loan Applicant/Recipient has developed and implemented a Fiscal Sustainability Plan that includes the elements described in Items I through IV, above.

We understand that this Fiscal Sustainability Plan Certification (hereinafter "Certification") is a material representation of fact upon which reliance is placed by the Mississippi Department of Environmental Quality (hereinafter "MDEQ") regarding state financial assistance under Section 49-17-81 through 89, Mississippi Code of 1972, as amended (Water Pollution Control Revolving Fund and Emergency Loan Fund Act) to construct the water pollution control project identified above.

We understand that we shall immediately provide written notice to the MDEQ if at any time we learn that this Certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

We understand that we must maintain all documents, papers, and records regarding the Fiscal Sustainability Plan and that any duly authorized representative of the MDEQ and/or EPA has a right of access to any such documents, papers and/or record for purposes of review, audit, examination, excerpts, and transcriptions.

We understand that MDEQ may report violations and/or suspected violations to the appropriate state and/or federal authorities in accordance with applicable state law and regulations and/or applicable federal law and regulations and/or as determined appropriate by MDEQ.

We understand that if MDEQ discovers that any of the Fiscal Sustainability Plan requirements were violated or that the Loan Applicant/Recipient rendered an erroneous Certification, in addition to all other remedies available, the Executive Director, or his/her designee, may determine that the related costs are unallowable and may require immediate repayment of all WPCRLF funds paid for such costs, in accordance with Rule 7.3.H.(6) of the WPCRLF Program Regulations.

As the Loan Applicant's/Recipient's Authorized Representative, I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, and based on my inquiry of those individuals immediately responsible for obtaining the information, believe the submitted information is true, accurate and complete.

Authorized Representative (Signature)

Consulting Engineer (Signature)

Printed Name

Printed Name

Date

Date

ATTACHMENT 2
GENERALLY ACCEPTED ACCOUNTING PRINCIPLES
CERTIFICATION
(PWFC95)

GENERALLY ACCEPTED ACCOUNTING PRINCIPLES CERTIFICATION

Loan Applicant/Recipient: _____

Loan Number: SRF-C280 _____

We (the undersigned Authorized Representative and City Clerk/Town Clerk/Chief Financial Officer) do hereby certify that the Loan Applicant/Recipient will maintain project accounts for the Water Pollution Control Revolving Loan Fund project identified above in accordance with Generally Accepted Accounting Principles (hereinafter "GAAP"), including standards relating to the reporting of infrastructure assets.

We understand that this GAAP Certification (hereinafter "Certification") is a material representation of fact upon which reliance is placed by the Mississippi Department of Environmental Quality (hereinafter "MDEQ") regarding state financial assistance under Section 49-17-81 through 89, Mississippi Code of 1972, as amended (Water Pollution Control Revolving Fund and Emergency Loan Fund Act) to construct the water pollution control project identified above.

We understand that we shall immediately provide written notice to the MDEQ if at any time we learn that this Certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

As the Loan Applicant's/Recipient's Authorized Representative, I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, and based on my inquiry of those individuals immediately responsible for obtaining the information, believe the submitted information is true, accurate and complete.

Authorized Representative (Signature)

City Clerk/Town Clerk/Chief Financial Officer (Signature)

Printed Name

Printed Name

Date

Date

**ATTACHMENT 3
LIMITED SITE CERTIFICATES**

Limited Site Certification
WPCRLF PROJECTS FUNDED BEGINNING FY 2015
(For Projects That Have No Eligible Land In the Loan Scope)

Loan Recipient

Project No. SRF-C280 _____

As Authorized Representative of the _____ (Loan Recipient), I do hereby certify that, regarding the referenced project (as described in the loan agreement):

1. The Loan Recipient has acquired or will acquire all new real property (including permanent easements and rights-of-way, except temporary construction easements) required for all elements (construction, operation, and maintenance) of the project in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as Amended.
2. The Loan Recipient has secured bona fide options to purchase or has initiated condemnation proceedings (by filing such action in court) for all or part of the required real property, permanent easements, and rights-of-way; and any remaining required property, permanent easements, and rights-of-way have been acquired by fee simple title, twenty (or more) year lease, or other such estate or interest.
3. The Loan Recipient has acquired or will acquire all required temporary construction easements in accordance with applicable state law and local ordinances.

I understand that I shall immediately provide written notice to MDEQ if at any time I learn that this Certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete.

Authorized Representative (Signature)

Date

Printed Name

Limited Site Certification
WPCRLF PROJECTS FUNDED BEGINNING FY 2015
(For Projects That Have No Eligible Land In the Loan Scope)

Title Counsel

Project No. SRF-C280

As Title Counsel representing the _____ (Loan Recipient), I do hereby certify that, regarding the reference project (as described in the loan agreement):

1. I have investigated and ascertained the location(s) of, and am familiar with, the legal description(s) of the site(s) (including easements and rights-of-way) required for all elements (construction, operation, and maintenance) of the project.
2. I have examined the deed records of the county or counties in which the project is to be located, and in my opinion the Loan Recipient has a legal and valid fee simple title, twenty (or more) year lease, or such other estate or interest in the site(s) sufficient to assure undisturbed use and possession throughout the estimated life of the project, except for those site(s) described on the attached sheet(s) for which the Loan Recipient has secured bona fide options to purchase or has initiated condemnation proceedings (by filing such action in court).
3. All deeds and/or other documents required to protect the title and the interest of the Loan Recipient have been duly recorded and filed for record wherever necessary, except for those site(s) described on the attached sheet(s).

I understand that I shall immediately provide written notice to MDEQ if at any time I learn that this Certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, and that it is true, accurate and complete.

Title Counsel (Signature)

Date

Printed Name

**ATTACHMENT 4
CLEAR SITE CERTIFICATES**

Clear Site Certification
WPCRLF PROJECTS FUNDED BEGINNING FY 2015

Loan Recipient

Project No. SRF-C280_____

As Authorized Representative of the _____ (Loan Recipient),
I do hereby certify that, regarding the referenced project (as described in the loan agreement):

1. All real property (including permanent easements and rights-of-way, except temporary construction easements) acquired since planning of the WPCRLF project began was acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as Amended.
2. The Loan Recipient has acquired by fee simple title, twenty (or more) year lease, or other such estate or interest all required real property (including permanent easements and rights-of-way).
3. The Loan Recipient has acquired all required temporary construction easements in accordance with applicable state law and local ordinances.

I understand that I shall immediately provide written notice to MDEQ if at any time I learn that this Certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete.

Authorized Representative (Signature)

Date

Printed Name

Clear Site Certification
WPCRLF PROJECTS FUNDED BEGINNING FY 2015

Title Counsel

Project No. SRF-C280_____

As Title Counsel representing the _____ (Loan Recipient), I do hereby certify that, regarding the referenced project (as described in the loan agreement):

1. I have investigated and ascertained the location(s) of, and am familiar with the legal description(s) of the site(s) (including easements and rights-of-way) required for all elements (construction, operation, and maintenance) of the project.
2. I have examined the deed records of the county or counties in which the project is to be located and in my opinion, the Loan Recipient has a legal and valid fee simple title, twenty (or more) year lease, or such other estate or interest in the site(s) sufficient to assure undisturbed use and possession throughout the estimated life of the project.
3. All deeds and/or other documents required to protect the title and the interest of the Loan Recipient have been duly recorded and filed for record wherever necessary.

I understand that I shall immediately provide written notice to MDEQ if at any time I learn that this Certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, and that it is true, accurate and complete.

Title Counsel (Signature)

Date

Printed Name

ATTACHMENT 5
SUPPLEMENTARY INFORMATION FOR BIDDERS

**SUPPLEMENTARY INFORMATION FOR BIDDERS
WPCRLF PROJECTS FUNDED BEGINNING FEDERAL FY 2016
(OCTOBER 1, 2015 AND AFTER)**

A. Executive Order 12549-Debarment and Suspension

This contract will not be awarded to a bidder that has been excluded or disqualified from participating in federal assistance programs. Further, the successful bidder agrees not to enter into agreements with subcontractors/suppliers who are excluded or disqualified from participating in federal assistance programs. See www.sam.gov.

B. Executive Order 11246-Equal Employment Opportunity

During the performance of this contract, the contractor agrees 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 by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration 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 by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, 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 No. 11246 of Sept. 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 No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting 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 contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and

remedies invoked as provided in Executive Order No. 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 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 No. 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 may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States." [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

C. American Iron and Steel

The Contractor acknowledges to and for the benefit of Owner that it understands the goods and services under this Agreement are being funded with monies made available by the Water Pollution Control Revolving Loan Fund (WPCRLF) that have requirements commonly known as "American Iron and Steel;" that requires all of the iron and steel products used in the project to be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Owner that (a) the Contractor has reviewed and understands the American Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Owner. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Owner to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Owner resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the WPCRLF).

D. EPA Public Awareness Notification

The Contractor will display the following EPA Public Awareness Notification on a bulletin board/sign in a prominent location on the project site for the duration of the contract:

(Project-Specific EPA Public Awareness Notification Must Be Inserted Here Prior To Bidding)

ATTACHMENT 6
SAMPLE AIS STEP CERTIFICATION

SAMPLE STEP CERTIFICATION

(Company Letterhead)

Date

Company Name

Company Address

City, State Zip

Subject: American Iron and Steel Step Certification for WPCRLF Project No. SRF C280___ - ___

I, (company representative), certify that the (melting, bending, coating, galvanizing, cutting, etc.) process for (manufacturing or fabricating) the following products and/or materials shipped or provided for the subject project is in full compliance with the American Iron and Steel requirement as mandated by Section 5004 of the Water Resources Reform and Redevelopment Act of 2014 (P.L. 113-121).

Item, Products and/or Materials:

1. Xxxx
2. Xxxx
3. Xxxx

Such process took place at the following location:

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative

ATTACHMENT 7
COST AND EFFECTIVENESS CERTIFICATION

COST AND EFFECTIVENESS CERTIFICATION

Loan Applicant/Recipient: _____

Loan Number: SRF-C280_____

We (the undersigned Authorized Representative and Consulting Engineer) do hereby certify as follows with regard to the Water Pollution Control Revolving Loan Fund (hereinafter "WPCRLF") project identified above:

(A) The Loan Applicant/Recipient has studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which assistance is sought under this title; and

(B) The Loan Applicant/Recipient has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account—

- (i) the cost of constructing the project or activity;
- (ii) the cost of operating and maintaining the project or activity over the life of the project or activity; and
- (iii) the cost of replacing the project or activity;

We understand that this Cost and Effectiveness Certification (hereinafter "Certification") is a material representation of fact upon which reliance is placed by the Mississippi Department of Environmental Quality (hereinafter "MDEQ") regarding state financial assistance under Section 49-17-81 through 89, Mississippi Code of 1972, as amended (Water Pollution Control Revolving Fund and Emergency Loan Fund Act) to construct the water pollution control project identified above.

We understand that we shall immediately provide written notice to the MDEQ if at any time we learn that this Certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

We understand that we must maintain all documents, papers, and records regarding the Cost and Effectiveness study and evaluation and that any duly authorized representative of the MDEQ and/or EPA has a right of access to any such documents, papers and/or record for purposes of review, audit, examination, excerpts, and transcriptions.

We understand that MDEQ may report violations and/or suspected violations to the appropriate state and/or federal authorities in accordance with applicable state law and regulations and/or applicable federal law and regulations and/or as determined appropriate by MDEQ.

We understand that if MDEQ discovers that any of the Cost and Effectiveness requirements were violated or that the Loan Applicant/Recipient rendered an erroneous Certification, in addition to all other remedies available, the Executive Director, or his designee, may determine that the related costs are unallowable and may require immediate repayment of all WPCRLF funds paid for such costs, in accordance with Rule 7.3.H.(6) of the WPCRLF Program Regulations.

As the Loan Applicant's/Recipient's Authorized Representative, I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, and based on my inquiry of those individuals immediately responsible for obtaining the information, believe the submitted information is true, accurate and complete.

Authorized Representative (Signature)

Consulting Engineer (Signature)

Printed Name

Printed Name

Date

Date

**ATTACHMENT 8
FEDERAL/STATE PROCUREMENT CERTIFICATION**

FEDERAL/STATE PROCUREMENT CERTIFICATION

Loan Applicant: _____

Loan Number: SRF-C280_____

We (the undersigned Authorized Representative and Legal Counsel) do hereby certify as follows with regard to procurement related to the Water Pollution Control Revolving Loan Fund (hereinafter "WPCRLF") project identified above:

[FEDERAL PROCUREMENT CERTIFICATION] For all contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or A/E services as defined in 40 U.S.C. 1102(2)(A-C):

We certify that the Loan Applicant has procured or will procure all such professional services in accordance with the applicable requirements of 40 U.S.C. 1101 *et seq.*, which include:

- Public announcement of the solicitation (e.g., a Request for Qualifications);
- Evaluation and ranking of the submitted qualifications statements based on established, publicly available criteria (e.g., identified in the solicitation);
 - Evaluation criteria should be based on demonstrated competence and qualification for the type of professional services required (e.g., past performance, specialized experience, and technical competence in the type of work required);
- Discussion with at least three firms to consider anticipated concepts and compare alternative methods for furnishing services;
- Selection of at least three firms considered to be the most highly qualified to provide the services required; and
- Contract negotiation with the most highly qualified firm to determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, professional nature, and the estimated value of the services to be rendered;
 - In the event that a contract cannot be negotiated with the most highly qualified firm, negotiation continues in order of qualification.

[STATE PROCUREMENT CERTIFICATION] For all other contracts for professional services or construction equipment or supplies:

We certify that we have received, reviewed and understand the state's law and regulations regarding purchasing.

We hereby certify that the Loan Applicant has procured or will procure all such professional services required for this project in accordance with state law and regulations.

We further certify that all plans, specifications, and contract documents for construction, equipment, and supplies for this project, including all subsequent change orders, have been or will be prepared and have been or will be procured in accordance with state public purchasing law, Section 31-7-1 through 73, Mississippi Code of 1972, as amended.

We understand that this Procurement Certification (hereinafter "Certification") is a material representation of fact upon which reliance is placed by the Mississippi Department of Environmental Quality (hereinafter "MDEQ") regarding state financial assistance under Section 49-17-81 through 89, Mississippi Code of 1972, as amended (Water Pollution Control Revolving Fund and Emergency Loan Fund Act) to construct the water pollution control project identified above.

We understand that we shall immediately provide written notice to the MDEQ if at any time we learn that this Certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

We understand that we must maintain all documents, papers, and records regarding all procurements and that any duly authorized representative of the MDEQ and/or EPA has a right of access to any such documents, papers and/or record for purposes of review, audit, examination, excerpts, and transcriptions.

We understand that MDEQ may report violations and/or suspected violations to the appropriate state and/or federal authorities in accordance with applicable state law and regulations and/or applicable federal law and regulations and/or as determined appropriate by MDEQ.

We understand that if MDEQ discovers that any of the procurement requirements were violated or that the Loan Applicant rendered an erroneous Certification, in addition to all other remedies available, the Executive Director, or his designee, may determine that the related costs are unallowable and may require immediate repayment of all WPCRLF funds paid for such costs, in accordance with Rule 7.3.H.(6) of the WPCRLF Program Regulations. We also understand that violations of the state public purchasing laws may subject us to further penalties as described in Sections 31-7-55, 31-7-57 and/or 97-7-10, Mississippi Code of 1972, as amended.

As the Loan Applicant's Authorized Representative, I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, and based on my inquiry of those individuals immediately responsible for obtaining the information, believe the submitted information is true, accurate and complete.

Authorized Representative (Signature)

Legal Counsel (Signature)

Printed Name

Printed Name

Date

Date

ATTACHMENT 9
GENERIC EPA PUBLIC AWARENESS NOTIFICATION

EPA PUBLIC AWARENESS NOTIFICATION

(Project Name/Description)

(Loan Recipient)

Loan Number: SRF-C280_____

Water Pollution Control Revolving Loan Fund/Clean Water State Revolving Loan Fund
MS Department of Environmental Quality/US Environmental Protection Agency

This water pollution control project is being financed in whole or in part by a loan from the Water Pollution Control Revolving Loan Fund (WPCRLF), which is Mississippi's Clean Water State Revolving Fund (CWSRF). The WPCRLF Program, which is administered by the Mississippi Department of Environmental Quality (MDEQ), is funded in part with annual federal CWSRF appropriations made available through the U.S. Environmental Protection Agency (EPA), and is therefore subject to, and receives all associated benefits from, various federal requirements.* The CWSRF programs in each state help provide communities the resources necessary to maintain and improve the infrastructure that protects our valuable water resources nationwide. This WPCRLF-funded project is designed to provide water quality benefits for the citizens of this community and the surrounding areas.

* Applicable Federal Requirements Include:

- Davis-Bacon (Wage Rates)
- American Iron and Steel
- Fiscal Sustainability Plans
- Cross-cutting Federal Authorities
- Federal Procurement (Engineering Services)
- Cost and Effectiveness Studies/Evaluations
- Public Awareness Notification

For more information visit the MDEQ website at www.deq.state.ms.us, or contact a WPCRLF/CWSRF loan program representative at 601-961-5171.