

**GUIDANCE FOR WATER POLLUTION CONTROL REVOLVING LOAN  
FUND PROJECTS FUNDED BEGINNING FEDERAL FY 2023  
(OCTOBER 1, 2022 AND AFTER)**

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

January 8, 2024

This document contains guidance for compliance with funding requirements from the FY 2023 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 federal Water Resources Reform and Redevelopment Act of 2014, P.L. 113-121 (WRRDA), others from the federal Infrastructure Investment and Jobs Act of 2021, P.L. 117-58 (IIJA) [commonly called the Bipartisan Infrastructure Law (BIL)], and still others are cross-cutting federal authorities which returned due to exhaustion of banked equivalency/cross-cutter compliance utilized by the WPCRLF Program from FY-2001 through FY-2014.

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 2023.

## **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 January 8, 2024 (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. Build America Buy America (IIJA Division G, Title IX)**

Federal financial infrastructure investments obligated on or after May 14, 2022, must comply with BABA requirements. Absent a waiver, all iron and steel products, manufactured products, and construction materials permanently incorporated into an infrastructure project subject to the BABA requirements must be produced in the United States. For more information on the BABA requirements, visit the EPA Office of Water's dedicated website – <https://www.epa.gov/cwsrf/build-ameica-buy-america-baba>.

For details on what iron and steel products, manufactured products, and construction materials are covered by this requirement, see “Section 2: Product Coverage” of EPA’s BABA memorandum (pp 5-9). 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 BABA requirement. Legal counsel should be sought as necessary. Any project that is funded in whole or in part with federal assistance must comply with the BABA requirements, unless the requirements are otherwise waived.

Note: The BABA requirements for items considered “iron and steel” are equivalent to those for covered iron and steel products under the AIS requirements in the Clean Water Act. EPA views the AIS requirements as meeting the “iron and steel” product requirements of BABA Section 70914, as they both include the key requirements that items made of iron and steel be wholly manufactured in the United States from the point of melting and/or pouring the iron or steel components through final manufacturing step. For SRF, EPA intends to implement BABA requirements the same way for iron and steel items as it has done for AIS products.

There are basically four ways to comply: 1) Ensure and document that all of the iron and steel products, manufactured products, and construction materials 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 BABA clause conflicts, there are some very complicated exceptions.

A waiver can be based on a) the public interest, b) unavailability of domestic products, 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. Who may apply and how to apply for a waiver can be found “Section 4: Waivers” of the EPA BABA memorandum (pp. 10-12).

On the basis of public interest, EPA Headquarters has issued a nationwide waiver for *de minimis* components. Products that qualify for a *de minimis* waiver cumulatively may comprise no more than a total of five percent of the total project cost. The five percent threshold can be used for any products, independent on the purpose of the project. This waiver is not additive with the existing American Iron and Steel national *de minimis* waiver.

Additional documentation requirements may 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 content of such a request is described in “Section 4: Waivers, Q4.1” of EPA’s BABA memorandum. In order to expedite processing, all waiver requests submitted to MDEQ must be accompanied by a cover letter which has been notated to clearly identify that all specific EPA recommended items are addressed. Once determined complete by MDEQ, the request will be sent to [cwsrfwaiver@epa.gov](mailto:cwsrfwaiver@epa.gov) with a copy to EPA Region IV. Every waiver must be reviewed by the Office of Management and Budget’s Made in America Office (MIAO).

The EPA BABA guidance memorandum, issued waivers, and other relevant information is available at [Build America, Buy America \(BABA\) | US EPA](#).

Specific BABA provisions must be included in each contract for infrastructure projects. According to the OMB Guidance (M-22-11), a “project” is defined as “...any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States.” Sample language is included in Attachment 1.

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 BABA requirements, the loan recipient may submit a cost waiver request. As part of a cost waiver request, the assistance recipient must demonstrate that implementation of the BABA requirements will increase the overall project cost more than 25 percent. Depending on the circumstances of the overall project cost increases, documentation to justify the cost waiver can vary but may include itemized cost estimates or bid tabulations comparing project costs with and without BABA implementation. Assistance recipients should begin assessing the potential cost impacts of the BABA requirements during the design phase of a project.

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 BABA requirement for that portion. Any project that is funded in whole or in part with federal assistance must comply with the BABA requirements, unless the requirements are otherwise waived. All iron and steel products, manufactured products, and construction materials used in a project must meet the BABA requirements unless waived. Absent a waiver, there is no “small portion” or product that does not need to satisfy the BABA requirements unless the requirements are waived (or specifically excluded). An assistance recipient may request a waiver or inquire as to whether a broad waiver, such as a *de minimis* waiver, might apply.

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

#### **D. Public Awareness/Signage**

**EPA Public Awareness Notification {Non-statutory EPA Mandate}**: If the Project IS NOT funded with IJA funds, 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.)

**OR**

**IJA-Specific Signage {EPA Mandate/E.O. 14052}**: If the Project IS funded with IJA funds, an IJA/BIL-Specific project sign (See Attachment 10 for the IJA/BIL-Specific Signage Guidance, PWFC99) must be displayed in a prominent location at the project site for the duration of the contract. The MDEQ Project Manager will provide electronic copies of the IJA/BIL-Specific Signage Guidance, 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. Build America Buy America (IIJA Division G, Title IX)

1. For each construction contract, the MDEQ Project Manager will remind the Loan Recipient/Consultant of the BABA 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 does not require a specified format for tracking or documenting compliance. Assistance recipients are free to develop any system (from simple to complex software) for tracking items used on the project and the accompanying compliance documentation, e.g., certification letters, applicable waivers, if it helps with implementation and compliance.

Assistance recipients and their representatives should ensure that the products delivered to the construction site are accompanied by proper documentation that demonstrates compliance with the law and be made available to the funding authority upon request. The documentation may be received and maintained in hard copy, electronically, or could be embedded in construction management software. The use of a signed certification letter for the project is the most direct and effective form of compliance documentation for ensuring products used on site are BABA-compliant prior to their installation; however, other forms of documentation are also acceptable as long as collectively, the following information, found in “Section 5: Documenting Compliance, Q5.3” of the EPA BABA memorandum. Compliance is assessed where the domestic product is used (or installed) at the project site. Proper compliance documentation, whether it is a BABA certification letter or a waiver, should accompany a product prior to its “use”, in accordance with Section 70914(a) of IIJA.

EPA may develop alternative procedures for demonstrating compliance. Additional project- or program-specific instructions may be developed on a case-by-case basis in order to meet individual circumstances.

3. **De Minimis Items:** To comply with this waiver (see Section I), the qualifying product(s) may comprise no more than a total of five percent of the total project cost. 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 project cost threshold. The five percent threshold can be used for any products, independent on the purpose of the project. This waiver is not additive with the existing American Iron and Steel national *de minimis* waiver. The EPA will review this waiver every five years after the date on which the waiver is issued. **The Loan Recipient must submit the final *de minimis* report to MDEQ within 30 days of the final construction observation.**



4. **MDEQ Site Visits:** During periodic site visits, the (MDEQ) Project Manager will discuss the BABA 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 BABA compliant items (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. Public Awareness/Signage**

**EPA Public Awareness Notification {Non-statutory EPA Mandate}:**

If the Project IS NOT funded with IIJA funds, 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.)

**OR**

**IIJA-Specific Signage {EPA Mandate/E.O. 14052}:**

If the Project IS funded with IIJA funds, the Loan Recipient must ensure that each contractor displays the IIJA/BIL-Specific Project Sign in a prominent location at the project site for the duration of the contract. The MDEQ Project Manager will verify that the project sign is properly displayed during construction observations. (Also see Section IV.D, above.)

**VI. CLOSEOUT**

- A. Build America Buy America (IIJA Division G, Title IX):** 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 BABA *de minimis* report for the last construction contract, the MDEQ Project Manager will ensure that the Checklist for WPCRLF Projects Funded Beginning FY 2023 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 2023  
(OCTOBER 1, 2022 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](http://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. Build America Buy America**

The Contractor acknowledges to and for the benefit of the 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) and have statutory requirements commonly known as "Build America, Buy America;" that requires all of the iron and steel, manufactured products, and construction materials used in the project to be produced in the United States ("Build America, Buy America Requirements") including iron and steel, manufactured products, and construction materials 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 Build America, Buy America Requirements, (b) all of the iron and steel, manufactured products, and construction materials used in the project will be and/or have been produced in the United States in a manner that complies with the Build America, Buy America Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Build America, Buy America Requirements, 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 (including without limitation any impairment or loss of funding, whether in whole or in part, from the WPCRLF).

**D. EPA Public Awareness Notification OR IIJA/BIL-Specific Signage**

Depending on the source(s) of funding for this project/contract, either 1) a Project-Specific EPA Public Awareness Notification or 2) IIJA/BIL-Specific Signage Guidelines are included on the following page(s).

If a Project-Specific EPA Public Awareness Notification is included, the Contractor will simply display that notification on a bulletin board/sign in a prominent location on the project site for the duration of the contract.

**OR**

If the IIJA/BIL-Specific Signage Guidelines are included, the Contractor will use those guidelines to ensure that the required construction project sign is 1) prepared in strict accordance with the guidelines, 2) placed in an appropriate and prominent location on the project site, and 3) maintained in good condition for the duration of the contract.

**[NOTE: The Appropriate Project-Specific EPA Public Awareness Notification OR IIJA/BIL-Specific Signage Guidelines Must Be Obtained From The MDEQ Project Manager And MUST Be Inserted In Place Of This Page Prior To Bidding.]**



**ATTACHMENT 6  
SAMPLE BABA CERTIFICATION**

# SAMPLE CERTIFICATION

(Company Letterhead)

Date

Company Name

Company Address

City, State Zip

Subject: Build America Buy America (BABA) Certification for WPCRLF Project No. SRF C280 \_\_-\_\_, {Project Name}

I, (company representative), certify that all phases of the manufacturing process for (manufacturing or fabricating) the listed products and/or materials shipped or provided for the subject project is in full compliance with the Build America, Buy America requirements, pursuant to Division G, Title IX of the Infrastructure Investment and Jobs Act, 2021.

Item, Products and/or Materials:

1. Xxxx
2. Xxxx
3. Xxxx

Such process took place at the following location (City and State):

\_\_\_\_\_

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**

**NOTE: Use ONLY if Project IS NOT Funded With IIJA/BIL Funding  
(Use Attachment 10 if Project IS Funded With IIJA/BIL Funding.)**



## 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](http://www.deq.state.ms.us), or contact a WPCRLF/CWSRF loan program representative at 601-961-5171.

**ATTACHMENT 10**  
**IIJA/BIL-SPECIFIC SIGNAGE GUIDELINES**

**NOTE: Use ONLY if Project IS Funded With IIJA/BIL Funding  
(Use Attachment 9 if Project IS NOT Funded With IIJA/BIL Funding.)**

## IIJA/BIL-SPECIFIC SIGNAGE GUIDELINES

EPA has interpreted federal Executive Order (EO) 14052 [and the subsequent related “Controller Alert” from Office of Management and Budget (OMB)/United States Chief Financial Officers (CFO) Council] to apply specific signage requirements to projects funded with CWSRF funds made available by the Infrastructure Investment and Jobs Act/Bipartisan Infrastructure Law (IIJA/BIL). Accordingly, because this project/contract is funded in whole or in part with IIJA/BIL funds, it is required to comply with the IIJA/BIL-specific signage requirements.

The Contractor must ensure compliance with all applicable portions of those requirements, as outlined in EPA’s December 8, 2022, Memorandum, “Guidelines for Implementing the Bipartisan Infrastructure Law Signage Term and Condition for the State Revolving Fund Programs” (which is available for viewing/downloading on MDEQ’s website at [www.mdeq.ms.gov/cwsrf](http://www.mdeq.ms.gov/cwsrf)). Some key points outlined in that signage guidance include, but are not limited to:

- The signage must be a physical sign (48” tall x 72” wide) placed at the construction site.
- The sign must identify the project as a “Project Funded By President Biden’s Bipartisan Infrastructure Law.”
- The sign must display the official Building a Better America emblem and EPA logo
- The sign must comply with the guidelines and design specifications for using the official Building A Better America emblem and corresponding logomark available at: <https://www.whitehouse.gov/wp-content/uploads/2022/08/Building-A-Better-America-Brand-Guide.pdf>
- The EPA logo must be accompanied by a statement indicating that the recipient received financial assistance from EPA for the project, and not that EPA itself is conducting the project.
- The EPA logo specifications are provided by the EPA Office of Public Affairs (OPA) available at: <https://www.epa.gov/grants/epa-logo-seal-specifications-signage-produced-epa-assistance-agreement-recipients>. To obtain the appropriate EPA logo graphic file, a request should be sent directly to OPA. Instructions for contacting OPA are available at: <https://www.epa.gov/aboutepa/using-epa-seal-and-logo>
- Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, the use of recycled or recovered materials when procuring signs is encouraged.
- Where English is not the predominant language, recipients are encouraged to translate the language on signs into the appropriate non-English language(s).
- The costs associated with signage must be “reasonable.”

