

# EmPower Louisiana

LOUISIANA DEPARTMENT OF NATURAL RESOURCES

American Recovery and Reinvestment Act of 2009



## FLEX-FUND REVOLVING LOAN PROGRAM

# Program Guidelines

## **SUBMITTAL DEADLINE**

**3:00 p.m. CST**

**June 30, 2011**

Attn: EmPower Louisiana Revolving Loan Program  
P.O. Box 94396  
Baton Rouge, LA 70804-9693



**Table of Contents:**

<b>I. Introduction.....</b>	<b>2</b>
1. American Recovery and Reinvestment Act of 2009.....	2
2. The State Energy Program .....	2
3. Program Goals .....	3
4. Anticipated Funding.....	3
5. Timeline .....	3
<b>II. Program Information .....</b>	<b>3</b>
1. Program Introduction .....	3
2. Eligible Applicants.....	3
3. Eligible Projects/Equipment .....	3
4. Ineligible Activities/Costs.....	4
5. Borrower Responsibilities.....	4
<b>III. Program Requirements .....</b>	<b>5</b>
1. Terms and Conditions .....	5
2. Project Completion .....	5
3. Required Registrations.....	5
4. Transparency Requirements.....	5
5. Reporting Requirements .....	6
6. Davis-Bacon Act.....	6
7. Buy American Provision.....	6
8. National Environmental Policy Act (NEPA) Requirements.....	7
9. National Historic Preservation Act (NHPA) Requirements.....	7
10. Waste Management Plan.....	8
11. Federal, State and Municipal Requirements .....	8
<b>IV. Selection Criteria .....</b>	<b>8</b>
1. Evaluation Process .....	8
2. Evaluation Criteria .....	9
3. Notification of Funding.....	9
4. Rejection of Applications.....	10
<b>V. Application Process.....</b>	<b>10</b>
<b>VI. Available Assistance.....</b>	<b>11</b>
1. Technical Assistance.....	11
2. Additional Information .....	11
3. Questions.....	11
<b>VII. Supporting Documents .....</b>	<b>12</b>

## **I. Introduction**

The Louisiana Department of Natural Resources (DNR) will be managing the State Energy Program (SEP) allocated by the U.S. Department of Energy (DOE) according to the 2009 American Recovery and Reinvestment Act (ARRA).

The program is marketed under the name EmPower Louisiana Flex-Fund Revolving Loan Program. These Program Guidelines are meant to provide guidance to potential applicants on how the Flex-Fund Revolving Loan Program will be implemented, as well as detail all aspects of the application and reporting process.

### **1. American Recovery and Reinvestment Act of 2009**

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA or Public Law 111-5). The stated purposes of the ARRA are to preserve and create jobs; promote economic recovery; assist those most impacted by the recession; provide investments needed to increase economic efficiency by spurring technological advances in science and health; invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and to stabilize state and local government budgets.

### **2. The State Energy Program**

Congress created DOE's State Energy Program (SEP) in 1996 by consolidating two other programs: the State Energy Conservation Program (SECP) and the Institutional Conservation Program (ICP). Both programs went into effect in 1975.

The State Energy Program provides grants to states and U.S. territories to promote energy conservation and reduce the growth of energy demand in ways that are consistent with national energy goals. SEP is the only EERE sponsored activity that encompasses renewable energy and energy efficiency technologies and addresses all sectors of the economy.

The goals established for the State Energy Program (SEP) are:

- Increase energy efficiency to reduce energy costs and consumption for consumers, businesses and government.
- Reduce reliance on imported energy.
- Improve the reliability of electricity and fuel supply and the delivery of energy services.
- Reduce the impacts of energy production and use on the environment.

Under the Recovery Act, states will receive \$3.1 billion for energy projects through SEP. These funds are allocated among the states according to the following formula: one-third equally among states and territories, one-third according to population, and one-third according to energy consumption.

The Louisiana Department of Natural Resources was awarded \$71,694,000 to fund energy projects through SEP. A portion of these funds has been used to create the Flex-Fund Revolving Loan Program as described in the following sections.

### 3. Program Goals

The Louisiana Department of Natural Resources created the EmPower Flex-Fund Revolving Loan Program to encourage the development, implementation and deployment of cost-effective energy efficient projects in Louisiana, and to support the creation of additional employment opportunities and other economic development benefits.

### 4. Anticipated Funding

Up to \$4,100,000 of ARRA SEP funds are available for loans to be awarded under these Program Guidelines. This will be a competitive funding process.

### 5. Timeline

<b>Event</b>	<b>Date</b>
Release of Program Guidelines and Application	May 13, 2011
<i>Deadline for Submittal of Applications</i>	June 30, 2011
Expected Date of Award	July 15, 2011
Project Start Date	July 22, 2011
Project Completion Date	April 2012

## II. Program Information

### 1. Program Introduction

The Flex-Fund Revolving Loan Program offers Louisiana local entities assistance in implementing energy efficiency projects from inception to completion. The Program will provide access to low- interest rate loans for eligible entities to implement energy efficiency retrofits, replacements, and upgrades at public, commercial and industrial facilities.

### 2. Eligible Applicants

Under the EmPower Louisiana Flex-Fund Revolving Loan Program, eligible applicants are entities located within the State of Louisiana. Applications from the residential sector (homeowners) are not eligible for grant funding.

### 3. Eligible Projects/Equipment

This Program will fund energy efficiency and energy conservation projects as deemed appropriate by DNR.

Projects must be located within the state of Louisiana. Eligibility is limited to project costs for the purchase and installation of energy efficient equipment. Eligible projects are limited to the following types:

1. Funding energy efficiency retrofits, provided that:
  - Projects Are Limited To: installation of insulation; installation of energy efficient lighting; HVAC upgrades; weather sealing; purchase and installation of ENERGY STAR appliances; replacement of windows and doors; high efficiency shower/faucet upgrades; and installation of solar powered appliances with improved efficiency.
2. Installation of alternative fueling pumps and systems (but not storage tanks) installed on existing facilities (other than a large biorefinery); purchase of alternative fuel vehicles.

#### **4. Ineligible Activities/Costs**

In order to comply with federal ARRA requirements and to ensure that proposed projects result in the greatest amount of energy savings, and therefore the greatest benefit possible to the state, the following activities will NOT be considered eligible for funding under these guidelines:

- A. Projects for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
- B. Funds for buying or leasing property.
- C. Funds to conduct or purchase equipment to conduct research, development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available.
- D. Lease payment for equipment and machinery.
- E. Projects involving the installation of renewable energy equipment at single-family residences.
- F. Costs incurred prior to April 16, 2010.

#### **5. Borrower Responsibilities**

Borrowers have several responsibilities including but not limited to: 1) repaying the loan, 2) completing project installation before the project end date, 3) tracking loan expenditures, and 4) monthly reporting, as explained in the paragraphs below.

The borrower must repay the loan at the annual percent interest rate, as set by the loan agreement. Borrowers must complete the installation of energy efficiency measures within the project period. All loans must be executed prior to April, 2012.

Additionally, borrowers must submit monthly progress reports to the department. Reporting will start at the execution of the loan agreement, continue through project installation, and cease shortly after the project completion date when the borrower submits a project closeout report. The terms and conditions of the loan agreement will specify the format, tools and information required for reporting programmatic and energy metrics as identified by U.S. DOE and the federal and state government. A reporting schedule will be included in the loan agreement.

### III. Program Requirements

All Borrowers receiving funding under DNR’s SEP Program will be required to comply with the following program requirements.

#### 1. Terms and Conditions

Borrowers will agree to abide by the General Terms and Conditions (**Attachment A**) highlighting requirements which are especially pertinent to federal grants made by the Louisiana Department of Natural Resources.

#### 2. Project Completion

All loans that receive SEP funding from the Louisiana Department of Natural Resources must be executed on or before April, 2012. Project completion date is to be determined at award date.

#### 3. Required Registrations

All Borrowers must be registered and in good standing in accordance with the requirements below:

**Dun and Bradstreet Data Universal Number System (DUNS):** Prior to beginning work, Borrowers must obtain a DUNS number or, if necessary, update their organization’s information. DUNS Number assignment is FREE for all businesses required to register with the US Federal Government for contracts or grants. Once you receive this number, please be sure to file it appropriately as you will need it to register with the Central Contractor Registry (below) and to apply for funding through the Energy Efficiency & Conservation Block Grant Program. To request your DUNS Number via the Web, please visit the following URL: <http://fedgov.dnb.com/webform>. For technical difficulties, contact [govt@dnb.com](mailto:govt@dnb.com) or call the D&B Government Customer Response Center at 1-866-705-5711.

**Central Contractor Registry (CCR):** All Borrowers must maintain current registration in the CCR at all times during which they have an active award funded with ARRA funds. The CCR database is the Federal Government’s primary registrant database. It collects, validates, stores and disseminates data in support of federal grants, cooperative agreements, and other forms of assistance. Registrants must update or renew their registration at least once per year to maintain an active status.

- 1) To register, visit the following link: <http://www.bpn.gov/ccr/>
- 2) Download the User Account Guide from the Central Contractor Registry for instructions on creating or modifying a CCR account <http://www.bpn.gov/ccr/doc/UserAccount.pdf>
- 3) From the CCR home page, select “Start New Registration” or “Update or Renew Registration” from the left hand column. Follow instructions from the User Account Guide to complete the application process.

#### 4. Transparency Requirements

All files, progress reports, financial reports, documents and data pertaining to the SEP grant will be posted on federal and state websites for public viewing. Federal law mandates substantial reporting and documentation of funded activities as well as more intensive monitoring and auditing. Additional sources of ARRA information are available at: <http://www.recovery.gov/Pages/home.aspx>

## 5. Reporting Requirements

Congress has specifically mandated that all ARRA recipients must report on the use of said funds for purposes of transparency and oversight. All funds issued under ARRA are subject to unparalleled scrutiny, with specific distribution and reporting requirements by the Federal Government and the State of Louisiana.

Borrowers will be required to submit monthly progress and expenditure reports in accordance with the ARRA requirements and the Memorandum of Understanding between DNR and the grantee. Additional quarterly, annual and completion reports may be requested from the Borrowers. Progress reports should be submitted by DOA/FPC to the LDNR Consultant by the second business day of each month using a provided online reporting tool. These reports will include, at a minimum, progress in the accomplishment of the scope of work and progress of each project. These reports should include sufficient information to complete the ARRA Federal Financial Report (FFR) requested by U.S. DOE. This reporting deadline is subject to change should ARRA reporting requirements become more often. DNR reserves the right to structure reporting requirements on a project-specific basis.

## 6. Davis-Bacon Act

ARRA §1606 states that the **Davis-Bacon prevailing wage requirement broadly applies to construction projects funded with ARRA appropriations.** In order to receive any funding under this grant, the Borrowers must comply with the requirements of this Act. The Davis-Bacon Act (40 U.S.C. 3141-3148) requires payment of locally prevailing wages (including fringe benefits) to laborers and mechanics on federal government contracts in excess of \$2,000 for construction, alteration, or repair of public buildings or public works who are employed directly on the site of the work. The provisions of the Davis-Bacon Act apply to both contractors and subcontractors.

The only exception to the Davis-Bacon Act is if a government agency performs construction work under what is generally known as “force account”. In essence, this is a “do-it-yourself” type of construction – the governmental agency receiving the grant decides not to contract out the work but actually performs it “in-house” with its own employees. Such work is not generally subject to Davis-Bacon Act requirements because governmental agencies are not considered “contractors” or “subcontractors” within the meaning of the Davis-Bacon Act.

For more information on the Davis-Bacon Act, please visit the Department of Labor’s website at: <http://www.dol.gov/compliance/guide/dbra.htm>

## 7. Buy American Provision

In accordance with ARRA §1605, the Borrowers assure that it and its sub-recipient(s) will not use ARRA funds for a project for the construction, alternation, maintenance, or repair of a public building or public work unless all of the **iron, steel and manufactured goods used in the project are produced in the United States.**

The only exceptions to this rule would be if iron, steel, and relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality; or inclusion of iron, steel and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

## 8. National Environmental Policy Act (NEPA) Requirements

The National Environmental Protection Act of 1970 (NEPA), as amended (42 U.S.C. 4371, *et seq.*), requires federal agencies to consider the potential environmental impacts of their proposed actions. EECBG awards will be funded pursuant to a grant from the DOE to the Louisiana Department of Natural Resources. DOE must comply with NEPA when awarding grants to states. Accordingly, applicants may not take action using federal funds for projects that may have an adverse effect on the environment prior to DOE providing a final NEPA determination regarding the selected projects.

For more information see U.S. DOE's NEPA website: <http://www.gc.energy.gov/NEPA/>

Based on a review of the list of activities that funds can be utilized for under the SEP Program, DOE has determined that projects that meet certain criteria and conditions will likely be classified as categorical exclusions and will not require a NEPA review.

### *The following activities are considered Categorical Exclusions from NEPA*

- Funding energy efficiency retrofits, provided that:
  1. Projects Are Limited To: installation of insulation; installation of energy efficient lighting; HVAC upgrades; weather sealing; purchase and installation of ENERGY STAR appliances; replacement of windows and doors; high efficiency shower/faucet upgrades; and installation of solar powered appliances with improved efficiency.
- Installation of alternative fueling pumps and systems (but not storage tanks) installed on existing facilities (other than a large biorefinery); purchase of alternative fuel vehicles.

**Categorical Exclusions are not absolute.** A project activity that falls within a categorical exclusion may require additional NEPA review if it involves “extraordinary circumstances” that may affect the significance of its environmental effects. “Extraordinary Circumstances” are defined as “unique situations presented by specific proposals, such as scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; or unresolved conflicts concerning alternate uses of available resources within the meaning of section 102(2)(E) of NEPA [42 U.S.C. §4332(e)].

**Applicants proposing projects that fall within the categories included above will not be required to submit any NEPA documentation at this time.**

If DOE determines that NEPA requires the preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) for a proposed project, the **Applicant will be responsible for paying the cost of preparing an EA or EIS.** Preparation of these types of NEPA documents can require 6-24 months. Accordingly, Applicants should carefully consider whether such programs are consistent with the objectives of the ARRA and will allow the expenditure of funds by the April, 2012 deadline.

## 9. National Historic Preservation Act (NHPA) Requirements

Because Recovery Act funds are federal, all funding recipients must meet Federal Cultural Resource Review requirements under Section 106 of the National Historic Preservation Act. For more information

regarding Section 106 contact the Louisiana Office of Cultural Development – Division of Archaeology at (225) 342-8170. <http://www.crt.state.la.us/archaeology/homepage/>

**Applicants proposing projects involving a building or structure included in the National Register of Historic Places (NRHP) or one eligible for inclusion in the NRHP will be required to complete Item 5 of EF-1 Environmental Questionnaire EF-1 (Attachment C).**

Applicants should note that DOE will only consider the project in compliance with Section 106 of the NHPA when adequate background documentation has been submitted and written concurrence that the Louisiana Office of Cultural Development does not object to its Section 106 determination has been provided. In addition, Applicants should note that funding will be dependent on projects meeting Section 106 requirements.

## 10. Waste Management Plan

Prior to the expenditure of federal funds to dispose of sanitary or hazardous waste, DNR is required to provide documentation to U.S. DOE demonstrating that an adequate disposal plan has been prepared for sanitary or hazardous waste generated by the proposed activities.

Applicants are therefore required to submit information on the expected waste stream of their proposed project. Sanitary or hazardous waste includes, but is not limited to piping, roofing material, discarded equipment, debris, asbestos, metals etc.

Upon award, the Applicants shall submit to DNR a waste management plan that describes their plan to dispose of any sanitary or hazardous waste generated as a result of the proposed Project. DNR shall make the waste management plan and related documentation available to DOE upon DOE's request (for example, during a post-award audit). Projects shall ensure compliance with all federal, state and local regulations for waste disposal.

## 11. Federal, State and Municipal Requirements

All projects must obtain any required permits and comply with applicable federal, state, and municipal laws, codes and regulations for work performed and procurement under this award.

# IV. Selection Criteria

## 1. Evaluation Process

The Louisiana Department of Natural Resources is soliciting and receiving applications for the Flex-Fund Revolving Loan Program through a project review and evaluation process. DNR will evaluate every timely submitted proposal based on both qualitative and quantitative criteria. This evaluation will be performed to ensure all projects will meet the DOE and ARRA funding and reporting requirements.

Applications will be evaluated (1) to determine whether the application submitted is completed in accordance with this document, (2) to determine whether the proposed project meets the project eligibility criteria specified in these Program Guidelines, and (3) to determine whether, based on the information supplied by the Applicant, the proposal demonstrates sufficient likelihood of actual project development, and achievement of benefits.

Applications will be reviewed to determine which eligible projects best meet evaluation criteria. In recognition of the wide range and complexity of activities that could qualify for this grant, the Applicant may be requested to provide more information during the review process.

## 2. Evaluation Criteria

Evaluation criteria have been developed to assist DNR in identifying those projects that display the most potential for achieving the goals of the program. The evaluation criteria has been provided to ensure the submitted projects will meet the DOE guidelines and reporting requirements for fundable projects. Applications for each individual project will be submitted indicating which of the following criteria are achieved and the resultant amounts:

- **Cost-effectiveness (Project(s) must meet the cost-effectiveness requirement):** measure of how effective grant dollars are in achieving a given result. Projects are required to meet a minimum Cost- effectiveness of 10 MMBtu in energy savings per \$1,000 spent. This requirement may be met on a project-by-project basis or by grouping multiple projects together to meet the goal through an average of the combined projects.
- **Project feasibility:** likelihood of project completion, potential to accomplish defined goals and objectives, experience and qualifications of the applicant, overall technical feasibility and potential for replication within the State of Louisiana.
- **Job creation:** potential for the project to support economic development in the state of Louisiana through job creation.
- **Energy generation:** potential for the project to reduce energy consumption measured in BTUs.
- **Greenhouse Gas (GHG) reductions:** potential for the project to reduce GHG emissions, measured in CO2 equivalent reductions.
- **Overall impact:** estimated economic impacts in the community due to project implementation.
- **Leveraged funds:** the portion or percentage of project cost that will be funded by the Applicant or other funding sources. Preference will be given to projects that make effective use of available private and public funding sources to ensure project viability.
- **Public awareness:** proposals that reflect a strategy to raise awareness and educate the public through the media, signage, public speaking engagements and other methods will be weighted more favorably than proposals that do not incorporate any communications strategy.

## 3. Notification of Funding

After the review and selection process is completed, the applicants will be notified that the project has been approved for funding at a specified amount. The applicants will receive an Award Notification, which must be signed and mailed back to the DNR within 30 days. Unsuccessful Applicants and/or projects will be informed in writing with instructions on how to proceed with financing. Application documents will not be returned.

#### 4. Rejection of Applications

DNR reserves the right to reject any application or project. The submission of an application under these guidelines confers no right upon any Applicant. DNR is not obligated to award any grants, to pay any costs incurred by the Applicant in the preparation and submission of an application, or pay any project related costs incurred prior to the grant beginning date.

**Applications will be rejected and not considered for funding if:**

- A. The application is not received by the due date and time as specified in these Program Guidelines.
- B. The Applicant is not an eligible Applicant in accordance with Section II.1 of these Program Guidelines.
- C. The application is not signed.
- D. The proposed project is inconsistent with the goals of the ARRA or the Empower Louisiana Flex-Fund Revolving Loan Program.

#### V. Application Process

Applications must follow the specified deadlines and guidelines provided in this document.

Applicants must submit two hard copies of the completed paper application forms (A through H) included as supporting documents. In addition, Applicants must submit one electronic version of all documents by email to, [larlf@shawgrp.com](mailto:larlf@shawgrp.com) or by mailing a compact disc (CD) containing the corresponding electronic application to the address provided below.

Two (2) hard copies of the complete application should be mailed to:

**Shaw Environmental & Infrastructure, Inc.**  
Attention: EmPower Louisiana Revolving Loan Program  
P.O. Box 94396  
Baton Rouge, LA 70804

Be sure to complete all relevant sections, attach appropriate supporting documents and have the application signed and dated. There are no additional format requirements; however, to conserve resources, it is encouraged that applications be printed duplex (two-sided) on post consumer recycled content paper. The use of binders or any other elaborate covers is strongly discouraged.

<b>All forms must be received by 3:00 p.m. CST on June 30, 2011</b>
---

## VI. Available Assistance

### 1. Technical Assistance

Technical assistance is available to applicants to support the completion of project applications. Technical assistance may involve, but is not limited to, support in developing energy savings calculation estimates, project cost estimating, project viability, meeting ARRA and associated requirements, and other application development support..

To obtain technical assistance in these areas, please contact:

**EmPower Louisiana Flex-Fund Revolving Loan Program**  
1-877-319-1368 (toll-free)  
larlf@shawgrp.com

### 2. Additional Information

Applicants are encouraged to visit DNR's ARRA Website: <http://dnr.louisiana.gov/stimulus> to find out more information on the Louisiana Department of Natural Resources SEP Program. In addition, DOE's SEP Program Website offers more information on the SEP Program and its requirements: [http://apps1.eere.energy.gov/state\\_energy\\_program/](http://apps1.eere.energy.gov/state_energy_program/)

### 3. Questions

Applicants may submit questions at any time during the application process. For questions, please contact the EmPower Louisiana Flex-Fund Revolving Loan Program hotline: 1-877-319-1368 (toll-free) or via email at [larlf@shawgrp.com](mailto:larlf@shawgrp.com)

All questions and answers will be posted on the DNR's ARRA website at <http://dnr.louisiana.gov/stimulus>. The person and organization submitting a question will not be identified.

## VII. Supporting Documents

<b>Document Code</b>	<b>Description</b>
Attachment A	ARRA Special Terms and Conditions
Attachment B	EF-1 Environmental Questionnaire
Form A	Application Information
Form B	Project Information
Form C	Energy Usage Information
Form D	Efficiency Measures
Form E	Energy Metrics
Form F	Project Budget
Form G	Waste Stream
Form H	National Environmental Policy Act

**ATTACHMENT A**  
**ARRA SPECIAL TERMS AND CONDITIONS**

**I. RESOLUTION OF CONFLICTING CONDITIONS**

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this award must be referred to the DOE Award Administrator for guidance.

**II. STATEMENT OF FEDERAL STEWARDSHIP**

DOE will exercise normal Federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.

**III. SITE VISITS**

DOE's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. You must provide, and must allow reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

**IV. REPORTING REQUIREMENTS**

a. Requirements. The reporting requirements for this award are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2, attached to this award. Failure to comply with these reporting requirements is considered a material noncompliance with the terms of the award. Noncompliance may result in withholding of future payments, suspension, or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies.

b. Dissemination of scientific/technical reports. Scientific/technical reports submitted under this award will be disseminated on the Internet via the DOE Information Bridge ([www.osti.gov/bridge](http://www.osti.gov/bridge)), unless the report contains patentable material, protected data, or SBIR/STTR data. Citations for journal articles produced under the award will appear on the DOE Energy Citations Database ([www.osti.gov/energycitations](http://www.osti.gov/energycitations)).

c. Restrictions. Reports submitted to the DOE Information Bridge must not contain any Protected Personal Identifiable Information (PII), limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release.

**V. PUBLICATIONS**

a. You are encouraged to publish or otherwise make publicly available the results of the work conducted under the award.

b. An acknowledgment of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgment: "This material is based upon work supported by the Department of Energy under Award Number DE-0000735"

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States

Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

## **VI. FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS**

You must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.

## **VII. INTELLECTUAL PROPERTY PROVISIONS AND CONTACT INFORMATION**

a. The intellectual property provisions applicable to this award are provided as an attachment to this award or are referenced on the Agreement Face Page. A list of all intellectual property provisions may be found at [http://www.gc.doe.gov/financial\\_assistance\\_awards.htm](http://www.gc.doe.gov/financial_assistance_awards.htm).

b. Questions regarding intellectual property matters should be referred to the DOE Award Administrator and the Patent Counsel designated as the service provider for the DOE office that issued the award. The IP Service Providers List is found at [http://www.gc.doe.gov/documents/Intellectual\\_Property\\_\(IP\)\\_Service\\_Providers\\_for\\_Acquisition.pdf](http://www.gc.doe.gov/documents/Intellectual_Property_(IP)_Service_Providers_for_Acquisition.pdf)

## **VIII. LOBBYING RESTRICTIONS**

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

## **IX. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS**

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

## **X. DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS**

Notwithstanding any other provisions of this Agreement, the Government shall not be responsible for or have any obligation to the recipient for (i) Decontamination and/or Decommissioning (D&D) of any of the recipient's facilities, or (ii) any costs which may be incurred by the recipient in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement.

## **XI. HISTORIC PRESERVATION**

Prior to the expenditure of Federal funds to alter any structure or site, the Recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the recipient must contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available at the following link: <http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link: <http://www.nathpo.org/map.html>.

Section 110(k) of the NHPA applies to DOE funded activities. Recipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

Recipients should be aware that the DOE Contracting Officer will consider the recipient in compliance with Section 106 of the NHPA only after the Recipient has submitted adequate background documentation to the SHPO/THPO for its review, and the SHPO/THPO has provided written concurrence to the Recipient that it does not object to its Section 106 finding or determination. Recipient shall provide a copy of this concurrence to the Contracting Officer.

## **XII. SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

### Preamble

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases. Recipients shall use grant funds in a manner that maximizes job creation and economic benefit.

The Recipient shall comply with all terms and conditions in the Recovery Act relating generally to governance, accountability, transparency, data collection and resources as specified in Act itself and as discussed below.

Recipients should begin planning activities for their first tier subrecipients, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance. For projects funded by sources other than the Recovery Act, Contractors must keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning specific procedural requirements for the new reporting requirements. The Recipient will be provided these details as they become available. The Recipient must comply with all requirements of the Act. If the recipient believes there is any inconsistency between ARRA requirements and current award terms and conditions, the issues will be referred to the Contracting Officer for reconciliation.

### Definitions

For purposes of this clause, Covered Funds means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the grant, cooperative agreement or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to covered funds – the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

Recipient means any entity that receives Recovery Act funds directly from the Federal government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act Funds.

### Special Provisions

#### A. Flow Down Requirement

Recipients must include these special terms and conditions in any subaward.

#### B. Segregation of Costs

Recipients must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

#### C. Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

#### D. Access to Records

With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized –

- (1) to examine any records of the contractor or grantee, any of its subcontractors or Grantees, or any State or local agency administering such contract that pertain to, and involve transactions relation to, the subcontract, subcontract, grant, or subgrant; and
- (2) to interview any officer or employee of the contractor, grantee, Grantee, or agency regarding such transactions.

#### E. Publication

An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

#### Notice of Restriction on Disclosure and Use of Data

“The data contained in pages ---- of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government’s right to use or disclose data obtained without restriction from any source, including the applicant.”

Information about this agreement will be published on the Internet and linked to the website [www.recovery.gov](http://www.recovery.gov), maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

#### F. Protecting State and Local Government and Contractor Whistleblowers.

The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to:

**Prohibition on Reprisals:** An employee of any non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct, a court or grant jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- gross management of an agency contract or grant relating to covered funds;
- a gross waste of covered funds
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- as violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

**Agency Action:** Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

**Nonenforceability of Certain Provisions Waiving Rights and remedies or Requiring Arbitration:** Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

**Requirement to Post Notice of Rights and Remedies:** Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, [www.Recovery.gov](http://www.Recovery.gov), for specific requirements of this section and prescribed language for the notices.).

#### G. Request for Reimbursement

RESERVED

#### H. False Claims Act

Recipient and sub-recipients shall promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict or interest, bribery, gratuity or similar misconduct involving those funds.

#### I. Information in supporting of Recovery Act Reporting

Recipient may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. Recipient shall provide copies of backup documentation at the request of the Contracting Officer or designee.

J. Availability of Funds

Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015.

**XIII. REPORTING AND REGISTRATION REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY ACT**

- (a) This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.
- (b) The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.
- (c) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.
- (d) The recipient shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is pre-filled is corrected or updated as needed.

**XIV. REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS -- SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

(a) Definitions. As used in this award term and condition--

(1) Manufactured good means a good brought to the construction site for incorporation into the building or work that has been--

(i) Processed into a specific form and shape; or

(ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

(2) Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

(3) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference.

(1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment

Act of 2009 (Recovery Act) (Pub. L. 111--5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition.

(2) This requirement does not apply to the material listed by the Federal Government as follows:

---

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that--

(i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act .

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including--

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

**Foreign and Domestic Items Cost Comparison**

Description	Unit of measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
<i>Item 2:</i>			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

**XV. REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS)—SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

(a) *Definitions.* As used in this award term and condition—

*Designated country* —(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom;

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or

(3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

*Designated country iron, steel, and/or manufactured goods* —(1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

*Domestic iron, steel, and/or manufactured good* —(1) Is wholly the growth, product, or manufacture of the United States; or

(2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

*Foreign iron, steel, and/or manufactured good* means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

*Manufactured good* means a good brought to the construction site for incorporation into the building or work that has been—

(1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

*Public building and public work* means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

*Steel* means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Iron, steel, and manufactured goods.* (1) The award term and condition described in this section implements—

(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.

(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows:

---

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that—

(i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.* (1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods.. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) *Data.* To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

**Foreign and Domestic Items Cost Comparison**

Description	Unit of measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
<i>Item 2:</i>			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

**XVI. WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT**

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

**XVII. RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING**

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 "Uniform Administrative Requirements for Grants and Agreements" and OMB Circular A--102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A--102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A--133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF--SAC) required by OMB Circular A--133. OMB Circular A--133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF--SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF--SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

**XVIII. PROCUREMENT (10 CFR 600.236)**

(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and sub-grantees will follow paragraphs (b) through (i) in this section.

Note: 600.236 (i)-Contract provisions. A grantee's and sub-grantee's contracts MUST contain provisions in paragraph (i) of this section (1) through (13).

NETL F 451.1-EECBG  
(3/2009) OPI=320  
(Previous Editions Obsolete)

**U.S. DEPARTMENT OF ENERGY**  
**ENVIRONMENTAL QUESTIONNAIRE**

**I. BACKGROUND**

The Department of Energy (DOE) National Environmental Policy Act (NEPA) Implementing Procedures (10 CFR 1021) require careful consideration of the potential environmental consequences of all proposed actions during the early planning stages of a project or activity. DOE must determine at the earliest possible time whether such actions will require either an Environmental Assessment or an Environmental Impact Statement, or whether they qualify for a Categorical Exclusion. To comply with these requirements, an Environmental Questionnaire must be completed for each proposed action to provide DOE with the information necessary to determine the appropriate level of NEPA review.

**II. INSTRUCTIONS**

Separate copies of the Environmental Questionnaire should be completed by the principal proposer and appropriate proposer’s subcontractor. In addition, if the proposed project includes activities at different locations, an independent questionnaire should be prepared for each location. Supporting information can be provided as attachments.

In completing this Questionnaire, the proposer is requested to provide specific information and quantities, when applicable, regarding air emissions, wastewater discharges, solid wastes, etc., to facilitate the necessary review. The proposer should identify the location of the project and specifically describe the activities that would occur at that location. In addition, the proposer will be required to submit an official copy of the project’s statement of work (SOW) or statement of project objective (SOPO) that will be used in the contract/agreement between the proposer and DOE.

**III. QUESTIONNAIRE**

**A. PROJECT SUMMARY**

1. Solicitation/Project Number: \_\_\_\_\_
2. Proposer: \_\_\_\_\_
3. Principal Investigator: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_
4. Project Title: \_\_\_\_\_
5. Duration: \_\_\_\_\_
6. Location(s) of Performance (City/Township, County, State): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Identify and select checkbox with the predominant project work activities under Group A-7b or A-7c.

**Group A-7b**

- Work or project activities does NOT involve new building/facilities construction and site preparation activities. This work typically involves routine operation, modification, and retrofit of existing utility and transportation infrastructure, laboratories, commercial buildings/properties, offices and homes, test facilities, factories/power plants, vehicles test stands and components, refueling facilities, greenspace infrastructure, or other existing facilities.

**Group A-7c**

- Work or project activities typically involves major building or facility construction, site preparation; the installation, replacement, or major modifications of energy system prototypes and infrastructure, access right-of-ways and roads; utility, greenspace, and transportation infrastructure, vehicle test facilities; commercial buildings/properties, fuel refinery/mixing facilities, factories/power plants; and other types of energy efficiency/conservation related systems, structures, and facilities. This work can require new or modified regulatory permits, environmental sampling and monitoring requirements, master planning, public involvement, and environmental impact review.

- Other types of work or project activities not listed. (please describe):
  
- 8. Summarize the objectives of the proposed work. List activities planned at the location as covered by this Environmental Questionnaire.
  
- 9. List all other locations where proposed work or project would be performed by project’s proposer and subcontractors.
  
- 10. Identify major project operation related materials and waste that would be used, consumed, and produced by this project or activity.
  
- 11. Provide a brief description of the project location (physical location, surrounding area, adjacent structures).
  
- 12. Attach a site plan or topographic map of the project work area.

**B. ENVIRONMENTAL IMPACTS**

This section is designed to obtain information for objectively assessing the environmental impacts of a proposed project. NEPA procedures require evaluations of possible effects (including land use, energy resource use, natural, historic and cultural resources, and pollutants) from proposed projects on the environment.

**1. Land Use**

- a. Characterize present land use where the proposed project would be located.  
 Urban                       Industrial                       Commercial                       Agricultural  
 Suburban                       Rural                       Residential                       Research Facilities  
 Forest                       University Campus                       Other
  
- b. Describe how land use would be affected by planned construction and project activities.  
 No construction would be anticipated for this project.
  
- c. Describe any plans to reclaim/replant areas that would be affected by the proposed project.  
 No land areas would be affected.
  
- d. Would the proposed project affect any unique or unusual landforms (e.g., cliffs, waterfalls, etc.)?  
 No  Yes (describe)
  
- e. Would the proposed project be located in or near a national park or wilderness area?  
 No  Yes (describe)

*If project work activities falls under item A-7b; then proceed directly to question B.6 (Atmospheric Conditions/Air Quality) and continue to fill out questionnaire.*

*If project work falls under item A-7c; then proceed directly below to question B.2 (Construction Activities and/or Operations) and continue to fill out questionnaire.*

**2. Construction Activities and/or Operations**

- a. Identify any roads, trails, or utility right of ways that traverse the proposed site or will be constructed and clearly mark them on project site maps.

None

- b. Would the proposed project require the construction of settling ponds?  
 No  Yes (describe and identify location, and estimate surface area disturbed)
- c. Would the proposed project affect any existing body of water?  
 No  Yes (describe)
- d. Would the proposed project be located in or impact a floodplain or wetland?  
 No  Yes (describe)
- e. Would the proposed project be likely to cause runoff/sedimentation/erosion?  
 No  Yes (describe)

**3. Vegetation and Wildlife Resources**

- a. Identify any State- or Federal-listed endangered or threatened plant or animal species affected by the proposed project.  
 None
- b. Would any foreign substances/materials be introduced into ground or surface waters, or other earth/geologic resource because of project activities? Would these foreign substances/materials affect the water, soil, and geologic resources?  
 No  Yes (describe)
- c. Would any migratory animal corridors be impacted or disrupted by the proposed project?  
 No  Yes (describe)

**4. Socioeconomic and Infrastructure Conditions.**

- a. Would local socio-economic changes result from the proposed project?  
 No  Yes (describe)
- b. Would the proposed project generate increased traffic use of roads through local neighborhoods, urban or rural areas.?  
 No  Yes (describe)
- c. Would the proposed project require new transportation access (roads, rail, etc.)? Describe location, impacts, costs.  
 No  Yes (describe)
- d. Would any new transmission lines and/or power line right-of-ways be required?  
 No  Yes (describe location, voltage, and length of line)

**5. Historical/Cultural Resources**

- a. Describe any historical, archeological, or cultural sites in the vicinity of the proposed project; note any sites included on the National Register of Historic Places.  
 None
- b. Would construction or operational activities planned under the proposed project disturb any historical, archeological, or cultural sites?  
 No planned construction  No historic sites  Yes (describe)

- c. Would the proposed project interfere with visual resources (e.g., eliminate scenic views) or alter the present landscape?  
 No  Yes (describe)

*For all proposed project work activities identified under item A-7b, respond to item B6 directly below and continue filling out environmental questionnaire.*

**6. Atmospheric Conditions/Air Quality**

- a. Identify air quality conditions in the immediate vicinity of the proposed project with regard to attainment of National Ambient Air Quality Standards (NAAQS). This information is available under the NAAQS tables from the U.S. EPA Air and Radiation Division.

	<u>Attainment</u>	<u>Non-Attainment</u>
O <sub>3</sub>	<input type="checkbox"/>	<input type="checkbox"/>
SO <sub>x</sub>	<input type="checkbox"/>	<input type="checkbox"/>
PM <sub>10</sub>	<input type="checkbox"/>	<input type="checkbox"/>
CO	<input type="checkbox"/>	<input type="checkbox"/>
NO <sub>2</sub>	<input type="checkbox"/>	<input type="checkbox"/>
Lead	<input type="checkbox"/>	<input type="checkbox"/>

- b. Would proposed project require issuance of new or modified major source air quality permits?  
 No  Yes (describe)
- c. Would the proposed project be in compliance with the National Emissions Standards for Hazardous Air Pollutants?  
 No (explain)  Yes
- d. Would the proposed project be classified as either a New Source or a major modification to an existing source?  
 No  Yes (describe)
- e. Would the proposed project be in compliance with the New Source Performance Standards?  
 Not Applicable  No (explain)  Yes
- f. Would the proposed project be subject to prevention of significant deterioration air quality review?  
 Not applicable  No (explain)  Yes (describe)
- g. What types of air emissions, including fugitive emissions, would be anticipated from the proposed project?
- h. Would any types of emission control or particulate collection devices be used?  
 No  Yes (describe, including collection efficiencies)
- i. If no control devices are used, how would emissions be vented?

**7. Hydrologic Conditions/Water Quality**

- a. What is the closest body of water to the proposed project area and what is its distance from the project site?
- b. What sources would supply potable and process water for the proposed project?
- c. Quantify the daily or annual amount of wastewater that would be generated by the proposed project.

- d. Identify the local treatment facility that would receive wastewater from the proposed project.  
 No discharges to local treatment facility
  
- e. Describe how wastewater would be collected and treated.
  
- f. Would any run-off or leachates be produced from storage piles or waste disposal sites?  
 No  Yes (describe source)
  
- g. Would project require issuance of new or modified water permits to perform project work or site development?  
 No  Yes (describe)
  
- h. Where would wastewater effluents from the proposed project be discharged?  
 No wastewater produced
  
- i. Would the proposed project be permitted to discharge effluents into an existing body of water?  
 No  Yes (describe water use and effluent impact)
  
- j. Would a new or modified National Pollutant Discharge Elimination System (NPDES) permit be required?  
 No  Yes (describe)
  
- k. Would the proposed project adversely affect the quality or movement of groundwater?  
 No  Yes (describe)

**8. Solid and Hazardous Wastes**

- a. Describe and estimate major nonhazardous solid wastes that would be generated from the project. Solid wastes are defined as any solid, liquid, semi-solid, or contained gaseous material that is discarded or has served its intended purpose, or is a manufacturing or mining by-product (40 CFR 260, Appendix I).
  
- b. Would project require issuance of new or modified solid waste and/or hazardous waste related permits to perform project work activities?  
 No  Yes (explain)
  
- c. How and where would solid waste disposal be accomplished?  
 On-site (identify and describe location)  
 Off-site (identify location and describe facility and treatment)
  
- d. How would wastes for disposal be transported?
  
- e. Describe and estimate the quantity of hazardous wastes (40 CFR 261.31) that would be generated, used, or stored under this project.  
  
 None
  
- f. How would hazardous or toxic waste be collected and stored?  
 None used or produced
  
- g. If hazardous wastes would require off-site disposal, have arrangements been made with a certified TSD (Treatment, Storage, and Disposal) facility?  
 Not required  Arrangements not yet made  Arrangements made with a certified TSD facility  
(identify):

**C. DESCRIBE ANY ISSUES THAT WOULD GENERATE PUBLIC CONTROVERSY REGARDING THE PROPOSED PROJECT.**

None

**IV. CERTIFICATION BY PROPOSER**

I hereby certify that the information provided herein is current, accurate, and complete as of the date shown immediately below.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_  
month day year

TYPED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ORGANIZATION: \_\_\_\_\_

**V. REVIEW AND APPROVAL BY DOE**

I hereby certify that I have reviewed the information provided in this questionnaire, have determined that all questions have been appropriately answered, and judge the responses to be consistent with the efforts proposed.

PROJECT MANAGER:

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_  
month day year

TYPED NAME: \_\_\_\_\_