

**APPALACHIAN REGIONAL  
COMMISSION CONSTRUCTION  
PROGRAM  
POLICIES & PROCEDURES IMPLEMENTATION  
MANUAL**



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## I. INTRODUCTION

The Mississippi Appalachian Regional Commission Construction (ARC) Program Implementation Manual is a collection of guidance and instructional materials, relevant information, forms, requirements and other data necessary for implementing an ARC project, as authorized in the Appalachian Regional Development Act of 1965 (ARDA), as amended, the ARC Code, and the provisions of the ARC Strategic Plan.

The objective of the manual is to assist the recipient in accomplishing the following:

- Ensuring compliance with federal and state regulations;
- Carrying out individual activities of an ARC project, as described in the recipient's application for funds;
- Carrying out the project in a timely manner;
- Implementing the project with adequate control over program and financial performance in a manner which minimizes the opportunity for mismanagement, fraud or waste; and
- Improving program performance, developing greater self-reliance, and augmenting management and technical capacity.

This manual also addresses project areas of compliance, which include Environmental, Procurement, Labor Standards, Equal Employment Opportunity (MBE/WBE), Financial Management, Recordkeeping and ARC Reporting.

All program participants should be familiar with the information contained in this manual. Recipient staff should view the implementation of an ARC project as a continuous learning process and should stay fully informed concerning program requirements by maintaining frequent contact with the Program Managers and Compliance Officers and should also have a full understanding of Community Services Division (CSD) Policies and Procedures.

An electronic version of the Policy and Procedures and forms discussed in this manual can be found on our website – [www.mississippi.org/csd](http://www.mississippi.org/csd).

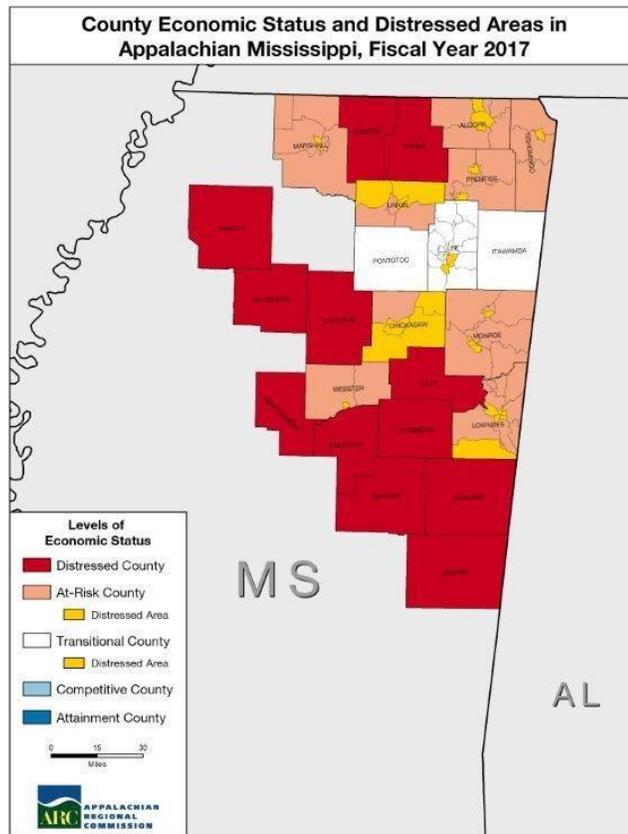
### **A. Mississippi Appalachian Regional Commission Program**

The Appalachian Regional Commission is a regional economic development agency, representing a partnership of federal, state and local governments, designed to address local needs. ARC is comprised of the governors of the thirteen Appalachian states and a federal co-chair, who is appointed by the President of the United States. Each year Congress appropriates funds, which ARC allocates among its member states.

The Mississippi ARC program is led by the Governor’s Office. Administrative responsibilities and day-to-day operations for the Mississippi ARC program have been assigned by Governor Bryant to the Director of the Appalachian Regional Office (ARO) and State Program Manager, Mike Armour. Mr. Armour is supported in the day-to-day operations at the regional level by senior associate manager, Andrea Rose.

The Appalachian Region of Mississippi consists of twenty-four counties, of which eleven (11) are considered *distressed*:

<b>Alcorn</b>	<b>Itawamba</b>	<b>Montgomery</b>	<b>Tippah</b>
<b>Benton</b>	<b>Kemper</b>	<b>Noxubee</b>	Tishomingo
Calhoun	Lee	<b>Oktibbeha</b>	Union
Chickasaw	Lowndes	<b>Panola</b>	Webster
<b>Choctaw</b>	Marshall	Pontotoc	<b>Winston</b>
<b>Clay</b>	Monroe	Prentiss	<b>Yalobusha</b>



### Mississippi’s Targeted Investments

1. Enhance Entrepreneurial Activity: Support initiatives to nurture new/existing businesses, develop businesses and educate current/future entrepreneurs.
2. Enhance Workforce Training: Support for initiatives that develop workforce training and occupational education programs.

3. Provide Basic Infrastructure: Support initiatives that improve water, sewer, roads, rails, ports, highways and broadband infrastructure.
4. Develop and Market Strategic Assets for Local Economics: Support initiatives to increase capacity and maximize economic benefits.
5. Increase Healthy Living Programs and Access to Healthcare and Healthcare Professionals: Support initiatives that focus on healthy living, expand access and promote healthy lifestyles.

### **Mississippi State Policies**

The Mississippi Appalachian Regional Office (MARO) will focus on areas of highest need, areas suffering from economic distress, areas with existing health hazards, areas where projects will have the most impact and areas that are not able to help themselves. The MARO staff will continue to work with the Planning and Development Districts (PDD), local government officials, economic developers, non-profits and the Mississippi Development Authority to address the needs of Mississippi Appalachian citizens.

Funding requests/grant applications will be considered on a case-by-case basis and must contain performance measures, output and outcomes consistent with those set by the Commission in their Performance Plan for the current Fiscal Year. Certain types of projects are inappropriate for federal funding. Except under unusual circumstances, the following activities will not be eligible for ARC funding in Mississippi: projects related to the operation of local government, which includes the construction of city halls, courthouses, jails, etc. as well as salaries and operating costs related to government functions.

Mississippi does not place a firm dollar cap on the amount of funding an applicant can request. The funding levels are limited by the ARC Code based on county classification (distressed or transitional) and the type of project. However, the Governor reserves the right to approve or reject the requested amount of ARC funding for the project and does not have to award funds at the maximum funding level.

ARC program costs will be limited to 50% of project costs, with the following exceptions:

- Projects in ARC designated distressed counties – the maximum program costs will be 80%.
- Projects in ARC designated at-risk counties – the maximum program costs will be 70%.
- Projects serving a distressed area of an at-risk and/or transitional counties may be funded with distressed county funds, but the level of ARC program costs will be subject to the limits of the designation of the county (i.e. 70% or 50%, respectively).
- ARC program costs for multi-county project in which at least half of the counties are distressed may be increased to as much as 80% of project costs; for multi-county projects in

which at least half the counties are at-risk or a combination of at-risk or distressed may be increased to as much as 70% of project costs.

The MARO staff will screen all project applications to determine if they are eligible for funding consideration. The screening process will determine the following:

- Application completeness, accuracy and feasibility of project approach □ Eligibility under ARC Code
- Consistent with the State's Strategies and Commission's Strategic Plan
- Need for ARC assistance
- Project Readiness
- Availability of matching funds
- Timeline of project activities
- Performance measures established
- Sustainability plan

#### Application Timeline

- Mississippi ARC Application Workshop – November
- Pre-Application Deadline – January □ Governor's Selection of Projects – February
- Submission of Applications to ARC Washington – March/April

At any time during the fiscal year, the ARO, with permission of the Governor and the ARC Alternate, reserves the right to fast tract a project to supersede all applications when the project will create private sector or high wage jobs.

The Governor may reserve the right to recommend projects for final approval that are not included in the enclosed list of objectives and strategies but are consistent with the goals and objective outlined in ARC's Strategic Plan and Mississippi's Four-Year Plan.

#### **General ARC Construction Project Funding Process**

- Mississippi ARC office receives information about a prospective project.
- Community completes a Project Summary Format if requested by the MARO.
- If project is eligible and it is Economic Development related, then request three (3) years of financials, cost estimate and a Project Information Packet be submitted to MDA for review.
- Perform an in-house approval from Project Manager through CAO/CFO.
- If project is still eligible, MARO contacts ARC State Alternate for his review.
- At this time, applicant requests MDA serve as the Basic Agency – MDA writes a letter to ARC Washington committing to administer the project and ARC State Alternate writes a letter to ARC Washington as well.

- A Full application with all necessary documentation is sent to ARC Washington.
- Application is logged in at ARC and given to Infrastructure Program Analyst.
- Analyst reviews the application and asks for any additional information from MARO, if needed.
- Analyst submits application to Executive Director for review and then sends to Federal Co-Chairman.
- If approved, Federal Co-Chairman will approve the application. Notice is sent to MDA and the Governor's Office.
- ARC Washington electronically submits ARC grant agreement to the applicant.
- MDA's formal recommendation process will be completed, including legislative notification and Governor's award letter.
- MDA contract/grant agreement is mailed to recipient for signature.

#### **B. State Basic Agency Grants Administration Program – MDA**

The Mississippi Development Authority has been selected by the Appalachian Regional Commission under ARC's State Basic Agency Grants Administration Program. MDA has the experience required to administer federal construction grants and expects to play an active role in administering ARC construction grants.

This cooperative agreement will be carried out in general accord with the Memorandum of Understanding (MOU) between MDA and the Appalachian Regional Commission, executed on August 15, 2014. MDA agrees to provide project management and administration of ARC funds and shall act as the fiscal agent for ARC construction grantees for the purpose of receiving grant payments from ARC.

MDA will administer ARC construction projects in general accordance with the guidelines and regulations governing the State's CDBG program. However, ARC projects do not have to comply with all of the requirements in the Housing and Community Development Act of 1974.

MDA's procedures will be executed in accordance with the following documents:

- ARC Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- Standard Form 424D: Assurances – Construction Programs
- MOU between ARC and MDA
- ARC State Basic Agency Grants Administration Manual

## C. Program Contacts

### Mississippi Appalachian Regional Office (MARO)

Mike Armour ..... (662) 842-3891  
ARC Director ..... marmour@mississippi.org

Andrea Rose ..... (662) 844-1184  
Project Manager ..... arose@mississippi.org

### Mississippi Development Authority

Steve Hardin ..... (601) 359-2366  
Community Services Division Director ..... shardin@mississippi.org

### Community Development Bureau

Kristen Chancellor ..... (601) 359-9490  
Bureau Manager ..... kchancellor@mississippi.org

Brittany McCoy, Program Manager ..... (601) 359-5756  
Economic Development Project Applications ..... bmccoy@mississippi.org  
North Delta PDD and Northeast Mississippi PDD

Katrina Smith, Program Manager ..... (601) 359-9316  
Small Municipalities & Limited Population Counties Applications..... ksmith@mississippi.gov  
Southwest Mississippi PDD and Southern Mississippi PDD

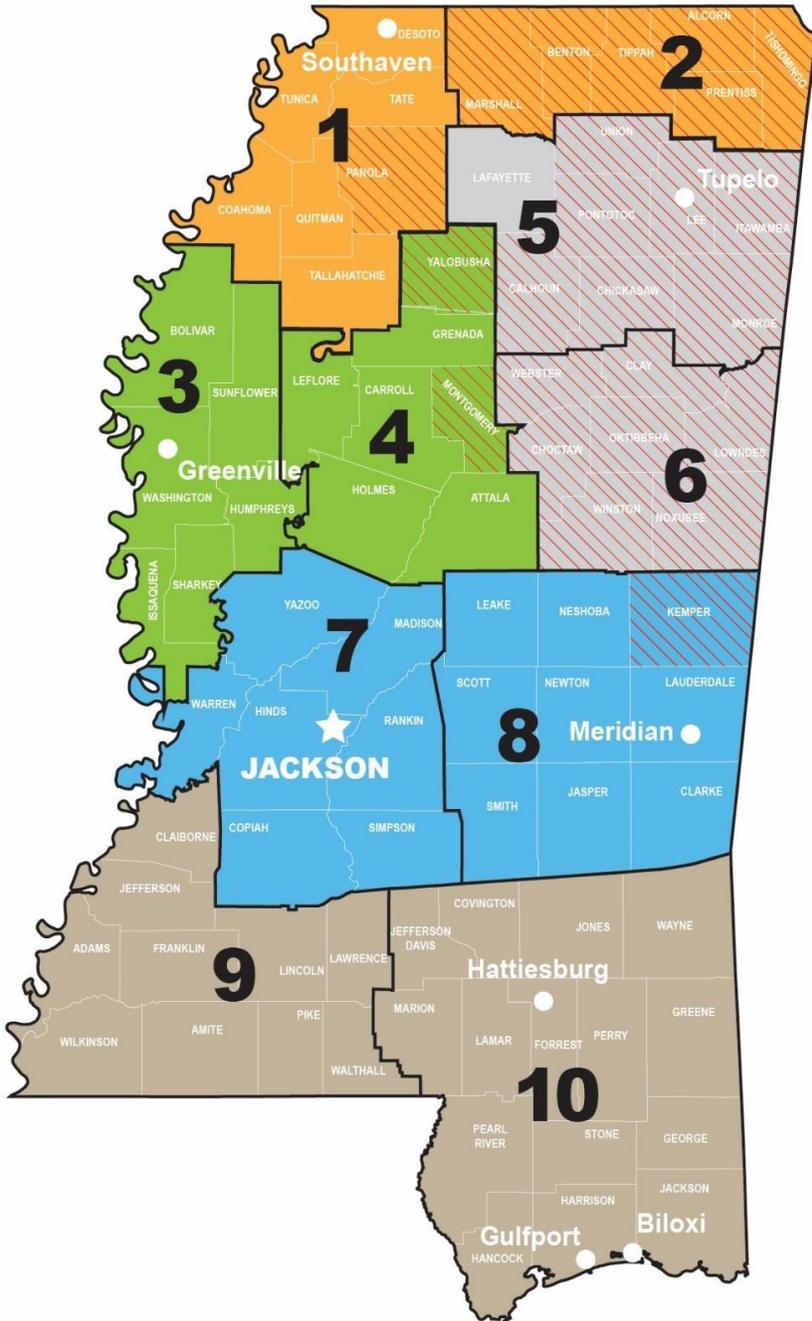
April Smith, Program Manager ..... (601) 359-2859  
CDBG Applications and ARC Applications  
Golden Triangle PDD and Three Rivers PDD

Erin Hovanec, Program Manager ..... (601) 359-2859  
Central Mississippi PDD and East Central Mississippi PDD ..... ehovanec@mississippi.org

Kaleb Gibson, Program Manager ..... (601) 359-2873  
North Central PDD and South Delta PDD

Lisa Maxwell, Loan Program Manager ..... (601) 359-2498  
CAP and RAIL Loan Program ..... lmaxwell@mississippi.org

**D. Area Map**



**Planning and Development Districts**

- 1 North Delta
- 2 Northeast MS
- 3 South Delta
- 4 North Central MS
- 5 Three Rivers
- 6 Golden Triangle
- 7 Central MS
- 8 East Central MS
- 9 Southwest MS
- 10 Southern MS

**AREA REPRESENTATIVE:**

-  Brittany McCoy
-  Kaleb Gibson
-  April Smith
-  Erin Hovanec
-  Katrina Smith
-  Appalachian Regional Commission

## II. RESPONSIBILITIES OF LOCAL UNITS OF GOVERNMENT

It is the responsibility of the recipient to perform the activities of the ARC project in accordance with the Appalachian Regional Development Act of 1965 (ARDA), as amended. The recipient must ensure that project activities are carried out to avoid problems, which violate the intent of the Act. Although the duties may be delegated, **the ultimate responsibility for compliance rests with the local unit of government's officials.**

ARC projects are subject to the provisions of the ARDA, the ARC Code and Project Guidelines, the Special Provisions (Part I and Part II) the Memorandum of Understanding, the Registered State Basic Agency Grant Administration Manual and any other incorporated Supplements.

ARC grants shall be administered in accordance with the Office of Management and Budget guidelines, Uniform Administrative Requirements, Cost Principles, Audit Requirements for Federal Awards found in Chapter 2 of Title 2 of the Code of Federal Regulations and other Federal regulations as applicable.

If the State determines that a recipient of ARC funds has failed to comply with any of the above provisions, the State shall notify the chief executive officer of the local unit of government of the noncompliance and shall request that officer to assure compliance in a timely manner.

Should the chief executive officer of the local unit of government fail or refuse to secure compliance, the State may take the following actions:

- Withhold, reduce or withdraw the grant,
- Suspend payments to the grantee, and/or
- Require the grantee to repay expended funds to the State from local, non-federal funds.

**The Community Services Division requires that all records pertaining to ARC projects are to be maintained by the local unit of government at all times.**

Local units of government must assure that activities undertaken meet the strategic goals outlined in the ARC Code and Project Guidelines, the ARDA and the State's community development objectives.

### A. Grant Agreement

Upon being awarded an ARC grant, the grantee will execute two (2) grant agreements – one with the Appalachian Regional Commission and one with the State of Mississippi (the basic agency/fiscal agent for ARC) – for the specific amount awarded to the applicant and for the particular activity selected by the community.

The contract between the local unit of government and ARC is an important document that identifies the regulations that govern the ARC project, restrictions on the use of funds, budget, reporting, payments, termination, equal opportunity and other provision.

The contract between the local unit of government and the State is an important document throughout the life of the project. It identifies the description of the activities funded, budgeted costs (total and ARC), estimated project schedule and general terms and conditions.

Within the MDA contract document, there are five (5) important segments of which grantees should be aware. These are listed and further clarified below:

1. Signature Sheet: This cover sheet lists the recipient (grantee), effective dates of the contract, subgrant number, amount of funds awarded, and the attachments detailed below. This sheet is signed by the Director of the Community Services Division and requires the signature of the local elected official.
2. Budget: This section reflects the funds allocated to each project activity by line item. Some examples of line items are:
  - Administration
  - Architectural/Engineering
  - Contingency
  - Acquisition
  - Public Building Improvements
  - Street & Road Improvements
  - Sewage Pumping Station
  - Water Lines
3. General Terms and Special Conditions: This section highlights the terms and conditions related to program authority, rules and regulations pertinent to all ARC grants.
4. Financial Management, Reports and Recordkeeping: This section highlights the financial responsibilities and recordkeeping guidelines that are required for all contract expenditures.
5. State of Mississippi ARC Assurances: This section reviews all the State's assurances in relation to ARC activities.

The governing authority should very carefully review the contract in order to become familiar with all the terms and conditions contained therein. The designated official is ensuring compliance with all applicable federal, state and program provisions, regulations and requirements of the ARC program.

**Please be informed that when an official affixes his/her signature to the ARC contract, he/she is agreeing to abide by all state and federal rules and regulations as well as the terms and conditions contained in the contract through the close-out of the project.**

You must have an effective grant award date and environmental clearance in order to do the following:

- Enter into Professional Services and Construction Contracts

- Begin the bidding process for construction or demolition
- Begin construction (“turn dirt”)
- Spend private investment or matching funds unless a pre-agreement has been signed

\*Note: At the state’s request, ARC may revoke or revise its approval of any project if the scope of work is not started or placed under contract within eighteen (18) months of approval. If the grantee has not started construction with eighteen (18) months of project approval, the grantee and MDA must provide ARC with a revised construction schedule.

## **B. Code of Standards of Conduct**

All grantees must adopt and maintain a written code of standards of conduct to govern the performance of its officers, employees and agents engaged in the award or administration of federally awarded contracts, per 2 CFR 200.318 (c) (1).

The general procurement standards in § 200.318 require non-Federal entities to maintain written standards of conduct covering conflicts of interest, including organizational conflicts of interest. Organizational conflict of interest means that, because of relationships with a parent company, affiliate or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. If an entity believes there may be a conflict of interest, they should do everything within their power to alleviate any perception of favorability.

\*Note: The Code of Standards of Conduct Resolution must be passed with every new federally funded project, regardless of the date of the previous resolution.

**RESOLUTION**

**(\_\_\_\_), Mississippi**

**CODE OF STANDARDS OF CONDUCT  
(Local Units of Government, Institutions of Higher Education,  
Hospitals and Other Non-Profits)**

On this, the \_\_\_\_ day of \_\_\_\_\_, the above named recipient of federal funds does hereby resolve to comply with regulations set forth in 2 CFR 200.318(c)(1) and Section 25-4-105 of the Mississippi Code of 1972, as amended. Such Code of Standards of Conduct provides that:

No employee, officer, or agent of the recipient shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer, or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The recipient's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to recipient's agreements. In resolving to comply with the above stated requirements, we hereby agree to the State of Mississippi's enforcement of the provisions of disciplinary actions prescribed in Section 25-4-109 and 25-4-111 of the Mississippi Code of 1972, as amended, should any of these standards be violated by the recipient's officers, employees, or agents, or by contractors or subcontractors or their agents.

Be it further resolved that \_\_\_\_\_, Mississippi, shall comply with the applicable requirements set forth in OMB 2 CFR Part 200 and all relevant CSD Policy and Procedures.

The above Resolution was officially adopted and duly recorded in the minutes of the before mentioned recipient.

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_ Witness

### **C. Ethics in Government**

The Mississippi Ethics Commission administers Title 25, Chapter 4, Mississippi Code of 1972, known as the Ethics in Government Act, Mississippi Ethics Commission and Article 3, Conflict of Interest and Improper Use of Office.

#### **Article 3, Conflict of Interest and Improper Use of Office (§ 24-4-101 – § 24-4-119)**

##### **§ 25-4-101. Legislative declaration**

The legislature declares that elective and public office and employment is a public trust and any effort to realize personal gain through official conduct, other than as provided by law, or as a natural consequence of the employment or position, is a violation of that trust. Therefore, public servants shall endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of this trust and which will not reflect unfavorably upon the state and local governments

##### **§ 25-4-105. Contract restrictions and other prohibited conduct; penalties**

- (1) No public servant shall use his official position to obtain, or attempt to obtain, pecuniary benefit for himself other than that compensation provided for by law, or to obtain, or attempt to obtain, pecuniary benefit for any relative or any business with which he is associated.
- (2) No public servant shall be interested, directly or indirectly, during the term for which he shall have been chosen, or within one (1) year after the expiration of such term, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member.
- (3) No public servant shall:
  - (a) Be a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent, other than in his contract of employment, or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent.
  - (b) Be a purchaser, direct or indirect, at any sale made by him in his official capacity or by the governmental entity of which he is an officer or employee, except in respect of the sale of goods or services when provided as public utilities or offered to the general public on a uniform price schedule.
  - (c) Perform any service for any compensation for any person or business after termination of his office or employment in relation to any case, decision, proceeding or application with respect to which he was directly concerned or in which he personally participated during the period of his service or employment.

(4) Notwithstanding the provisions of subsection (3) of this section, a public servant or his relative:

(a) May be a contractor or vendor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a contractor or vendor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent where such contract is let to the lowest and best bidder after competitive bidding and three (3) or more legitimate bids are received or where the goods, services or property involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws.

(b) May be a subcontractor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a subcontractor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent where the primary contract is let to the lowest and best bidder after competitive bidding or where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws.

(c) May be a contractor, subcontractor or vendor with any authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a contractor, subcontractor or vendor with any authority of the governmental entity of which he is a member, officer, employee or agent:

(i) where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws; or

(ii) where the contractual relationship involves the further research, development, testing, promotion or merchandising of an intellectual property created by the public servant.

(5) No person may intentionally use or disclose information gained in the course of or by reason of his official position or employment as a public servant in any way that could result in pecuniary benefit for himself, any relative, or any other person, if the information has not been communicated to the public or is not public information.

(6) Any contract made in violation of this section may be declared void by the governing body of the contracting or selling authority of the governmental subdivision or a court of competent jurisdiction and the contractor or subcontractor shall retain or receive only the reasonable value, with no increment for profit or commission, of the property or the services furnished prior to the date of receiving notice that the contract has been voided.

(7) Any person violating the provisions of this section shall be punished as provided for in Sections 25-4-109 and 25-4-111.

§ 25-4-107. Complaints; hearings; appeals

(1) The commission may pursue enforcement of this chapter by means of hearings held before the commission or an independent hearing officer to determine whether a respondent violated the law and, if so, what penalty should be imposed. Hearings shall be conducted according to the Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence.

(2) Any person aggrieved by a decision of the commission made pursuant to its hearing procedures may appeal de novo to the Circuit Court for Hinds County, and execution of the commission's decision shall be stayed upon the filing of a notice of appeal.

§ 25-4-109. Fines and other penalties

(1) Upon a finding by clear and convincing evidence that any elected public servant or other person has violated any provision of this article, the commission may censure the elected public servant or impose a civil fine of not more than Ten Thousand Dollars (\$10,000.00), or both. The commission may further recommend to the Circuit Court for Hinds County that the elected public servant be removed from office.

(2) Upon a finding by clear and convincing evidence that any nonelected public servant has violated any provision of this article, the commission may censure the nonelected public servant or impose a civil fine of not more than Ten Thousand Dollars (\$10,000.00), or both. The commission may further recommend to the Circuit Court for Hinds County that the nonelected public servant be removed from office, suspended, or subjected to a demotion or reduction in pay.

### III. PRE-CONSTRUCTION PHASE

**\*Note: If a project contains both ARC and CDBG funds, the CDBG Guidelines will take precedence. If the project contains both ARC and other grant funding (i.e. Small Municipal, DIP, MDOT, SRF, etc.) the ARC Guidelines will take precedence.**

#### A. Grant Administration

After executing the ARC contract, the grantee must determine if his/her staff is able to perform the administrative services required to implement the project or if an outside administrator is to be chosen.

If the grantee chooses to utilize the services of a Planning and Development District, they are exempt from Procurement of Professional Services per the Bollinger Memo.

However, if the grantee chooses to utilize an outside administrator they will need to follow the Procurement Guidelines for Professional Services.

All professional services, including grant administration, must be procured utilizing the Competitive Proposal Process [2 CFR 200.320(d)] Request for Proposals (RFP) guidelines. Additional information can be found in the Procurement Section of this manual.

## **B. Environmental Review**

Every project undertaken with federal funds, and all activities related to that project, are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the Clean Air Act and the Federal Water Pollution Control Act regulations, as amended, at Appendix II to Part 200. The primary purpose of this Act is to protect and enhance the quality of our natural environment.

Every project requires some level of environmental review. The grantee is responsible for evaluating how the project effects the environment and what impacts the project may have on the environment. The Environmental Review is a means by which the grantee can enhance the quality of projects, protect the environment and improve the lives of the people who will benefit.

The environmental review process must be completed before any federal funds can be accessed for program-eligible activities. In addition, no work may start on a proposed project before the environmental review process is completed, even if that work is being done using non-ARC funds.

In other words, environmental clearance must be obtained for each project prior to the firm commitment of federal or non-federal funds for professional services and beginning the bidding process for construction. A violation of this requirement may jeopardize federal funding to this project and disallow all costs that were incurred before the completion of the Environmental Review.

The primary objectives of the environmental review are to identify specific environmental factors that may be encountered at potential project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors. Including environmental provisions include

- Historic Preservation
- Floodplain Management
- Wetlands Protection
- Coastal Zone Management Act
- Sole Source Aquifers
- Endangered Species Act
- Wild and Scenic Rivers Act
- Air Quality (Clean Air Act)
- Farmland Protection Policy Act
- Environmental Justice
- Noise Abatement & Control
- Toxic/Hazardous Materials
- HUD Environmental Standards
- Airport Clear Zones & Accident Potential Zones

### **Levels of Environmental Review**

- 1) Exempt: Activities that have no physical impact and result in no physical change on the environment – e.g. environmental and other studies; administrative and management

activities; inspections of property for hazards/defects; purchase of tools; engineering and design costs; technical assistance; training; and others as listed in §58.35(a).

2) Categorically Excluded: Activities that are excluded from NEPA requirements but may be subject to review under other Federal Laws. There are two classifications:

a) Categorically Excluded, Subject To §58.5 (CEST) activities

- Acquisition, repair, improvement, reconstruction or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent
- Special projects directed to the removal of material and architectural barriers that restrict accessibility to elderly and handicapped persons
- Rehabilitation of buildings and improvements when the facilities/improvements are in place, will not be changed in size or capacity by more than 20 percent and do not involve a change in land use

b) Categorically Excluded, Not Subject To §58.5 (CENST) activities

- Tenant-based rental assistance
- Supportive services
- Operating costs
- Economic development activities (equipment purchase, inventory financing, operating expenses and similar costs not associated with construction or expansion of existing operations)
- Activities to assist homebuyers to purchase existing dwellings units or dwelling units under construction
- Affordable housing pre-development costs (legal, consulting, developer)

3) Environmental Assessment (EA): Required if a project does not fall under the above classifications. The purpose is to determine the significance of environmental affects and to assess alternative means to achieve the project's objectives. The point is to determine if the project is generally feasible with the ability to identify the most suitable project alternatives to meet the needs of the community.

- 4) Environmental Impact Statement (EIS): Is the highest level of review and is required after the completion of the EA for any project that has been determined to have a potentially significant impact on the human environment.

Environmental clearance must be completed within four (4) months of the effective award date. No requests for cash will be processed until the environmental clearance is granted. Waivers to the four (4) month rule may be granted on a case-by-case basis by the Compliance Bureau or Community Service Division Bureau Director.

\*Note: If the funded ARC project is linked to a CDBG project the environmental clearance must contain both grant numbers. If the environmental clearance was granted for one project prior to the approval of the other, the environmental clearance must be amended to include both grant numbers. A letter from the recipient requesting an amendment should be sent to Shirley Thompson/Ray Robinson in the Compliance Bureau.

Additional information on Environmental Review and Environmental Clearance can be found in the Community Services Division Environmental Policy and Procedures Manual found at [www.mississippi.org/csd](http://www.mississippi.org/csd).

### **C. Special Conditions**

If the project requires written clearance of Special Conditions, these must be obtained prior to the release of any ARC construction-related funds.

Special Conditions are as follows:

- Mississippi State Department of Health [3(A)] – If applicable, the grantee must provide written documentation of the approval of all water improvement construction plans and specifications.
- Department of Environmental Quality [3(B)] – If applicable, the grantee must provide written documentation of the approval of all wastewater or solid waste improvement construction plans and specifications by the Office of Pollution Control.
- Mississippi Public Service Commission [3(C)] – If applicable, the grantee must provide written documentation that the Mississippi Public Service Commission has issued a “Certificate of Public Convenience and Necessity” for all improvement projects (water, sewer and gas) in an uncertificated and/or underserved area, and/or the transfer of ownership of a system.

### **D. Procurement**

The grantee must ensure that all procurement and contracting for goods and services related to a federally funded project follow all applicable federal and state procurement requirements

throughout the process as set forth at 2 CFR Part 200 of the Uniform Administrative Requirements. The Compliance Bureau provides technical guidance to assist with procurement policies and procedures.

All procurement transactions, regardless of dollar amount, must be conducted in a manner to provide free and open competition – defined as all suppliers of goods and services have the ability to be made aware of the proposed procurement action with no restriction placed on their ability to compete.

Additional information on Procurement can be found in the Community Services Division Procurement Policy and Procedures Manual found at [www.mississippi.org/csd](http://www.mississippi.org/csd).

### **Applicable to All Procurement**

Mississippi Procurement Technical Assistance Program (MPTAP) – State law requires state agencies and local units of government to send MPTAP written notice of procurement activities in excess of \$50,000.

- The grantee must submit bid notifications electronically to the MPTAP via the Agency Bid Bank website. All Certified Mail, U.S. Mail, email or fax submissions will not be accepted.
- The Agency Bid Bank website is located at [www.agencybidbank.mississippi.org](http://www.agencybidbank.mississippi.org).
- All Bid Notifications should be submitted to the Agency Bid Bank on the same day as the bid notification is submitted to the newspaper. Once submitted, MPTAP will send an acknowledgement of the online submission via email.
- The grantee must maintain the MPTAP acknowledgement in the procurement file for recorded keeping and monitoring purposes.

### **State Bid Time Requirements** – Publication requirements:

- **Expenditures under \$50,000** – may be purchased from the lowest and best bidder without advertising for bids provided that at least two (2) competitive written bids from qualified sources have been obtained.
  - The date for the published bid opening shall not be less than seven (7) working days after the last notice is published.
  - **Example (dates)** – If the last notice was published on March 1, 2020, then the grantee may close the bid process no earlier than March 10, 2020.

- **Expenditures over \$50,000** - may be made from the lowest and best bidder after advertising for competitive bids once each week for two (2) consecutive weeks in a regular newspaper published in the county or municipality in which such governing authority is located.
  - The date for the published bid opening shall not be less than fifteen (15) working days after the last notice is published.
  - **Example (dates)** – If the last notice was published on March 1, 2020, then the grantee may close the bid process no earlier than March 22<sup>nd</sup> (15-working days).

Minority Business Enterprise/Women Business Enterprises (MBE/WBE) – local units of government and programs administrators are required to comply with CSD Policy regarding MBE/WBE participation and utilization. A minimum of two (2) minority/ female owned businesses must be solicited for each activity.

Procurement History Records – must include the rationale for the method of procurement used, selection of contract type, contractor selection/rejection and basis for contract price.

Contract Provisions – Standard contract provisions listed in Appendix II to 2 CFR Part 200 are applicable.

Solicitations – must explain all requirements that the bidder/offeror has to meet for their bid to be evaluated and be based on a clear and accurate description of the material, product or service to be procured and cannot contain features that unduly restrict competition.

Some situations considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable requirements in order for them to qualify
  - Requiring unnecessary experience and excessive bonding
  - Noncompetitive pricing practices
- Noncompetitive awards to consultants that are on retainer contracts
- Specifying only a brand-name product
- Any arbitrary action in the procurement process

Conflict of Interest – grantee will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration contracts. Conflict of Interest provisions at 2 CFR 200.318(c) are to be incorporated. **A sample code of conduct resolution can be found on page 11.**

Multi-Service Contracts – Multi-service contracts are prohibited. The same supplier/offeror cannot provide more than one service to a project. For example, a grant administrator may not serve as both the engineer and the grant administrator for the same project.

### **Professional Services**

Competitive Proposal [2 CFR 200.320 (d)] – is normally conducted with more than one source submitting a bid/offer and either a fixed price or cost-reimbursement type contract is awarded. Utilized in the procurement of ALL professional services contracts – namely, administration and engineering. This method has two parts:

- Requests for Proposals (RFPs): utilized to procure professional services other than Architectural/Engineering when conditions are not appropriate for the use of sealed bids.
- Requests for Qualifications (RFQs): utilized to procure the professional services of architectural or engineering firms. While cost is not a factor in RFQs a selection is made based on the offeror's qualifications, subject to negotiations or fair and reasonable compensation. The qualification statement must be evaluated by the selection criteria identified in the RFQ and cost negotiations should be conducted with the top-ranking firm.

Bollinger Memo – “The Bollinger Memo” (as it is commonly called) ruling, as to the status of Planning and Development Districts in competitive proposals for procurement of services, is still in effect.

Solicitation – Requests for Proposals (RFP/RFQ) must be publicized, identify all evaluation factors and their relative importance and must be solicited from an adequate number of qualified sources.

Instruction Advertisement – Must be published at least once in a newspaper of general circulation and actively solicited by certified, return receipt mail.

Selection Criteria – a written method of conducting technical evaluations must be maintained for all proposals received and for selective awardees. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

Required Documentation – written technical requirements for services required, proof of publication of RFP/RFQ, proof of solicitations, written technical evaluations of proposals to include cost analysis, minutes showing observation of date/time opening requirements and proof of Mississippi Procurement Technical Assistance Program (MPTAP) notification must be documented in the ARC project file and available for review.

Project Specifications- a licensed engineer or architect is required to prepare the specifications and estimates and to supervise the work of public works contracts in excess of \$100,000. Such services are only required for in-house public work in excess of \$150,000 (Section 73-13-45).

\* Note – must follow all other procurement guidelines as specified in the “Application to All Procurement” section.

## REQUEST FOR PROPOSALS FOR ADMINISTRATION SERVICES

The Town/City/County of \_\_\_\_\_ requests proposals from qualified firms or individuals for the preparation of FY 20\_\_ Appalachian Regional Commission (ARC) application(s) and for the administration of approved ARC project(s). You are invited to submit a proposal, in accordance with this request, to the Office of the Town/City/County Clerk, Town/City/County of \_\_\_\_\_; (mailing address for entity) no later than \_\_\_\_ p.m. on \_\_\_\_\_ (date)\_\_\_\_, 20\_\_.

The Administrative Consultant will be responsible for preparing the ARC application(s) and for implementing the Town/City/County's ARC project(s) through close-out, pending award(s) by the Mississippi Development Authority. The Administrative Consultant must carry out all activities in accordance with federal and state laws, regulations and procedures of the ARC Program. The contract will be on a lump sum basis, and the amount of funds is not known as this time.

The Town/City/County of \_\_\_\_\_ is an Equal Opportunity Employer. The Town/City/County encourages Minority-owned Business Enterprises (MBEs) and Woman-owned Business Enterprises (WBEs) to submit proposals.

All proposals must be submitted in a sealed envelope and marked with the following language: "Proposal for ARC Administrative Services." Proposals will be evaluated on the following factors: Qualifications (40 points), Experience (40 points) and Capacity for Performance (20 points). To be evaluated properly, the following must be addressed in detail:

Qualifications – List of qualifications of persons to be assigned to project;

Experience – Information regarding the firm's experience and the projects previously undertaken, including the type and amount of grants awarded, the projects activities, and the status of the projects;

Capacity for Performance – Identify the number and title of staff assigned to provide services.

The Town/City/County will designate a selection committee to evaluate each proposal. The selection committee may hold proposals for a period of not to exceed thirty (30) days for the purpose of reviewing the content of the proposals and investigating the qualifications of the firms and assigned individuals. The Town/City/County reserves the right to reject and and/or all proposals.

The Town/City/County will award a contract with the qualified individual or firm whose proposal has the highest number of cumulative points issued by the selection committee and determined to be the most advantageous to the Town/City/County, price and other factors considered. The contract will include scope and extent of work and other essential requirements. An individual contract will be executed for each application prepared and each awarded project that is administered. The Town/City/County has the authority to terminate the selection at any time.

## REQUEST FOR PROPOSALS FOR ENGINEERING/ARCHITECTURAL SERVICES

The Town/City/County of \_\_\_\_\_ requests proposals from qualified firms or individuals to provide engineering services for work related to the implementation of approved FY 20\_\_ Appalachian Regional Commission (ARC) project(s). You are invited to submit a proposal, in accordance with this request, to the Office of the Town/City/County Clerk, Town/City/County of \_\_\_\_\_; (mailing address for entity) no later than \_\_\_\_ p.m. on \_\_\_\_\_ (date)\_\_\_\_, 20\_\_.

The Engineer will be responsible for performing all engineering services through project closeout in accordance with federal, state and local laws, regulations and policies. The scope of work includes but is not limited to the following: 1) prepare plans and specifications, 2) distribute bid documents, 3) assist in bid opening and prepare bid tabulation, 4) assist in the execution of construction contracts, 5) hold preconstruction conference, and 6) perform construction inspection including periodic reports to the Town/City/County and approve all payment requests.

The Town/City/County of \_\_\_\_\_ is an Equal Opportunity Employer. The Town/City/County encourages Minority-owned Business Enterprises (MBEs) and Woman-owned Business Enterprises (WBEs) to submit proposals.

All proposals must be submitted in a sealed envelope and marked with the following language: “Proposal for ARC Engineering Services.” Proposals will be evaluated on the following factors: Qualifications (40 points), Experience (40 points) and Capacity for Performance (20 points). To be evaluated properly, the following must be addressed in detail:

Qualifications – List of qualifications of persons to be assigned to project;

Experience – Information regarding the firm’s experience and the projects previously undertaken, including the type and amount of grants awarded, the projects activities, and the status of the projects;

Capacity for Performance – Identify the number and title of staff assigned to provide services.

The Town/City/County will designate a selection committee to evaluate each proposal. The selection committee may hold proposals for a period of not to exceed thirty (30) days for the purpose of reviewing the content of the proposals and investigating the qualifications of the firms and assigned individuals. The Town/City/County reserves the right to reject and and/or all proposals.

Subject to ARC award(s) and the removal of all environmental conditions, the Town/City/County will award a contract with the qualified individual or firm whose proposal has the highest number of cumulative points issued by the selection committee and determined to be the most advantageous to the Town/City/County, price and other factors considered. The contract will include scope and extent of work and other essential requirements. An individual contract will be executed for each awarded project, and the contract will be on a fixed price basis. The Town/City/County has the authority to terminate the selection at any time.

## Construction

Competitive Sealed Bid (Invitation for Bids IFB) – is best utilized for the purpose of obtaining contractors for construction projects and must lend itself to a firm, fixed price contract where the selection can be made principally on the basis of price (2 CFR 200.320 (c)).

Advertising – bid requirements must be published in a newspaper of general circulation once each week for two (2) consecutive weeks and bid opening time requirements must be adhered to.

Selection Criteria – contract awards should be based on the responsible bidder whose bid, conforming to all material terms and conditions of the IFB, is the lowest and best bid.

Required Documentation – written detailed specifications and pertinent attachments, proof of advertising, minutes showing IFB opened on date/time and location specified in publication and technical evaluation of tabulations must be documented in the ARC project file and available for review.

## Cost Analysis

- 2 CFR 200.323(a) requires a cost analysis to be performed for every procurement action including contract modifications. The degree of analysis depends on the type of procurement and minimally, grantees must make independent estimates before receiving bids or proposals.
- 2 CFR 200.323(b) requires grantees to negotiate profit as a separate element of the price for each contract in all cases where cost analysis is performed. In order to analyze fair and reasonable profit, local units of government should consider the complexity of the work to be performed, the risk borne by the contractor, the amount of subcontracting, the quality of past performance, and industry profit rates for the surrounding geographical area.

Contracts/Bonds – All bonding requirements listed at 2 CFR 200.325 are to be adhered to:

- Bid Bond (Bid Guarantee): required from each bidder equivalent to five (5) percent of the bid price in the form of a bid bond, certified check or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents.
- Performance Bond: required for the awarded contractor for an amount no less than the contract in order to secure fulfillment of all the contractor's obligations under such contract (Also see Section 31-5-51).

- Payment Bonds: required for the awarded contractor for an amount no less than the contract in order to secure payment as required by law of all persons supplying labor and materials (Also see Section 31-5-51).
- Liability Insurance: Section 31-5-51 also requires general liability insurance prior to any state agency or governing authority contract in excess of \$25,000, for coverage in an amount no less than \$1,000,000.
- Insurability of Bidders for Public Construction: bidders shall be permitted to either submit proof of current insurance coverage in the amount of not less than \$1,000,000 or demonstrate their ability to obtain the required coverage amount of insurance if the contract is awarded to the bidder within five (5) business days from bid acceptance.
- Certificate of Responsibility: contractors of public projects in excess of \$50,000 must have a “Certificate of Responsibility”. All bids for such projects must show the certificate number on the face of the bid envelope (Section 31-3-21).

\*Note – must follow all other procurement guidelines as specified in the “Applicable to All Procurements” section.

ADVERTISEMENT FOR BIDS 20XX (PROJECT TITLE)

ARC –GRANT #MS-XXXXX

TOWN/CITY/COUNTY OF \_\_\_\_\_, MISSISSIPPI

Sealed bids will be received by the Town/City/County of \_\_\_\_\_, Mississippi, located at (street address) (P.O. Box), \_\_\_\_\_, Mississippi \_\_\_\_\_, until 1:00pm local time on (weekday), (month day, year), for supplying all labor and materials (as specified) necessary for construction of the 20XX (project title).

The work generally consists of (Give a description of the work required).

The above general outline of features of the work does not in any way limit the responsibility of the Contractor to perform all work and furnish all plant, labor, equipment and materials required by the specifications and the drawings referred to therein.

Contract time shall be XXX consecutive calendar days from the effective date shown in the Notice to Proceed. Liquidated damages will be assessed in the amount of the actual costs incurred for each consecutive calendar day beyond the specified contract time.

Special Damages: In addition to the amounts provided for liquidated damages, expenses and other losses, Contractor, in the event of such default, shall pay to the Owner the actual costs, expenses and other losses reasonably incurred by Owner.

Bidder must be qualified under Mississippi Law and show current Certificate of Responsibility issued by the Mississippi State Board of Public Contractors establishing his classification as to the value and type of construction on which he is authorized to bid.

Each Bidder shall write his Certificate of Responsibility Number on the outside of the sealed envelope containing his proposal.

Proposals be submitted in duplicate, sealed and deposited with the City/Town/County of \_\_\_\_\_, Mississippi prior to the hour and date hereinbefore designated. No bidder may withdraw his bid within 90 days after the actual date of the opening thereof.

Each Bidder must submit with his proposal a separate attachment stating his qualifications to perform the work. The Statement of Qualifications shall list past projects of similar size and nature, a list of references with name and telephone number, a list of key personnel who will perform the work, and other information supporting the Bidder's qualifications.

Awarding public contracts to non-resident Bidders will be on the same basis as the non-resident Bidder's state awards contracts to Mississippi Contractors bidding under similar circumstances. In order to ensure that Mississippi's so-called Golden Rule is followed state law requires a non-resident bidder to attach to his bid a copy of his resident state's current laws pertaining to such state's treatment of non-resident contractors.

ADVERTISEMENT FOR BIDS (continued)

Each Bidder must deposit with his proposal, a Bid Bond or Certified Check in an amount equal to five percent of his bid, payable to the City/Town/County of \_\_\_\_\_, Mississippi, as bid security.

Bidders shall also submit a current financial statement, if requested, by the City/Town/County of \_\_\_\_\_, Mississippi.

The successful bidder will be required to furnish a Payment Bond and Performance Bond each in the amount of 100 percent of the contract amount.

Contract Drawings, Contract Specifications, Instructions to Bidders and Bidders Proposal Forms are on file and open to public inspection in the office of the City/Town/County Clerk of \_\_\_\_\_, Mississippi. Copies of the Instructions to Bidders, Bid Forms, Contract Drawings and Contract Specifications may be procured at the office of the Engineer between 8:00AM and 5:00PM, Local Time, Monday through Friday, upon payment of \$100.00 for each set, which will not be refunded. Checks are to be made payable to the Engineer.

A pre-bid meeting will be held on (Weekday), (Month Day), 20XX, at XX: 00PM at \_\_\_\_\_ to discuss the Section 3 requirements of the Contract and outline Contractor's action steps during the bidding process which are necessary to comply with the current ARC requirements.

Minority and women's business enterprises are solicited to bid on this contract as prime contractors and are encouraged to make inquiries regarding potential subcontracting opportunities, equipment, material and/or supply needs.

The City/Town/County of \_\_\_\_\_ is an Equal Opportunity Employer. The City/Town/County of \_\_\_\_\_ hereby notifies all Bidders that it will affirmatively insure that in an contract entered into pursuant to this advertisement will be afforded the full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, sex, national origin, age, disability, sexual preference, marital or veteran status, or any other legally protected status in consideration for an award.

The Engineer is (Name, Address and Telephone Number of Engineer).

The City/Town/County of \_\_\_\_\_ reserves the right to reject any and all bids and to waive any informalities or irregularities therein.

BY: \_\_\_\_\_, Mayor/President

City/Town/County of \_\_\_\_\_, Mississippi

Dates of Publication: \_\_\_\_\_

### **Non-Competitive Proposals**

Non-competitive proposals may only be utilized when the award of a contract is infeasible under the other procurement methods and one of the following circumstances applies:

- Sole source: The item is only available from a single provider/supplier.

- Public emergency: When an emergency arises that will not permit a delay resulting from competitive solicitation requirements.
- Inadequate competition: when the solicitation of a number of sources determines that competition is inadequate.

When competition is determined to be inadequate, the grantee must obtain the approval from CSD to utilize Non-Competitive Procurement. If a contractor is performing other consultant services for the grantee, it is not adequate justification for a non-competitive negotiated award.

Required Documentation: all documentation required under competitive proposal procurement plus the determination that responses were inadequate (memo to file) must be kept in the ARC project file and made available. Also, the cost/price analysis must still be conducted

### **Small Purchases for Non-Professional Services & Supplies**

Less than \$5,000 – may be purchased without advertising or otherwise requesting competitive bids. This method lends itself best to simple, informal purchases in which price quotations are obtained from an adequate number of qualified sources.

- Documentation of procurement would include a description of supplies/services needed, a list of vendors/suppliers called and price quotes obtained.
- Selection would be based on lowest and best supplier.

At least \$5,000 but not more than \$50,000 – may be purchased from the lowest and best bidder without advertising for bids provided that at least two (2) competitive written bids have been obtained.

- Documentation of procurement would include descriptions of supplies/services needed, list of vendors/supplies called or notified and written individual quotes from each contacted vendor/supplier.
- Selection would be based on lowest and best supplier.

### **Micro-Purchases**

A micro-purchase is less than \$3,000 and they can be awarded without soliciting competitive bids if the grantee considers the price to be reasonable. To the extent practical, the grantee must distribute micro-purchases equitably among qualified suppliers.

### **Required Contract Provisions**

Professional services contracts must include the following provisions:

- Violation or breach of contract terms
- Termination clause (contracts over \$10,000)
- Equal Employment provision (contracts over \$10,000)
- Access and Retention of Records clause

Construction contracts must include the contract provisions referenced in 24 CFR Part 84 or 85 (Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts under Federal Awards):

- Violation or breach of contract terms
- Termination clause (contracts over \$10,000)
- Equal Employment provision (contracts over \$10,000)
- Copeland “Anti-Kickback” Act
- Compliance with Davis-Bacon Act (contracts over \$2,000)
- Contract Work Hours and Safety Standards
- Access and Retention of Record clause
- NEPA Clean Air and Water Act (contracts over \$100,000)

## ELECTRONIC CODE OF FEDERAL REGULATIONS

**e-CFR data is current as of January 19, 2017**

Title 2 → Subtitle A → Chapter II → Part 200 → Subpart F → Appendix

Title 2: Grants and Agreements  
PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS  
Subpart F—Audit Requirements

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### APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are

unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]

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Need assistance?

## **E. Acquisition**

All federally funded projects that involve acquisition or relocation/displacement must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) of 1970, as amended and implementing regulations at 49 CFR Part 24. The purpose of the URA is to ensure that real property owners are treated fairly and consistently and eliminate coercion or actions that could be interpreted as such.

The URA takes effect with the grantee's formal decision to "acquire" a specific property or properties for an ARC project.

The Act applies to the following types of project acquisitions:

- Permanent and temporary easements **necessary** for the project
- Fee simple title/a parcel of land
- Long-term leases of 50 years or more
- Right of ways

Grantees conducting a project under the URA must carry out their legal responsibilities to affected property owners and displaced persons and should plan accordingly to ensure that adequate time, funding and staffing is available to carry out these responsibilities.

**\*Note: All acquisition/easements must be obtained within nine (9) months of the effective date of the contract. If the required acquisition/easements have not been obtained, the Mississippi Development Authority may at its discretion terminate the contract and recapture the allocated funds.**

### **Real property acquisition steps**

- Ensure that property owner receives the brochure "When a Public Agency Acquires your Property".
- Appraise property before negotiations.
- Invite the property owner to accompany the appraiser during the property inspection.
- Provide the owner with a written offer of just compensation and a summary of what is being acquired.
- Pay for property before possession.
- Reimburse expenses resulting from the transfer of title such as recording fees, prepaid real estate taxes or other expenses.

### **Means of acquiring real property**

- Voluntary Acquisition occurs when a property owner willing sells his property and there is no threat or use of eminent domain.

- Involuntary Acquisition occurs when a grantee acquires property under threat or use of eminent domain.

The URA requirements for voluntary acquisitions and involuntary acquisitions differ significantly. While there are protections for property owners in both circumstances, only involuntary acquisitions trigger the full acquisitions under the URA.

### **Required Documentation**

It is important that grantees document all efforts made to comply with Section 3 regulations. Files should contain the following:

- Number of parcels (including easements) proposed for acquisition
- Number of units acquired, determined by owners and renters
- Type of acquisition (single unit, multifamily, commercial, easement, vacant parcel, etc.)
- Voluntary or Non-Voluntary transaction for each parcel
- Map with the identified location of each parcel of property to be acquired
- Spreadsheet documenting the acquisition for the project
- Separate file for each parcel to be acquired
- Documentation of on-site interviews conducted with property owners
- Documentation of every preliminary acquisition notice and evidence of the owners receipt of the notice
- Documentation of the appraisal information, including evidence that an invitation to accompany the appraisal was received and a review appraisal
- Documentation of a written purchase offer, including evidence that the written offer to purchase was received by the owner, a “Statement of the Basis for Determining of Just Compensation” and proof that the offer to purchase was issued within ninety (90) days after the appraisal
- Documentation of purchase and payment, including a deed, title evidence, purchase agreement, contract of sale, etc., the Statement of Settlement Costs, evidence that the owner received the purchase price or a written notice of determination not to purchase
- Documentation of any donated parcels, including an appraisal/review appraisal, waiver to waive his/her right to an appraisal

## **IV. CONSTRUCTION PHASE**

### **A. General Provisions**

**The grantee cannot solicit bids or obligate funds from any source – private, ARC or otherwise – for use in an ARC-assisted project prior to Environmental clearance.** No new construction, excavation, demolition, rehabilitation, repair, modification or property acquisition can commence, nor commitment made to undertake such activities, until the Environmental Review is complete

and the grantee has received the formal release of funds/environmental clearance from the Mississippi Development Authority.

Construction must start within 18 months of the effective date of the contract. If construction has not begun, the Mississippi Development Authority may at its discretion terminate the contract and recapture the allocated funds.

### **Project Sign**

All ARC projects must place a project sign at the job site throughout the duration of the project. **The sign should only be removed following the successful close-out of the project.**

The sign should be utilized to display the Davis Bacon wage decision and posters and the Equal Employment Opportunity information and posters.

\*Note: The project sign is the property of the grantee not the project contractor or engineering firm.



### **E-Verify Requirements**

All ARC projects are required by the Mississippi Employment Protection Act of 2008 to register and participate in the E-Verify status verification program for all newly hired employees.

All grantees, contractors and benefitting business entering into contracts with MDA represents and warrants that it will ensure compliance with the Mississippi Employment Protection Act, will register and participate in the status verification system (Illegal Immigration Reform and Immigration Responsibility Act of 1996, also known as the E-Verify Program) of all newly hired

employees and that any person assigned to perform services meet the employment eligibility requirements of all immigration laws of the State of Mississippi. The term “employee” means any person that is hired to perform work within the State of Mississippi.

All parties understand and agree that any breach of these warranties may lead to the following:

- a) Termination of the grant agreement between the entity and MDA and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public;
- b) Loss of any license, permit, certification or other document granted by an agency, department or government entity for the right to do business in Mississippi for up to one (1) year; or
- c) Both of the above sanctions.

At monitoring, the Program Manager will request verification of E-Verify status for the following:

- Grantee
- Prime contractor and any sub-contractors
- Benefitting business (if applicable)

Acceptable documentation must contain the following from the E-Verify website or the Department of Homeland Security E-Verify User Report:

- Company Name (grantee, contractor, etc.)
- Address
- E-Verify Company ID Number

Information of the E-Verify Program can be found at <https://www.uscis.gov/e-verify>.

# E-Verify

Welcome

≡ MENU

## Company Information

Company Name

Town of

Company ID Number

Doing Business As (DBA) Name

--

DUNS Number

### Physical Location

Address 1

Address 2

--

City

State

MS

Zip Code

County

### Mailing Address

Address 1

Address 2

--

City

SENSITIVE BUT UNCLASSIFIED

Department of Homeland Security  
E-Verify

Report Prepared: 02/13/2017  
Page: 1 of 1

### User Report

COMPANY ID NUMBER  
CITY:  
COMPANY NAME:

PILOT: WEB-BP  
STATE:

USER ROLE:

Company Name: County Board of Supervisors  
City:

Company ID Number: MS  
State:

Pilot: WEB-BP

User Name  
User Role  
General User

Phone w/ Ext FAX

Last Date Used System  
02/13/2017

Sub-Total Users: 1

Total Users: 1

SENSITIVE BUT UNCLASSIFIED

## **B. Labor Standards Provisions**

By accepting federal funds through the Mississippi Development Authority, grantees agree to abide by and ensure compliance with the Federal Labor Standards laws and regulatory requirements.

The Labor Standards Provisions set out the responsibilities of the prime contractor and/or subcontractor(s) concerning the Davis-Bacon Act, Copeland Anti-Kickback Act, Contract Work Hours and Safety Standards Act and obligate the prime contractor and/or sub-contractor to comply with all labor requirements. In addition, they provide for remedies and sanctions in the event of violations. The Labor Standard regulations are contained in Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (29 CFR Subpart A §5.5).

Additional information on Labor Standards can be found in the Community Services Division Labor Standards Policy and Procedures Manual found at [www.mississippi.org/csd](http://www.mississippi.org/csd).

### **Labor Standards Clauses**

The Davis-Bacon Act – sets a minimum wage, based on the Department of Labor’s Prevailing Wage Rate, which must be paid to laborers and mechanics. The Act applies to all contracts over \$2,000 for construction, alteration or repair.

The Copland Anti-Kickback Act – makes it a criminal offense for anyone to induce any person employed in a covered project to give up any part of the compensation to which he/she is entitled under his/her contract for employment.

The Contract Work Hours and Safety Standards Act – provides that all overtime hours (defined as hours worked in excess of 40 during any workweek) must be compensated at a rate not less than one and one half times the regular basic rate of pay.

## Federal Labor Standards Provisions

## U.S. Department of Housing and Urban Development Office of Labor Relations

### Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

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

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

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

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

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

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

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

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

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

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

#### 4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

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

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

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

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

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

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

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

---

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

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

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

## **Davis-Bacon Wage Decision**

The Davis-Bacon wage decision that applies to a project contains a schedule of work/job classifications and the minimum wage rates that must be paid to persons performing particular jobs. The wage decision is unique to the location of the project and project type (Building, Residential, Heavy and Highway).

The grantee must request a Wage Determination from the Compliance Bureau using the Request for Wage Determination and Response to Request Form prior to bid opening.

**The grantee must verify with CSD ten (10) days prior to opening the bids that the wage decision used in the bid documents is still applicable and enforce the decision in place at bid opening.**

All wage decisions should be reviewed to ensure all required job classifications are covered for the proposed project and must be included in all bid documents and contracts. After the contract is awarded, if the wage decision does not include a specific job classification of a worker, then the grantee must request an additional classification using the Report of Additional Classification and Rate Form 4230A.

**MISSISSIPPI DEVELOPMENT AUTHORITY**  
 Community Services Division - Compliance Bureau  
 P.O. Box 849 ≈ Jackson, Mississippi ≈ 39205  
 Phone: 601.359.3449 ≈ Fax: 601.359.3108

(Davis-Bacon Act as amended and related statutes)

**REQUEST FOR WAGE DETERMINATION AND RESPONSE TO REQUEST**

**Response to Request**  
*\*For CSD Compliance Use Only*

**1. REQUESTING OFFICER:**  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Signature: \_\_\_\_\_

**2. PROJECT INFORMATION:**  
 Project Grant Number #: \_\_\_\_\_  
 Project Name: \_\_\_\_\_

**3. GRANTEE:** \_\_\_\_\_

**4. CONTACT PHONE NUMBER:** \_\_\_\_\_

**15. NOTE:**

**DAVIS-BACON ACT**

The Housing and Community Development Act of 1974, as amended, Section 110, states any construction work financed **in whole or in part** with CDBG funds, where the contract for construction is greater than \$2,000, and for residential properties containing more than 8 units, the provisions of the Davis-Bacon Act, shall apply. Public improvements not initially assisted with CDBG funds may be subject to prevailing wage requirements retroactive to the inception of the project when CDBG funds are applied.

**5. DATE OF REQUEST:** \_\_\_\_\_

**6. ESTIMATE BID ADVERTISEMENT DATE:** \_\_\_\_\_

**7. ESTIMATE BID OPENING DATE:** \_\_\_\_\_

**8. ESTIMATE VALUE OF BID CONTRACT:**  
(not grant amount from CSD)  
 \$ \_\_\_\_\_

**9. SUBJECT TO COMPETITIVE BIDDING:**  
 YES  
 NO

**10. HOUSING UNITS IN THIS PROJECT:**  
 SF  MF  
 Units \_\_\_\_\_ Stories \_\_\_\_\_

**11. LOCATION OF PROJECT:** *(Street address or neighborhood and city/town)* \_\_\_\_\_

**12. COUNTY:** \_\_\_\_\_

**13. MAIL WAGE DETERMINATION TO:** *(Please print or type):*

Name:	_____
Address:	_____
City:	_____
Name:	_____
Address:	_____
City:	_____
State:	_____
Zip:	_____
State:	_____
Zip:	_____

**FOR CLARIFICATION PURPOSES: This form is also applicable for ARC Grants.**

**14. DESCRIPTION OF PROJECT:** *(Include ALL contemplated actions that logically are either geographically or functionally a composite part of the project, regardless of the source of funding. If the project includes other funding sources, do NOT describe only the portion funded by CDBG.) - (Please print or type)* \_\_\_\_\_

Date \_\_\_\_\_

Send to: **Mississippi Development Authority, Community Services Division-Compliance Bureau, Post Office Box 849, Jackson, Mississippi 39205-0849**

Revised 02/14/17

## REQUEST FOR WAGE DETERMINATION AND MDA-CSD RESPONSE TO REQUEST

### Instructions

(When completing this form, please type or print clearly.)

- Box 1:** **Requesting Officer.** The person requesting the wage determination should list his/her name, title, and email address and provide signature.
- Box 2:** **Project Information.** List the project grant number for the project, (e.g., 1221-09-08-PF-01) and the project name, (e.g., Washington County, MS Courthouse ADA Improvements).
- Box 3:** **Grantee.** List the name of the Grantee, (e.g., Washington County Board of Supervisors).
- Box 4:** **Contact Phone Number.** List the phone number Compliance Bureau Staff should call if there are questions about the request.
- Box 5:** **Date of Request.** List the date the request was submitted to CSD Compliance Bureau.
- Box 6:** **Estimate Bid Advertisement Date.** List your best estimate for the date you will advertise for bids.
- Box 7:** **Estimate Bid Opening Date.** List your best estimate for the date you will open the bids.
- Box 8:** **Estimate Value of Bid Contract.** List your best estimate for the value of the bid contract – NOT the total amount of the grant from CSD.
- Box 9:** **Subject to Competitive Bidding.** Is the contract subject to competitive bidding? Check YES or NO.
- Box 10:** **Total Number of Housing Units.** Are there any housing units in this project? If YES, check: Single-Family (SF), Multi-Family (MF), or both. List the number of housing units in the project. List the number of stories for multi-family buildings.
- Box 11:** **Location of Project.** List the street address or name of the neighborhood and city or town where the project is located.
- Box 12:** **County.** List the county where the project is located.
- Box 13:** **Mail Wage Determination To.** List the address and name of the person who should receive the wage determination packet.
- Box 14:** **Description of Project.** Provide a complete description of the overall project (**NOT only the CDBG-funded portion**). This information will be used to determine the appropriate wage decision.
- Box 15:** **NOTE.** Please read the note regarding Davis-Bacon Act applicability.

Email the completed form to Frednia Perkins at [fperkins@mississippi.org](mailto:fperkins@mississippi.org) or Mail to:

Community Services Division  
Compliance Bureau  
Attention: Ms. Frednia Perkins

Post Office Box 849, Jackson, Mississippi 39205-0849

CSD Compliance Bureau will complete the **Response to Request** boxes on the left and send this form (*along with seven additional items in a wage determination packet*) to the person listed in **Box 13**. The wage determination packet will include:

- Response to Request for Wage Decision, which lists the appropriate wage decision(s).
- Print-out of appropriate wage decision(s) from [wdol.gov](http://wdol.gov).
- Print-out of [Federal Labor Standards Provisions](#) from HUD.
- [Two posters](#) for job site: **“Equal Employment Opportunity is the Law”** and **“Notice to All Employees Working on Federal or Federally Financed Construction Projects”**.
- A letter to the Grantee explaining their responsibilities regarding the wage decision and posters.

Revised 02/14/17

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
REPORT OF ADDITIONAL CLASSIFICATION AND RATE**

**HUD FORM 4230A**

OMB Approval Number 2501-0011  
(Exp. 01/31/2010)

1. FROM (name and address of requesting agency)	2. PROJECT NAME AND NUMBER
	3. LOCATION OF PROJECT (City, County and State)

4. BRIEF DESCRIPTION OF PROJECT	5. CHARACTER OF CONSTRUCTION <input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Other (specify) <input type="checkbox"/> Highway
---------------------------------	---

6. WAGE DECISION NO. (include modification number, if any)  <input type="checkbox"/> COPY ATTACHED	7. WAGE DECISION EFFECTIVE DATE
--	---------------------------------

8. WORK CLASSIFICATION(S)	HOURLY WAGE RATES	
	BASIC WAGE	FRINGE BENEFIT(S) (if any)

9. PRIME CONTRACTOR (name, address)	10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)
-------------------------------------	---

**Check All That Apply:**

The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision.

The proposed classification is utilized in the area by the construction industry.

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

The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s).

Supporting documentation attached, including applicable wage decision.

**Check One:**

**Approved, meets all criteria. DOL confirmation requested.**

**One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.**

<p>_____</p> <p><b>Agency Representative</b> (Typed name and signature)</p> <p>_____</p> <p><i>Date</i></p> <p>_____</p> <p><i>Phone Number</i></p>	<p><b>FOR HUD USE ONLY</b> LR2000:</p> <p><b>Log in:</b></p> <p><b>Log out:</b></p>
---	---

### **Contractor Eligibility**

Prior to issuing a contract, the grantee must verify that the prime contractor(s) is not debarred or excluded from working on federally-assisted projects. The grantee must submit a written request of verification to the CSD Compliance Bureau. In addition to the Contractor Eligibility request, the grantee must submit a copy of certified construction bid tabulation.

Once the Compliance Bureau has verified the submitted documentation, a formal response will be provided to the grantee of the contractor's eligibility. **The grantee must receive the Contractor Eligibility verification letter from the Compliance Bureau before awarding the construction contract.**

### **Start of Construction and Contractor Award Notification**

Once the contractor(s) eligibility has been verified, the grantee must submit the Contractor Award Notification Form to the Area Program Manager prior to the first construction request for cash. MDA recommends the submission of the Award Notification within thirty (30) days after awarding the contract.



mississippi development authority  
**MISSISSIPPI**  
 COMMUNITY SERVICES DIVISION  
 Compliance Bureau  
 Post Office Box 849  
 Jackson, MS 39205-0849

Phone:  
601.359.3179

Fax:  
601.359.3108

Hearing Impaired:  
601.359.3119 (TTY)

**THIS FORM MUST BE  
 COMPLETED  
 AND RETURNED TO THE:**

**COMMUNITY  
 SERVICES DIVISION  
 COMPLIANCE BUREAU  
 WITHIN 30 DAYS  
 AFTER CONTRACT  
 AWARD.**

*(Revised January 2017)*



### Start of Construction and Contractor Award Notification

Project Name:	
Project Contract Number:	
City:	
County:	
Bid Advertising Start Date:	
Bid Opening Date:	
Name of Prime Contractor:	Contractor Award Date:
Federal Wage Decision Number:	
Date:	
Modification Number:	
Date:	
Start of Construction Date:	
Contract Amount:	
Type of Construction:	<input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Highway
Type of Project: <i>(e.g., ADA; Water; Sewer, etc.)</i>	
<b>PRECONSTRUCTION CONFERENCE:</b>	
Date: _____	Time: _____
Venue: _____	
Street Address: _____	
City: _____	State: _____ Zip: _____
Preparer (Please Type or Print Name):	Date:
Chief Elected Official's Signature:	Date:
Other Authorized Signatory:	Date:

## **Pre-Construction Conference**

A Pre-Construction Conference must be held with the Prime Contractor and/or Sub-Contractors prior to the start of work to review contractual requirements and reporting procedures. Grantee must include a sign-in sheet and record of the minutes which must be kept in the project file.

## **MDA Notice to Proceed with Construction**

Once the recipient has bid the project and prior to reimbursement for construction expenses, the recipient must submit the following to MDA for review:

- Certified bid tabulations
- Advertisement to bid
- Revised budget (if applicable) If approved by MDA, the recipient will receive a “Notice to Proceed with Construction” letter. Once received construction and requests for payment may begin. A Notice to Proceed with Construction must be given for each prime contractor prior to reimbursement.

## **Notice to Proceed**

Following the execution of the contract and completion of the Pre-Construction Conference, it is typical practice for the grantee to issue a Notice to Proceed to the prime contractor to begin work on the project. The Notice establishes the construction start date, the scheduled completion date and provides the basis for assessing liquidated damages, which must be consistent with the contract documents.

## **Payroll**

Certified Payroll Reports must utilize the DOL Payroll Form – WH 347 and the Statement of Compliance Form WH 348. The Statement of Compliance Form WH 348 must be completed and signed by an authorized representative of the company and submitted in conjunction with the WH 347 form. Both forms can be found at [www.mississippi.org/csd](http://www.mississippi.org/csd).

## **Prime Contractor responsibilities:**

- Once construction has started, the prime contractor should complete a weekly Certified Payroll report for all employees on the project and the owner/authorized signatory must sign the Statement of Compliance.
- The prime contractor is also responsible for obtaining the weekly payrolls and signed Statement of Compliance from all sub-contractors. All payroll reports should be submitted to the grantee within a reasonable timeframe.

- **The prime contractor is responsible for full compliance of all subcontractors and will be held accountable for any wage restitution that may be necessary.**

Grantee responsibilities:

- The grantee must ensure that only the owner or his/her authorized signatory are signing the Certified Payrolls and should have on file an authorized signatory letter signed by the owner granting permission for another employee to sign the forms.
- The grantee is responsible for monitoring compliance with labor standard requirements and they should be reviewing the certified payrolls as they are submitted.

When reviewing payroll pay careful attention to the following:

- Contractor Tax Identification Number is on the first payroll
- All Statement of Compliance forms have been signed by the Owner or his/her verified designee
- The correct classification of workers
- Correct rate of pay for each employee's job classification
- Overtime is being paid at not less than one and one-half times the basic rate of pay
- Only permissible deductions that have been authorized by the employee are deducted from the employee's check

Any discrepancies and/or falsification indicators must be reported to CSD, along with the steps taken by the grantee to resolve the issues.



Date \_\_\_\_\_

I, \_\_\_\_\_ (Name of Signatory Party) \_\_\_\_\_ (Title) do hereby state:

(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_ (Contractor or Subcontractor) on the \_\_\_\_\_ (Building or Work); that during the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said \_\_\_\_\_ (Contractor or Subcontractor) from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 367; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

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

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

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

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

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE

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

## **Wage Restitution**

When underpayments of wages have occurred, the contractor will be required to pay wage restitution to the affected employee(s). Wage restitution is the difference between the wage rate paid to the affected employee and the wage rate required on the wage decision for all hours worked where the underpayment occurred (adjustment rate) and must be paid promptly in the full amount due, less the permissible authorized deductions.

The grantee must notify the prime contractor, in writing, of any underpayments that are found during the review of payrolls. The notification should describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The prime contractor has thirty (30) days to correct the underpayments and the contractor is required to report the restitution paid on a corrected Certified Payroll. The correction must reflect the following:

- Period of time for which restitution is due (e.g. payrolls #1 through #6; or a beginning date and ending date)
- Each employee to whom restitution was due and their work classification
- Total numbers of work hours
- Adjustment wage rate
- Gross amount of restitution due
- Deductions
- Net amount to be paid

To acknowledge that restitution of underpayment has been resolved, the Affidavit of Wage Restitution must be completed and signed by each employee who has received restitution payment, along with corrected Certified Payroll as evidence of his/her receipt of payment.

The grantee must review the corrected Certified Payroll(s) to ensure full restitution was paid and the prime contractor must be notified in writing of any further discrepancies.

If wage restitution cannot be paid to an affected employee because, for example, the employee has moved and/or cannot be located. In these cases, at the end of the project, the prime contractor will be required to place in a deposit/escrow account, an amount equal to the total amount of restitution that could not be paid. The grantee should continue to attempt to locate the unfound employee(s) for three (3) years after the completion of the project. After three (3) years, any amount remaining in the account should be forwarded to CSD.

(THIS DOCUMENT SHOULD APPEAR ON CONTRACTOR'S COMPANY LETTERHEAD)

### AFFIDAVIT OF WAGE RESTITUTION

This is to acknowledge receipt of payment for restitution in the amount of \_\_\_\_\_ (gross amount less permissible deductions) for \_\_\_\_\_ hours at \_\_\_\_\_ per hour. This is for additional wages due on \_\_\_\_\_ (name and location of project). This was paid by check number \_\_\_\_\_.

GROSS AMOUNT: \$ \_\_\_\_\_

Less Deductions:

Federal Income Tax \$ \_\_\_\_\_

F.I.C.A \$ \_\_\_\_\_

Other (identify) \$ \_\_\_\_\_

SUBTOTAL: \$ \_\_\_\_\_

NET AMOUNT: \$ \_\_\_\_\_

\_\_\_\_\_  
(Signature of Employee)

\_\_\_\_\_  
(Date)

(ATTACH A COPY OF THE CHECK OR OTHER PROOF OF PAYMENT MADE TO THE EMPLOYEE  
ALONG WITH CORRECTED PAYROLLS)

### On-Site Employee Interviews

The Labor Standards requirements include periodically conducting job site interviews with workers. The purpose of the interview is to capture observations of the work being performed and obtain direct information from employees on the job as to the hours they work, the type of work they perform and the wage they receive to ensure the accuracy of the Certified Payrolls.

Interviews should be conducted throughout the course of construction and include a sufficient sample of represented job classifications. Interviews must take place at the job site and conducted privately in a one-on-one setting. The employee should be advised that the information given during the interview is confidential.

The Record of Employee Interview Form HUD-11 must be used to document the information gathered during the interviews. These forms must be compared to the corresponding contractor/sub-contractor payroll information. If no discrepancies are found, "None" should be written in the comment space of the form and signed by the appropriate person. If discrepancies are found, appropriate action should be initiated and then notated on the form once completed.

**\*Note: Employee interviews should be performed with employees of the prime contractor and all sub-contractors working on the project. It is the responsibility of the prime contractor to interview sub-contractor employees and provide the grantee with the completed HUD-11 forms.**

# Record of Employee Interview

## U.S. Department of Housing and Urban Development Office of Labor Relations

OMB Approval No. 2501-0009  
(exp. 10/31/2010)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information**. The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. **The information collected herein is voluntary, and any information provided shall be kept confidential.**

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	
				Vacation Yes <input type="checkbox"/> No <input type="checkbox"/>	4c. Pay stub? Yes <input type="checkbox"/> No <input type="checkbox"/>
				Medical Yes <input type="checkbox"/> No <input type="checkbox"/>	
				Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	

5. Your job classification(s) (list all) --- continue on a separate sheet if necessary

6. Your duties

7. Tools or equipment used

	Y	N		Y	N
8. Are you an apprentice or trainee?	<input type="checkbox"/>	<input type="checkbox"/>	10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week?	<input type="checkbox"/>	<input type="checkbox"/>
9. Are you paid for all hours worked?	<input type="checkbox"/>	<input type="checkbox"/>	11. Have you ever been threatened or coerced into giving up any part of your pay?	<input type="checkbox"/>	<input type="checkbox"/>

12a. Employee Signature	12b. Date
-------------------------	-----------

13. Duties observed by the Interviewer (Please be specific.)

14. Remarks

15a. Interviewer name (please print)	15b. Signature of Interviewer	15c. Date of interview
--------------------------------------	-------------------------------	------------------------

### Payroll Examination

16. Remarks

17a. Signature of Payroll Examiner	17b. Date
------------------------------------	-----------

Previous editions are obsolete

Form HUD-11 (08/2004)

## **Labor Standards Compliance Requirements**

- Proper application of Davis-Bacon requirements
- Pre-bid conference, pre-construction conference and other initial meetings
- Monitor contractor performance throughout the life of the project
- Investigate probable violations and complaints of underpayment
- Ensure current wage decision and labor standards provisions are contained in the bid documents
- Conduct a 10-day wage check
- Verify contractor eligibility
- Submit Contractor Award Notification and Notice to Proceed with Construction documents to MDA
- Ensure wage decision and DOL posters are posted at job site
- Conduct on-site interviews with employees
- Review Certified Payrolls and compare to the wage decision and interviews
- Notify contractors of payroll discrepancies
- Notify CSD of wage restitution issues
- Submission of Labor Standards Enforcement Reports
- Ensure that MDA Project Sign is posted at the entrance of the construction site until the project is closed

## **Documentation Requirements**

- Bid and contract documents with the Labor Standards Clause and Wage Decision.
- Certified Payroll Forms from the contractor and sub-contractors, including signed and dated Statements of Compliance.
- Documentation of on-site job interviews and review of corresponding Certified Payroll to detect any discrepancies.
- Documentation of investigations and resolutions to issues that may have arisen (e.g. payments to work for underpayments of wages or overtime).

## **C. Equal Employment Opportunity (EEO) and Minority Business Enterprises and Women Business Enterprises (MBE/WBE)**

### **Equal Employment Opportunity, Executive Order 11246**

Prohibits discrimination against any employee or applicant on the basis of race, color, religion, sex or national origin.

## **Minority/Women's Business Enterprises (Under Executive Order 11625, 12432 and 12138)**

Federal requirements [24 CFR Part 85.36(e)] state that grantees are to take all affirmative steps to ensure that small, minority and women-owned businesses are included in contracting. The Mississippi Minority Business Enterprise Act of 1988 calls for the establishment of goals and programs “to provide the maximum opportunity for increased participation by minority owned businesses in the procurement of goods and services.”

**Grantees should have procedures in place to encourage and use minority businesses as sources of supplies, equipment, construction and services.**

The Mississippi Minority Business Directory is a great resource and can be accessed at [www.minority.mississippi.org](http://www.minority.mississippi.org). The Mississippi Authority's Minority and Small Business Development Division can provide additional assistance.

### **MBE/WBE Resolution**

Grantees must adopt a Minority Business Enterprises and Women Business Enterprises Plan (also known as a Minority/Women Business Plan) and establish goals for the project.

\*It is recommended that the local goals be no less than those of the state, i.e. 10% MBE and 5% WBE.

### **Procurement Requirements for Minority/Women Owned Businesses**

- Contact at least two (2) MBE/WBE businesses by certified mail and allow them the opportunity to submit a proposal or bid to provide any required project services.
- Maintain records to document the extent of MBE/WBE contracting and subcontracting.
- Develop a local MBE/WBE directory.
- Incorporate the goals stated in their resolution in all bid packets.
- Utilize the Mississippi Procurement Technical Assistance Program (MPTAP) and the Minority and Small Business Development Division.
- Require prime contractors to take the same affirmative steps when choosing subcontractors and vendors.

### **Contract Provisions**

All contract bid packages should contain provisions to promote the utilization of minority and female owned contractors and sub-contractors and incorporate the goals set forth in the resolution and plan.

## **Solicitation**

A minimum of two (2) minority and/or female owned vendors should be solicited for each contracted activity, including but not limited to construction, engineering and administration.

## **Required Documentation**

- Documentation of the extent of MBE/WBE contracting and subcontracting efforts
- Copies of MBE/WBE language in all advertisement related to the project
- Documentation of submission to MPTAP
- Copies of all solicitations sent to MBE/WBE businesses, including the certified mail signature cards

\*Note: The Minority/Women Business Plan Resolution must be passed with every new federally funded project, regardless of the date of the previous resolution.

(TOWN/CITY/COUNTY) RESOLUTION  
ESTABLISHING GOALS FOR MINORITY AND WOMEN-OWNED  
BUSINESS PARTICIPATION

WHEREAS, the Town/City/County of \_\_\_\_\_, Mississippi has received an Appalachian Regional Commission (ARC) from the Mississippi Development Authority, Community Services Division; and

WHEREAS, a requirement of the ARC program is that the Town/City/County establish goals for the participation of Minority-Owned and Operated Business Enterprises (MBEs) and WomanOwned and Operated Business Enterprises (WBEs) in the implementation of its ARC project; and

NOW THEREFORE BE IT RESOLVED that the Town/City/County of \_\_\_\_\_ (Board of Aldermen) adopts the goal of \_\_\_% participation by MBEs and \_\_\_% participation by WBEs in the implementation of its ARC project.

ADOPTED this the \_\_\_\_ day of \_\_\_\_\_, 2016.

ATTEST:

TOWN/CITY/COUNTY OF \_\_\_\_\_, MS

\_\_\_\_\_  
TOWN CLERK

\_\_\_\_\_  
MAYOR/PRESIDENT

## V. FINANCIAL MANAGEMENT

### General Provisions

In accordance with 2 CFR 200.302, grantees of ARC funds must have financial management systems in place that comply with the following standards:

- Provide effective control over and accountability for all funds, property and other assets
- Identify the source and application of funds for federally-sponsored activities, including records and reports that verify the “reasonableness, allowability and allocatibility” of costs and verify that funds have not been used in violation of any of the restrictions or prohibitions that apply to the federal assistance
- Permit the accurate, complete and timely disclosure of financial results in accordance with grantee reporting requirements
- Minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the grantee

\*Note: All grantees must be registered with Magic in order to receive their funds.

### Internal Controls

Internal Controls are the combination of policies, procedures, job responsibilities, personnel and records that together create accountability in an organization’s financial system and safeguard its cash, property and other asserts.

Basic elements of an internal control system include:

- Organizational chart setting forth the actual lines of responsibility of personnel involved in financial transactions
- Written definition and delineation of duties among key personnel
- Accounting policy and procedures manual that includes
  - Specific approval authority for financial transactions
  - Guidelines for controlling expenditures
  - Set of written procedures for recording transactions
  - Chart of accounts

- Adequate separation of duties so that no one individual has authority over a financial transaction from beginning to end. In other words, one person should not have responsibility for more than one of the following:
  - Authorization to execute a transaction
  - Recording of the transaction
  - Custody of the assets involved in the transaction
- Hiring policies ensuring that staff qualifications commensurate with job responsibilities
- Control over assets, blank forms and confidential documents are limited to authorized personnel
- Periodic comparisons of financial records to actual assets and liabilities (i.e. reconciliation)

### **Budget Controls**

Budget Controls are procedures to compare and control expenditures against approved budgets.

Grantee must:

- Maintain in its account record the amounts budgeted for eligible activities
- Periodically compare actual obligations and expenditures to date against planned obligations and expenditures, and against projected accomplishments
- Report deviations from budget and program plans
- Request approval for budget and program plan revisions

### **Accounting Records**

Accounting Records must sufficiently identify the source and application of ARC funds provided to them.

To meet this requirement, a grantee's accounting system should include at least the following elements:

- Chart of Accounts: list of account names and numbers assigned to each account. The names provide a description of the type of transactions that will be recorded to that account and the account number is required by most accounting software programs in order to group similar types of accounts. A typical chart of accounts will generally include the following categories: assets, liabilities, net assets/fund balance, revenues and expenses.
- Cash Receipt Journal: documents, in chronological order, when funds were received, in what amounts and from what sources.

- Cash Disbursement Journal: documents, in chronological order, when an expense occurred, for what purpose, how much was paid and to whom it was paid.
- Payroll Journal: documents payroll and payroll related expenses on salaries and benefits, including distinguishing between categories for regulatory purposes.
- General Ledger: summarizes, in chronological order, the activity and financial status of all the accounts of an organization. Information is transferred here after it has been entered into the appropriate journal.
- In-Kind Services Journal: documents, in chronological order, all in-kind services utilized on the project for what purpose and the dollar amount of services, if applicable.

All journal entries must be properly approved and supported by source documentation that shows the costs charged against ARC were incurred during the effective period of the agreement, actually paid out, expended on eligible items and approved by the appropriate official(s).

Source documentation must explain the basis of the costs incurred and the actual dates of the expenditure. Payroll documentation would include employment letters, authorizations for rates of pay/benefits and time and attendance records. Supply documents would include purchase orders or purchase requisition forms, invoices from vendors, canceled checks made to vendors, information on where the supplies were stores and the purpose.

Grantees must ensure that their accounting records include reliable, up-to-date information on the sources and uses of ARC funds, including:

- Amount of federal funds received
- Current authorization of funds
- Obligations of funds
- Unobligated balances
- Assets and liabilities
- Program income
- Actual expenditures broken down by the grant program and year and the activity on which the funds were used

Grantees must ensure that if ARC funds are deposited into an interest-bearing account, provisions have been made for the return of interest income in excess of \$100.00 per year to MDA.

Any interest earned below \$100.00 must be expended prior to requesting funds from MDA.

### **In-Kind Services**

In-kind services are recognized as an applicable source of local match funds. The services must be verifiable, not included in another federally-assisted project, necessary and reasonable for the accomplishment of the project and are provided for in the approved budget. All in-kind services must be documented on the In-Kind Contributions Schedule Form.

## Appalachian Regional Commission In-Kind Contributions Schedule

A.) Labor Cost				
	Title	Hours Worked	Wage Rate	Total Cost
1.	_____	_____	_____	\$ -
2.	_____	_____	_____	\$ -
3.	_____	_____	_____	\$ -
4.	_____	_____	_____	\$ -
5.	_____	_____	_____	\$ -
6.	_____	_____	_____	\$ -
7.	_____	_____	_____	\$ -
			Total Labor Cost	\$ -

B) Equipment				
	Type	Hours Used	Deprec/Rental Rate	Total Cost
1.	_____	_____	_____	\$ -
2.	_____	_____	_____	\$ -
3.	_____	_____	_____	\$ -
4.	_____	_____	_____	\$ -
5.	_____	_____	_____	\$ -
			Total Equipment Cost	\$ -

	\$ -
Grand Total In-Kind Contributions	\$ -

### Matching Funds

Matching funds (leveraged funds) must be expended at a rate that does not cause the cumulative total of requested ARC funds to exceed the approved cost share percentage. Any matching funds must be documented on the Requests for Cash throughout the process to ensure that ARC funds are reimbursed within the allowed cost share percentage. ARC Washington has recently changed the way the way they track the drawing down of ARC funds to ensure that the project allocates the total project costs proportionately in regards to ARC and matching funds. This also ensures that if a project comes in under budget that ARC funds are still spent according to the approved cost share rather than spending all of the ARC funds and spending less in matching funds.

ARC requests for cash may be delayed if the ARC request exceeds the ARC cost share stated in the Grant Approval Memo provided from ARC Washington.

\*Note: Matching funds may be spent at the beginning of the project prior to requesting ARC reimbursement; however, you must document all matching funds spent prior to the ARC request and ensure that the cumulative amount of spent match and the current reimbursement amounts still fall at or below the approved cost share percentage.

Example #1

The total budgeted cost of a project is \$400,000; \$100,000 in ARC funds and \$300,000 in matching funds. The cumulative ARC portion of the project cannot exceed 25% of the total project costs.

The first request for cash is for \$100,000 and there have been no matching funds spent prior – the ARC maximum reimbursement would be \$25,000.

The second request for cash is also \$100,000 but the grantee also spent \$25,000 in match – so the ARC maximum would be based on \$125,000 = \$31,250.

The third request for cash is for \$50,000 and there have not been any additional matching funds spent since the 2<sup>nd</sup> request – so ARC maximum would be \$12,500.

The final request for cash is for \$75,000 but the grantee also spent \$50,000 in match – so the ARC maximum would be based on \$125,000 - \$31,250.

Total ARC paid: 1) \$25,000, 2) \$31,250, 3) \$12,500, 4) \$31,250 = \$100,000

Total Match paid: 1) \$75,000, 2) \$93,750, 3) \$37,500, 4) \$93,750 = \$300,000

Example #2 (Front Load Matching Funds)

The project is the same as above - \$400,000 with \$100,000 being ARC funds and a 25% cost share. However, in this example the grantee paid a large percentage of their matching funds on the front end of the project, prior to requesting reimbursement from ARC.

The only request for cash is for \$100,000 (on the final invoices/project costs) and the grantee has already paid \$250,000 in match – so the ARC maximum would be \$87,500 (25% of \$350,000).

Also, because the final project costs came in \$50,000 less than the budgeted, the grantee can only request a total of \$87,500 from ARC for a total expenditure of \$87,500 in ARC and \$262,500 in match.

Total ARC paid: 1)  $\$87,500 = \$87,500$

Total Match paid: 1)  $\$262,500 = \$262,500$

## **B. Request for Cash**

ARC funds are requested by using the Request for Cash and Consolidated Support Sheet. These forms can be found on MDA's website as a single excel file titled "Request for Cash". The Request for Cash form provides the necessary information about the grantee, project and budget, along with the required signatures to authorize the request. The Consolidated Support Sheet allows for all the reported costs to be documented along with the amount of funds expended and remaining. The costs reported must be equal to the amount requested and disbursed including any matching funds disbursed. Signatures on both forms are required in order to process the request.

Completed Requests for Cash must be submitted to the Area Program Manager:

<p>The Mississippi Development Authority Community Services Division Post Office Box 849 Jackson, Mississippi 39205-0849</p>
--

A duplicate copy of all requests for cash must be retained in the grantee's file.

Community Services Division Program Managers will work expeditiously on your requests and process your request as quickly as possible. However, these forms must be accurately completed or the request cannot be processed and will be returned to the grantee. Forms submitted with errors will delay the process and greatly impact the turnaround time for funds being released because all information must be verified and approved for payment prior to submission to DFA.

According to State Statute, forty-five (45) days is allowed for the process of cash requests. If after the 45<sup>th</sup> day payment has not been received, please contact the Program Manager to check on the status of your request.

### **Request for Cash Notables**

- Requests for Cash overlapping the State's fiscal year (June 30<sup>th</sup>) or the grantee's fiscal year must be separated into two separate requests.
- Recipients must include accurate and complete information in drawdown requests.
- All requests for construction expenses must include an itemized invoice approved by the engineer.
- Funds drawn down erroneously must be returned.
- Program income must be disbursed prior to the drawdown of additional funds.

- Disbursement of funds must occur in a timely manner – payment must take place within three (3) business days of the deposit of ARC funds. If payment takes longer than three (3) business days, written justification must be maintained in the files.
- All match must be documented with receipts or invoices.

**Authorized Signatory Letter**

An Authorized Signatory Letter must be sent no later than with the first Request for Cash and at any time there is a change in administration. The Authorized Signatory Letter will advise CSD of the authorized signatories for the ARC project.

<p><b>AUTHORIZED SIGNATORY LETTER</b> (Your Organization’s Letterhead)</p>	
<p>Date</p>	
<p>Mississippi Development Authority Mrs. Sara Doss, Bureau Manager Community Services Division Post Office Box 849 Jackson, Mississippi 39205-0849</p>	
<p>Dear Mrs. Doss,</p>	
<p>This letter is to inform your office of the authorized signature(s) for our ARC Project Number _____. <u>(Names of Persons authorized to sign)</u> have/has the authority to sign cash request forms and other project related reports and documents related to this project. Thank you for your time and attention to this matter.</p>	
<p><b>AUTHORIZED SIGNATURES</b></p>	
<p>_____</p> <p style="text-align: center;">(Name and Title)</p>	<p>_____</p> <p style="text-align: center;">(Name and Title)</p>
<p>I certify that the above persons are authorized as stated above and that the signatures are the original signatures of the persons so stated.</p>	
<p>_____</p> <p>(Mayor or President of the Board of Supervisors)</p>	

SAMPLE

Mississippi Development Authority  
Community Services Division  
Request for Cash

**Section A: General Information**

Recipient: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 City, State Zip: \_\_\_\_\_  
 Telephone No.: \_\_\_\_\_

**Section B: Project Information**

Grant No.: \_\_\_\_\_ Contract No.: \_\_\_\_\_ Project No.: \_\_\_\_\_  
 Request No.: \_\_\_\_\_  
 Services Rendered: \_\_\_\_\_ To: \_\_\_\_\_  
 From: \_\_\_\_\_ Thru: \_\_\_\_\_ MDA Staff Initials: \_\_\_\_\_

MS-XXXXXX or  
Contract Number from Grant  
Agreement

Request number

Date range of invoices (must match  
Invoices and dates on Page #2)

This column should auto populate  
with any remaining funds. \*Double  
check these figures.\*

Enter the amount of funds currently  
being requested per activity

Enter a brief status narrative of the  
project

Enter Preparer's name, telephone  
number and the date prepared

**Section C: Request Per Activity**

Activity Description	Budget Amount	Total Prior Request to Date	This Request	Remaining Balance
1 Administration				
2				
3				
4				
5				
6				
7				
8				
<b>Total:</b>	\$ -	\$ -	\$ -	\$ -

Select ARC from the dropdown list

Information should match the  
contract

Enter each activity as shown on the  
budget in your grant agreement

Enter the amount budgeted for each  
activity

Enter the cumulative amount of funds  
received per activity

**Required Accomplishment Narrative: (Please provide a brief update on this project.)**

I hereby certify that (a) the services covered by this request have not been received from the Federal Government/State Government or expended for such services under any other contract agreement or grant; (b) the amount requested will be expended for allowable costs / expenditures under the terms of the contract agreement or grant; (c) the amount requested herein does not exceed the total funds obligated by contract; and (d) the funds are requested for only immediate disbursements.

I hereby certify that the goods sold and/or services rendered have been delivered and/or performed in good order within the time listed above and are in compliance with all statutory requirements and regulations. I certify that this request does not include any advances or funds for future obligations.

Is this your final request for cash on this contract? YES \_\_\_\_\_ NO \_\_\_\_\_

Signature of Authorized Official \_\_\_\_\_ Date Signed \_\_\_\_\_ Prepared By \_\_\_\_\_ Date Prepared \_\_\_\_\_  
 Typed Name and Title of Authorized Official \_\_\_\_\_ Preparer's Telephone No. \_\_\_\_\_

To be completed by MDA Authorized Official

Please make sure to indicate if this is  
your final request for cash

Obtain signature and enter their name,  
title and date signed. The authorized  
official must be the same official who  
signed the contract or the approved  
authorized signatory official.

Please leave all these boxes  
blank.

APPROVED BY: \_\_\_\_\_ Signature, Authorized MDA Representative \_\_\_\_\_ DATE: \_\_\_\_\_

IDS Voucher Number	Vendor Number	Fund Number	Cost Center	Activity Code	Org	County Code	Expense

**Mississippi Development Authority  
Consolidated Support Sheet**

Program: \_\_\_\_\_  
 Recipient: \_\_\_\_\_  
 Request for Cash Number: \_\_\_\_\_  
 Contract Number: \_\_\_\_\_  
 Total Amount Requested: \$ \_\_\_\_\_

IDIS #	Line Items	Vendor	Invoice #	Total Invoice	Amount of This Request	Match	Amount Budgeted	Amount Requested to Date	Balance
	Application Preparation (CEBEG Only)								\$0.00
	<b>Total Administration</b>		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Engineering / Architectural								\$0.00
	<b>Total Engineering / Architectural</b>		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Contingencies								\$0.00
	<b>Total Contingencies</b>		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Construction								\$0.00
	<b>Total Construction</b>		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	<b>GRAND TOTAL</b>		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Services Rendered - Beginning: \_\_\_\_\_ Thru \_\_\_\_\_

**Summary:** \_\_\_\_\_ Plus (+) \_\_\_\_\_ Matching Expenditures \_\_\_\_\_ Equals (=) \_\_\_\_\_ Total Expenditures \_\_\_\_\_

I hereby certify that (a) the services covered by this request have not been received from the Federal / State Government or expended for such services under any other contract agreement or grant; (b) the amount requested will be expended for allowable costs / expenditures under the terms of the contract agreement or grant; (c) the amount requested herein does not exceed the total funds obligated by contract; and (d) the funds are requested for only immediate disbursements.

I hereby certify that the goods sold and/or services rendered have been delivered and/or performed in good order within the time listed above and are in compliance with all statutory requirements and regulations. I certify that this request does not include any advances or funds for future obligations.

Signature of Authorized Official \_\_\_\_\_ Date Signed \_\_\_\_\_  
 Typed Name and Title of Authorized Official \_\_\_\_\_ Preparer's Telephone No. \_\_\_\_\_

Select ARC from the dropdown list

For each line item request, document the vendor's name, invoice number, total amount of the invoice, the amount of funding being requested from MDA and any matching funds spent.

Date range of invoices (must match dates on Page #1)

Total ARC Expenditures

Obtain signature and enter their name, title and date signed.

The Amount Budgeted per activity must match the budget included in the grant agreement. The Amount Requested to Date is the total amount requested for each vendor.

Total Match Expenditures

Enter Preparer's name, telephone number and the date prepared

These boxes will auto populate but please double check for accuracy.

## **C. Contract Modification**

The Community Services Division and ARC require all grantees to receive approval prior to making contract amendments, modifications or extensions. Grantees must submit correspondence and documentation associated with the request, signed under the original signature of the chief elected official or appointed executive officer, supporting the need for the change(s) or extension.

\* NOTE: CSD must approve any changes to the original budget prior to local action. Failure to have approval may result in an ineligible activity which may result in the repayment of grant funds.

### **Process Timeline**

1. Grantee should contact the Program Manager to discuss any desired changes to the project.
2. Grantee must submit a letter (on letterhead) requesting the contract modification along with justification documents to the Program Manager for review.
3. The Program Manager will do a first level of review of the submitted documents and determine if the explanation is appropriate.
4. If the State cannot approve a proposed revision, the grantee will be notified in writing.
5. If applicable, once approved by MDA, ARC Washington will be notified for their approval.
6. Once approved by all parties, MDA will prepare the required contract modification documents in triplicate and submit to the grantee for signatures.
7. Grantee will sign the contract modification documents and return two (2) copies to CSD.
8. Once all parties have received copies of the executed contract revision documents, the action may proceed.

### **Budget Modification**

Budget Modifications may include such instances as funds being transferred among budget categories (activities) and among line items under budgeted activities.

Grantees will be allowed to transfer up to ten (10) percent of the amount of their ARC grant award among existing line items.

Some changes to the original contract may require the re-evaluation of the application which could result in the modification to not be approved.

The following modifications require written CSD approval:

- Creating new budget line items
- Transferring funds into other budget activities
- Any change(s) to the “Acquisition” line item. The 10% local modification is not allowed.

Required forms to be submitted with the request include:

- Budget Modification Worksheet
- Budget Form(s)

### **Contract Extension**

Contract Extensions provide grantees with additional time to finish their ARC project if they are unable to finish the project within the original two (2) year time frame.

Documentation must be submitted demonstrating why the project will not be completed within the given timeframe and a justified new project timeline for completion.

Written approval is required for all contract extensions.

Required forms to be submitted with the request:

- Detailed project timeline
- Any other documentation demonstrating why the extension is justified

### **Scope of Work Amendment**

A Scope of Work Amendment allows grantees to make additional changes to the project outside of changes to the budget or timeline.

Some changes to the original contract may require the re-evaluation of the application which could result in the amendment not being approved. An environmental review will also be required to ensure that the original Environmental Clearance is still valid for the proposed changes.

The following Scope of Work Amendments require written CSD approval:

- Changing the project area
- Establishing a new work activity
- Changing the special conditions of the contract

Required forms to be submitted with the request:

- Letter detailing the proposed changes to the project
- For amendments to change the project area, a detailed project area map, inclusive of the original project area and proposed area, must also be submitted

\* Note: A change in scope may trigger a review of the original Environmental Clearance and may require the project to submit additional environmental documentation and amend their original Environmental Clearance.

### **Budget Amendment**

Budget Amendments are utilized when a grantee is requesting additional funds or to de-obligate funds for an open ARC project. The use of additional funds must be aligned with the original scope of work and the grantee must provide documentation of the need.

Required forms to be submitted with the request

- Budget Modification Worksheet
- Updated Budget Sheet
- Detailed documentation of project need
- Any other documentation demonstrating why the modification is justified

### **Additional Amendment Requirements for ARC Projects**

In addition to CSD granting approval for all contract modifications, ARC requires their approval on all contract modifications. The level of ARC review varies based on the type of contract modification requested. The requested modification will fall under either the BA Minor Amendment or BA Major Amendment.

A BA Minor Amendment applies to the following events:

- Time extensions if it is the third (3<sup>rd</sup>) extension or less
- Time extensions if the end date is not more than three (3) years from the original end date
- Budget modifications if the cumulative budget changes are less than ten (10) percent of the total budget costs

\*Note: These situations do not require ARC approval/signatures but must be completed in ArcNet prior to implementing the changes.

A BA Major Amendment applies to the following events:

- Change in project scope (i.e. project location changes, changes in project design)

- Budget modifications if the cumulative budget changes are more than ten (10) percent of the total budget costs
- Budget modifications if the grant award exceeds \$100,000 □ Increase in the ARC cost share for the project

\*Note: These situations require the approval of ARC Mississippi and ARC Washington, which can delay the approval of these amendments by MDA.

## VI. MONITORING

The Community Services Division project monitoring system represents a formal process for determining whether a grantee's project implementation conforms to all federal and state regulations. The monitoring system focuses on the following objectives:

- Assist the grantee in carrying out activities, as described in the grantee's application for funds
- Assist the grantee in carrying out its project in a timely manner
- Determine if the grantee is conducting the project with adequate control over program and financial performance and in a manner that minimizes the opportunity for mismanagement, fraud and waste
- Determine if the grantee is charging costs to the project which are eligible under applicable laws and regulations
- Identify potential problem areas and to assist the grantee in complying with applicable laws and regulations
- Assist grantees in resolving compliance issues through discussion, negotiation or provision of technical assistance
- Provide adequate follow-up measures to ensure that performance and compliance deficiencies are corrected by grantees
- Consider the scope, nature and timing of activities funded with program income retained by local governments and subject to requirements and then carefully factor these considerations into the monitoring schedule
- To use program income reports in planning and executing its monitoring strategies

### A. **Semi-Annual Basic Agency Monitoring Report (BAMR)**

All grantees are required to submit semi-annual BAMR reports on the progress of each project. The BAMR Reports will outline the construction progress, performance measures and grant expenditures for the project for ARC reporting purposes. The BAMR report will be reviewed and electronically signed and submitted by MDA.

The interim BAMR Reports are due every year on or before April 15<sup>th</sup> and October 15<sup>th</sup>. Once the project is complete and MDA has monitored the project, a Final BAMR report must be submitted with the final project costs and performance measures. The Final BAMR can be submitted at any time in the year.

BAMR Reports will be required for each project through the close-out of the project and the failure to submit a BAMR Report will result in the Community Services Division holding all pending Requests for Cash, close-outs and new project approvals.

All BAMR reports should be submitted to the Area Program Manager at the following address:

Mississippi Development Authority  
Community Services Division  
Appalachian Regional Commission Construction Program  
Post Office Box 849  
Jackson, Mississippi 39205



**APPALACHIAN REGIONAL COMMISSION (ARC)  
Basic Agency Monitoring Report (BAMR) for Construction Projects**

*Instructions: Please update or complete the shaded areas below.*

<b>SELECT ONE:</b> <input type="checkbox"/> Interim Report <input type="checkbox"/> Final Report	<b>Project Numbers:</b>		<b>Key Dates:</b>	
		ARC Project #		ARC Project Approval Date
		Basic Agency Project #		Basic Agency Obligation Date
<b>Grantee Name</b> _____				
<b>ARC Project Name</b> _____				
<b>Basic Agency Name</b> <u>Mississippi Development Authority</u>				

**1. PROGRESS REPORT:** Complete the following questions about project milestones. Mark an "X" for Yes/No questions.

Project Milestones			
Is environmental review completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Has design phase started?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has project construction started?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Is project construction completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Estimated or actual date of construction completion (e.g. 10/1/14)			

**2. FINANCIAL REPORT:** Provide the total drawdowns since project inception by funding source as indicated.

Funding Source	Approved Funding Amount	Cumulative Project Costs To Date
ARC	\$	\$ 0.00
Basic Agency	\$	\$ 0.00
Other Federal	\$	\$ 0.00
State	\$	\$ 0.00
Local/Private/Other	\$	\$ 0.00
<b>TOTAL</b>	\$	\$ 0.00
		Mark an "X" here if these are final project costs.

**3. PROJECTED PERFORMANCE MEASURES:** Update as appropriate the following pre-populated projections of the performance measures expected to be achieved within three years of project completion. Use a one-year post-completion time period for measures with an asterisk (\*). Do not count construction jobs.

Performance Category	Current Estimated Performance Measures
Customers Improved	households businesses (includes all non-households)
Participants Improved	patients* students* workers/trainees* visitors/tourists*
Physical Outputs	linear feet constructed/repaired square feet constructed/renovated
System Capacity Added	million gallons per day (MGD) million gallons kilowatt-hours
Economic Benefits	jobs created jobs retained \$ leveraged private investment (LPI)
Mark an "X" here if there are no changes to the current projected performance measures.	

**4. ADDITIONAL COMMENTS:** Describe project activities to date, any significant delays, problems encountered, action taken to resolve issues, etc.

\_\_\_\_\_

**I certify that the information provided above is correct and can be documented by project records.**

_____	_____	_____
Name of Project Director	Date	Email & Phone

## **B. Selection Criteria**

Projects are selected for on-site reviews based on draw-down activity, BAMR reports, correspondence and past performance. This information is used to identify project status, accomplishments, problems and potential problems. Analysis of this information by CSD staff helps determine the need and the schedule for on-site reviews, as well as the compliance areas to be examined more closely.

### **Draw-down Activity**

The program manager will track each grantee's rate of expenditures and all projects will be monitored at least once during the life of the project, which will be at a minimum of 50% completion.

The Division Director or Bureau Manager may decide that some projects will be monitored more than once. In the event of implementation issues, a lack of activity or a sudden change in activity, the project may qualify for an additional on-site review.

### **Correspondence**

General communication with a grantee whether oral or written may indicate the potential for problems. Should continuous communication with a grantee or its representative reveal a potential problem, the project may qualify for an on-site review.

### **Past Performance**

Grantees that have been funded previously and were found to have had significant monitoring or audit findings may qualify for an on-site review at any stage of project implementation.

## **C. Scheduling**

The program manager, through coordination with the grantee and grant administrator, arranges the date and time of the visit. In accordance with the Community Services Division Monitoring Policy, the grantee is then notified in writing prior to the routine on-site review. The notification includes the following:

- The date of the on-site review, with the time of the visit
- Name(s) and number(s) of the person(s) conducting the review
- Purpose of the review
- A request that the grantee's representative and other appropriate staff be available during the review

CSD reserves the right to reschedule monitoring reviews at the mutual convenience of all involved parties.

#### **D. On-Site Monitoring**

Each program manager is responsible for the on-site review of all funded grants within their designated area of responsibility. Prior to visiting a project, the program manager conducts a desk review of the grantee's contract file and other relative reports and correspondences. The on-site review is then conducted in accordance with the monitoring schedule. This review included verification that the project activities are implemented and are within the defined area(s) as designated in the grantee's application. The program manager also reviews the project area to support eligibility and compliance of the program objectives under which the project was funded. After conducting the on-site review, the program manager will prepare a written report about their findings during the review process.

#### **Desk Review:**

Information gathered from the desk review is used to check project performance, cost overruns and overruns in time schedules during the on-site review. The desk review involves the completion of a standardized monitoring desk review form, which requires the following:

- Name of the grant file being reviewed
- Name of the authorized official
- Factor(s) which qualify the project for monitoring
- Date, time and place of the monitoring visit
- Beginning and ending dates of the contract
- Number and type of modifications to the original contract
- Date of clearance for special conditions and environmental review
- Listing of correspondences reviewed which normally includes letters and memorandums from the grantee and its representatives to CSD and responses from CSD to grantees and memorandums relative to project activities
- Listing of the number of requests for cash as of the date of the review and the amounts of each request
- Listing of any previous monitoring or audit findings
- Outline of current contract budget
- Listing of compliance areas to be examined
- Any other comments relative to the review

#### **On-Site Review**

The on-site review involves a comprehensive examination of project activities to ensure compliance with applicable federal and state regulations as well as applicable CSD Policy

Statements. In addition, the grantee is given the opportunity to receive technical assistance in needed areas.

Each on-site review begins with an entry interview during which the program manager briefs the grantee's representative of the areas to be examined and the data required to complete the examination.

The applicable monitoring instruments are completed during the monitoring review depending on the areas of compliance to be examined.

- Acquisition Monitoring Checklist is used to check for compliance with federal and state regulations relative to the acquisition of private property for use in federally assisted grants.
- Environmental Monitoring Checklist is used to check for compliance with federal and state regulations relative to environmental activities for federally assisted grants.
- Financial Management Monitoring Checklist is used to check for compliance with federal and state regulations relative to grant management and recordkeeping requirements for federally assisted grants.
- Labor Standards Monitoring Checklist is used to check for compliance with federal and state regulations relative to labor standards requirements for federally assisted grants.
- Minority Business Enterprise/Women Business Enterprise/Equal Employment Opportunity Monitoring Checklist is used to check for compliance with federal and state regulations relative to civil rights and equal opportunity for federally assisted grants.
- Procurement Monitoring Checklist is used to check for compliance with federal and state regulations relative to the procurement of supplies, equipment, construction and services for federally assisted grants.

Once all applicable compliance areas have been examined, the program manager will visit the project site to determine that the activities have taken place as outlined in the application.

Following the project site review, the program manager will then conduct an exit interview to briefly discuss any preliminary comments and recommendations, identify technical assistance needs and address any questions from the grantee.

### **Monitoring Report**

Following the on-site review, the program manager then prepares a written report. This report should be completed within thirty (30) days from the date of the visit and ready for submission to the Compliance Division, unless otherwise designated.

The report will consist of a cover letter, signed by the Bureau Manager, which lists the date of the review, areas examined and the time period within which the grantee's response should be received. A narrative report of comments, concerns, and/or findings with recommendations and actions to be taken for applicable compliance areas is attached to the cover letter. The report also incorporates verification of project activities, location, eligibility and program objectives.

If applicable, the grantee is required to respond to the report within a specified time period. The program manager will then either issue a resolution to the monitoring report or request the necessary information to resolve the findings. Failure to respond to the monitoring comments and recommendations within thirty (30) days of issuance of the report will result in requests for cash to be held until a response is received.

## VII. PROJECT CLOSE-OUT

The project close-out is the process by which the Community Services Division determines that all applicable administrative actions and all required work on the project have been completed. Grantees are responsible for ensuring the orderly and timely close-out of projects. In addition, the grantee must also ensure that the financial settlement of the subcontracts and vendor claims have been satisfied.

The close-out process should begin when the following criteria have been met or will be met shortly:

- All costs to be paid with program funds have been paid, including any unsettled third-party claims, with the exception of close-out costs, such as the final 10% retainage costs (if applicable)
- The recipient has fulfilled all of its responsibilities under the grant agreement. This includes injection of all local cash and in-kind services, other State and/or Federal funding, all private investment and performance measures (if applicable).

The closeout package is to be used for all CSD Grant Programs and can be found at <https://www.mississippi.org/home-page/business-services/community-development/communityservices/forms-library/>. In addition to the close-out package, the grantee is responsible for submitting a final BAMR report with the close-out package.

Three (3) close-out packages bearing the original signatures of the designated signatory officials are due to MDA within thirty (30) days after completion of the project or sixty (60) days from the termination date of the subcontract, whichever comes first.

The close-out process requires the project being closed by both MDA and ARC Washington. This may delay the receipt of the project close-out letter being provided to the grantee. If you have not received a close-out letter after thirty (30) days, please contact your Area Project Manager for an update.

Any questions in reference to the Close-Out Package forms or the eligibility of a project to be closed out should be addressed with the Area Project Manager.

### A. Close-Out Package Forms

Recipient's Close-Out Checklist: The checklist serves as the guide for the complete and accurate submission of the close-out package. Incomplete packages will be returned to the grantee.

Mississippi Development Authority  
Community Services Division  
Recipient's Closeout Checklist

Recipient: \_\_\_\_\_ Contract# \_\_\_\_\_

In compliance with the requirements of the MDA, CSD Recipient Close-out procedure and the terms and conditions of the contract, the following close-out documents are enclosed: (Check the appropriate boxes concerning each of the closeout documents. Explain fully any items not submitted or any item to be sent separately. Use separate sheet, if necessary.)

Type of Document	Enclosed	Not Applicable	Sending Separately	Unable to Furnish
1. <u>Certification of Completion</u>				
2. <u>Funding Sources Summary Report</u>				
3. <u>Agreement Relative to Closeout</u>				
4. <u>Outstanding Claimant's List</u>				
5. <u>Inventory and Program Income</u>				
6. Final Request for Cash Consolidated Support Sheet				
7. Final Basic Agency Monitoring Report (BAMR)				
8. Refund Check				
9. Other (Please Specify)				

Explanation/Comments:

Revised 2/17



Certification of Completion: This form is for grantees to list all activities undertaken, certifying that they have been carried out in accordance with the grant agreement and ensures that the provisions have been made for the payment of all unpaid claims. Grantees are required to report all budgeted grant funds and other funds and list the actual payments for all specific sub-activity.



Funding Sources Summary Report: This form is for grantees to list all funding for the ARC covered project and should reflect the information on the Certificate of Completion.

### Grant Recipient Funding Sources

Recipient:  
 Contract #:  
 Program : Appalachian Regional Commission (ARC) CDFA 23.002

**Administration**

1. MDA Funds (CDBG , HOME,ESG)				
2. Section 108 Loan Guarantee				
3. Other Consolidated Plan Funds	HOME	_____		
	ESG	_____		
	HOPWA	_____	\$	-
4. Appalachian Regional Commission				
5. Other Federal Funds				
6. State/Locals Funds				
7. Private Funds				
8. Other				
<b>Total</b>			\$	-

**Public Facilities**

1. MDA Funds (CDBG , HOME,ESG)				
2. Section 108 Loan Guarantee				
3. Other Consolidated Plan Funds	HOME	_____		
	ESG	_____		
	HOPWA	_____	\$	-
4. Appalachian Regional Commission				
5. Other Federal Funds				
6. State/Locals Funds				
7. Private Funds				
8. Other				
<b>Total</b>			\$	-

**Select Activity Type**

1. MDA Funds (CDBG , HOME,ESG)				
2. Section 108 Loan Guarantee				
3. Other Consolidated Plan Funds	HOME	_____		
	ESG	_____		
	HOPWA	_____	\$	-
4. Appalachian Regional Commission				
5. Other Federal Funds				
6. State/Locals Funds				
7. Private Funds				
8. Other				
<b>Total</b>			\$	-

**Grand Totals by Funding Sources**

1. MDA Funds (CDBG , HOME,ESG)				
2. Section 108 Loan Guarantee			\$	-
3. Other Consolidated Plan Funds	HOME	\$	-	
	ESG	\$	-	
	HOPWA	\$	-	
4. Appalachian Regional Commission			\$	-
5. Other Federal Funds			\$	-
6. State/Locals Funds			\$	-
7. Private Funds			\$	-
8. Other			\$	-
<b>Grand Total</b>			\$	-



Agreement Relative to Closeout: By signing the below agreement, the grantee is certifying that the entire close-out document meets the individual requirements included in the close-out package. This document is an agreement between the grantee and MDA that permits the close-out of the project activities contingent on the promise that the grantee will submit to the MDA its required audits.

## **Agreement Relative to Closeout of Community Services Division Grant Programs**

RECIPIENT: \_\_\_\_\_ CONTRACT # \_\_\_\_\_

This Agreement is between \_\_\_\_\_ ("Recipient")  
and the Mississippi Development Authority, Community Services Division ("Division").

### **Closeouts/Audits**

The parties to this Agreement desire to closeout Recipient's CSD Grant (i.e. CDBG, ARC),  
contract number \_\_\_\_\_ (the "Grant").

Because of regulatory and legislative changes, the Division no longer requires a final audit of an individual grant at closeout.  
Rather than waiting for Recipient's next periodic audit, the parties desire to closeout the Grant subject to subsequent audit(s).

THEREFORE, in consideration of the mutual promises contained herein, the parties to this Agreement agree as follows:

1. The Division waives the requirement in 24 CFR Subsection 570.512 of the submission of any required audits and/or subsequent audit of the Grant prior to closeout.
2. Recipient will submit to the Division its required audits or subsequent audit which it shall comply with federal and state requirements and which shall cover all periods in which any grant costs have been incurred.
3. Recipient shall remit to the Division the amount of any ineligible costs that are disallowed by any required audits and/or subsequent audit(s) which disallowances are identified by the Federal and/or State Agency(ies).
4. The Agreement contained herein are in addition to any other agreements between the parties relative to the closeout of the grant. Recipient agrees to abide by all governing laws and regulations.

### **Certificate of Completion**

I hereby certify that all activities undertaken by the Recipient with funds provided under the grant agreement, hereof, have, to the best of my knowledge, been carried out in accordance with the grant agreement; that proper provision has been made by the Recipient for the payment of all unpaid costs and unsettled third-party claims identified, hereof; that the United States of America or the State of Mississippi is under no obligation to make any further payment to the Recipient under the grant agreement, hereof; and that every statement and amount set forth in this instrument is, to the best of my knowledge, true and correct as of this date.

### **Recipient Performance Certification Report**

I hereby certify that all planned and actual beneficiaries, the ethic beneficiaries information, census information and the performance measures are correct as stated on the Recipient Performance Certification Report are to the best of my knowledge, true and correct as of this date.

### **CERTIFICATE OF RECIPIENT'S COMPLIANCE**

#### **Release**

Pursuant to the terms of said contract and in consideration of the sum of \$ \_\_\_\_\_ - (Total Amount Paid & Payable by MDA, CSD), upon payment of the said sum does remise, release, and discharge MDA, CSD, its officers, agents, and employees, of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the said contract, except the following:

- a. Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor, as follows:



## Agreement Relative to Closeout of Community Services Division Grant Programs

RECIPIENT: \_\_\_\_\_ CONTRACT #: \_\_\_\_\_

(If none, so state)

- b. Claims, together with reasonable expenses incidental thereto, based upon the liabilities of the Contractor to third parties arising out of the performance of the said contract, which are not known to the Contractor on the date of execution of this release and of which the Contractor gives notice in writing to the MDA, CSD within the period specified in the said contract.
- c. Claims, after closeout, for costs which result from the liability to pay Unemployment Insurance costs under a reimbursement system or to settle Worker's Compensation claims.

### Assignment of Refunds, Rebates and Credits

Pursuant to the terms of said contract and in consideration of the reimbursement of costs and payment of fees as provided in the said contract and any assignment thereunder, the Contractor hereby does the following:

- a. Assign, transfer, set over and release to MDA, CSD all right, title and interest to all refunds, rebates, credits or other amounts (including any interest thereon) arising or which may hereafter accrue thereunder.
- b. Agree to take whatever action may be necessary to effect prompt collection of all such refunds, rebates, credits or other amounts (including interest thereon due or which may become due, and to forward promptly to MDA, CSD) for any proceeds so collected. The reasonable costs of any such action to effect collection shall constitute allowable costs when approved by the MDA, CSD as stated in the said contract and may be applied to reduce any amount otherwise payable to MDA, CSD under the terms hereof.
- c. Agree to cooperate fully with MDA, CSD as to any claim or suit in connection with such refunds, rebates, credits or other amounts due (including any interest thereon); to execute any protest, pleading, application, power of attorney or other papers in connection therewith; and to permit MDA, CSD or the Federal Grant of Agency to represent it at any hearing, trial or other proceeding arising out of such claim or suit.

### Inventory Certification (Select One)

- a. \_\_\_\_\_ The Contractor hereby certifies that all items of materials and equipment purchased, furnished, or transferred for or to said Contractor were done so in accordance with the terms and conditions of said contract.
- b. \_\_\_\_\_ The Contractor hereby certifies that no equipment was furnished or acquired under the terms and conditions of said contract.

### General Statement of Compliance

I certify that all the Federal, State and Local requirements of the said contract have been complied with.

### Outstanding Claimants List

I hereby certify that the information as stated in the Outstanding Claimants List page is to the best of my knowledge, true and correct.

### Inventory and Program Income

CSD Instruction 11-15-2011



**Agreement Relative to Closeout of Community Services Division Grant Programs**

RECIPIENT: \_\_\_\_\_ CONTRACT # \_\_\_\_\_

I hereby certify that the information as stated in the Inventory and Program Income page is to the best of my knowledge, true and correct.

**Final Request for Cash Consolidated Support Sheet**

I hereby certify that the information as stated on the enclosed in the Final Request for Cash Consolidated Support Sheet is to the best of my knowledge, true and correct.

This Agreement is executed by the Parties on the date indicated by their respective signatures.

IN WITNESS THEREOF, THIS Agreement and Certification of Contract Compliance has been executed  
this day of \_\_\_\_\_

\_\_\_\_\_

WITNESSED BY:

\_\_\_\_\_

BY SIGNATORY OFFICIAL

1. \_\_\_\_\_

\_\_\_\_\_

TITLE

2. \_\_\_\_\_

\_\_\_\_\_

DATE

**MISSISSIPPI DEVELOPMENT AUTHORITY  
COMMUNITY SERVICES DIVISION**

\_\_\_\_\_

BY SIGNATORY OFFICIAL

\_\_\_\_\_

TITLE

\_\_\_\_\_

DATE



Outstanding Claimants List: When unclaimed funds are returned to MDA, a list of all possible claimants of these funds shall be prepared and attached to the Recipient's Release. The purpose is to reserve those funds and make future payments if necessary.

Mississippi Development Authority Community Services Division Outstanding Claimant's List						
Recipient:		Contract Number:				
1	Claimant's Name, Address, S.S.# (Where Applicable)	Check #	Amount	Date	Pay Period Hours and Rate	Other Contact Name and Address
2						
3						
4						
5						
			\$0.00			

Inventory and Program Income: The property and equipment that has been purchased with MDA grant funds should be listed with the purchase price and use of the property and/or equipment. All program income collected to date should be listed, including the activity, additional payments and the use of the program income.

**Inventory and Program Income**

**Real Estate:** List the property which has been purchased with MDA grant funds and considered to be surplus property, the type of property, (i.e., lots, land, buildings), price paid for each property, the proposed use of the property, and the date the property is expected to be used.

Number or amount	Type of property	Purchase price	Proposed use of property	Date to be used
1				
2				
3				

**Equipment:** List the equipment which has been purchased with MDA grant funds (i.e., fire truck, bulldozer, file cabinet, calculator, etc.), the price paid for each piece of equipment, and the use of the equipment.

Number or amount	Type of property	Purchase price	Use of Equipment
1			
2			
3			

**Program Income:** List the amount of program income which has been collected to date, the type of activity generating program income (i.e., public facility, economic development, housing, etc.), the estimated amount of additional program income payments expected, and the proposed use of the program income.

Amount collected to date	Activity	Additional Payment	Proposed use of program income

CSD Instruction 11-15-2011



**Final Request for Cash Consolidated Support Sheet**

The final request for cash with the actual final cost of the project including match must be completed and submitted with the close-out package. The “Services Rendered” dates should reflect the entire life of the project.

**Final Basic Agency Monitoring Report**

The final BAMR report with the final project costs, including ARC and match expenditures, and performance measures.

## VIII. RECORDKEEPING

Federal regulations require that States (and grantees) shall establish and maintain such records as may be necessary to facilitate review and audit by ARC (or the State) of the administration of ARC funds (2 CFR 200.333). Federal regulations require records be maintained for a period of three (3) years after the final close-out.

CSD requires that all records are to be maintained by the local unit of government at all times. Failure to maintain an adequate system at the grantee's office could result in a finding for both the grantee and project administrator. In addition, activity can be interrupted on any open project.

The recordkeeping system should be at least the equivalent to the checklist provided below:

### **APPALACHIAN REGIONAL COMMISSION PROGRAM**

GRANTEE NAME

GRANT NUMBER

#### APPLICATION

\_\_\_ Full Application as submitted to the State \_\_\_  
Additional information submitted

#### CONTRACT

\_\_\_ Award Letter  
\_\_\_ ARC Executed Contract  
\_\_\_ MDA Executed Contract  
\_\_\_ Correspondence concerning contract conditions \_\_\_  
Contract modifications and letters of approval

#### GENERAL CORRESPONDENCE

\_\_\_ General correspondence  
\_\_\_ State general correspondence/memorandums

#### STATE MONITORING

\_\_\_ State reports of results of monitoring reviews/recommendations  
\_\_\_ Community response to State monitoring reports  
\_\_\_ Other correspondence related to State monitoring visits

#### ENVIRONMENTAL REVIEW RECORD

- \_\_\_ Copy of “Environmental Review Record” as submitted to CSD
- \_\_\_ Original Tear Sheet (full page)
- \_\_\_ Copy of Format II (if applicable)
- \_\_\_ “Request for Removal of Contract Conditions and Release of Funds” and Certification signed by certified officer
- \_\_\_ Notice of “Removal of Contract Conditions and Release of Funds”
- \_\_\_ Letter of clearance from the Department of Archives and History
- \_\_\_ Finding of Categorical Exclusion (if applicable)
- \_\_\_ Finding of Exemption

#### FINANCIAL MANAGEMENT

- \_\_\_ Signed W-9 Form
- \_\_\_ “Authorized Signature Form”
- \_\_\_ “Requests for Cash” and support sheets
- \_\_\_ General ledger and disbursement journals
- \_\_\_ Invoices, pay estimates, receipts of payments of program costs
- \_\_\_ Documentation of “In-Kind” expenditures (if applicable)
- \_\_\_ Documentation of support cash contributions (if applicable) \_\_\_
- Documentation of agency representative’s surety bond(s)

#### PROCUREMENT

- \_\_\_ Proofs of Publications of Requests for proposals/bids
- \_\_\_ Proof of Solicitations for proposals/bids
- \_\_\_ Proposals/bids received
- \_\_\_ Evaluations of proposals/bids received
- \_\_\_ Written statements of acceptance of proposals/bids
- \_\_\_ Executed contracts for each service required (NOTE: All contracts must contain the provisions listed in 24 CFR 85.36)
- \_\_\_ Copies of written notification of procurement Requests for Proposals to the Mississippi Contract Procurement Center

#### EQUAL OPPORTUNITY/MBE/WBE

- \_\_\_ Documentation of attempts to solicit minority/female businesses

#### ACQUISITION (if applicable)

- \_\_\_ Master list of easements
- \_\_\_ Individual easement/property files (required for donations and/or purchases)

- \_\_\_ Disposition of property (if applicable)
- \_\_\_ Copy of “Preliminary Acquisition Notice” indicating the booklet was provided to the owner
- \_\_\_ Registered/Certified Mail receipts or receipt of hand-delivered notices
- \_\_\_ “Invitation to Accompany Appraiser”
- \_\_\_ Copy of Appraisal (if applicable)
- \_\_\_ Review Appraiser’s Report
- \_\_\_ Copy of “Statement for the Basis of Determination of Just Compensation”
- \_\_\_ “Written Offer to Purchase” (if applicable)
- \_\_\_ Justification for any payment above just compensation value
- \_\_\_ Documentation concerning condemnation proceedings (if applicable)
- \_\_\_ “Statement of Settlement Costs”
- \_\_\_ “Offer of Sale of Land”
- \_\_\_ “Waiver of Rights”
- \_\_\_ Notice of Intent Not to Acquire”
- \_\_\_ Copy of “Easement Agreement” or title to property (as applicable)

**LABOR STANDARDS COMPLIANCE**

- \_\_\_ Wage Rate Request
  - \_\_\_ Memo to file concerning update of wage rates
  - \_\_\_ Copy of applicable wage rate(s)
  - \_\_\_ Contractor/Subcontractor eligibility
  - \_\_\_ Notice of Contract Award and Pre-Construction Conference
  - \_\_\_ Pre-Construction Conference minutes and roster
  - \_\_\_ Notice to Proceed
  - \_\_\_ Notice to start construction
  - \_\_\_ Weekly payrolls
  - \_\_\_ Evidence that payrolls were checked against wage decision
  - \_\_\_ Statement of Compliance signed by an officer of the company
  - \_\_\_ Employee interviews
  - \_\_\_ Evidence that posters were on job site \_\_\_
- E-verify information for all new hires

If discrepancies occur:

- \_\_\_ Evidence of retribute/resolution of identified discrepancies
- \_\_\_ Any complaints from workers (if any) and actions taken
- \_\_\_ Liquidated damages assessed, appeals (if applicable) and outcome

## IX. COMMON PROBLEMS

It is the responsibility of the grantee to perform the activities of an ARC project in accordance with the Appalachian Regional Development Act of 1965 (ARDA), as amended. The grantee must ensure that project activities are carried out to avoid problems, which violate the intent of the Act. Although the duties may be delegated, **the ultimate responsibility for compliance rests with the local unit of government's officials.**

Listed below are some common problems that administrators of ARC projects should be aware of and try to avoid:

### Acquisition

- Evidence that the property owner received the HUD brochure "When a Public Agency Acquires your Property" and an invitation to accompany the appraiser was not available.  No appraisals performed and no review appraisals (if applicable).

### Environmental

- Finding of No Significant Impact (FONSI) was published before clearance from the Department of Archives and History.
- Environmental notice was not published in the newspaper of general circulation.

### Equal Opportunity (MBE/WBE)

- Solicitations were not distributed by certified mail.

### Financial Management

- Leveraged funds were not expended at a proportionate ratio with ARC funds.
- In-kind services were not properly documented.
- Expenditure of funds was not supported by invoices.
- A balance in the recipient's account for a period in excess of three (3) days.
- Representatives of the recipient agency were not adequately bonded.  No journal or ledger was available.

### Labor Standards Provisions

- No minutes for the preconstruction conference were on file.
- Prevailing wage rate was not paid to workers.
- Correct or updated wage decisions were not posted at the job site.
- Construction sign not at entrance of construction site until final monitoring was conducted.

- Authorized representative did not sign payrolls.
- Special deductions were not authorized in writing.
- Employee interviews were not conducted.
- Contractor eligibility was not obtained from the State.
- Wage determination not included in bid documentation.

## **Procurement**

- Requests for Proposals were not published for required services.
- At least two minority/female owned businesses were not solicited for each activity.
- Certified mailing undeliverable – must have valid contact information.
- Mississippi Procurement Technical Assistance Program was not notified of the Request for Proposals for construction services (over \$50,000).
- After last published date, the following required number of working days were not followed.
- All applicable clauses were not included in the contract.
- Technical evaluations were not conducted for professional proposals.
- A contract was awarded to a single bidder without soliciting additional proposals. □  
Services rendered without contractual agreements executed.