



Missouri
Department of
Natural Resources

**CLEAN WATER STATE REVOLVING FUND
PLAN & SPECIFICATION REVIEW CHECKLIST
ASSURANCE COMMENTS**

Project Name _____ Project No. _____

Reviewer _____ Date _____

_____ (A) Advertising Time - 10 CSR 20-4.040(19)

REQUIRED STATEMENTS IN ADVERTISEMENT FOR BIDS

_____ (B) Nondiscrimination in Advertisement (E.O. 11246)

_____ (C) SRF

SPECIAL FORMS AND ATTACHMENTS

_____ (D) Missouri Wage Determinations – Chap. 290 RSMo.

_____ (E) Davis-Bacon Act (language, attachment and wage rates)

_____ (F) Nonsegregated Facilities – 40 CFR Part 7 (form)

_____ (G) Equal Employment Opportunity 41 CFR 60-4; E.O. 11246 (If this comment is used please enclose 3 EEO sheets)

_____ (H) DBE - 40 CFR Part 33; 10 CSR 20 4.040(18); E.O. 11625 and 12138. Note: Be sure specs include “fair share” objectives, “Six Good Faith Efforts” and the EPA Forms 6100-2, 6100-3 and 6100-4.

_____ (I) Bidders List – 40 CFR Part 33, required by the loan recipient.

_____ (J) Debarment and Suspension - 10 CSR 20-4.040(18); E.O. 12549

_____ (K) Employment of Unauthorized Aliens Prohibited – Sec. 285.530 RSMo. (language and affidavit)

_____ (L) Domestic Products Procurement Law - 10 CSR 20-4.040(18); Sec. 34.350 – 34.359 RSMo.

_____ (M) Anti-Lobbying Act – P.L. 101-121 (language and forms)

OTHER REQUIRED ITEMS

- _____(N) Award of Contract - 10 CSR 20-4.040(19)
- _____(O) Protest Provisions
- _____(P) Rejection of Bids
- _____(Q) Definite Completion Time - 10 CSR 20-4(19)
- _____(R) Access to Construction Site and Contract Records - 10 CSR 20-4.040(18); Clean Water Act sec. 308 (B)i
- _____(S) 100% Performance Bond and 100% Payment Bond - 10 CSR 20-4.040(18)
- _____(T) Bid Guarantee (5% Bid Bond) - 10 CSR 20-4.040(18)
- _____(U) Surety Statement - Title 31 U.S.C. sec. 9304-9308 RSMo 375.141 suspension, revocation of license
- _____(V) Restrictive Experience Clauses - 10 CSR 20 4.040(18)
- _____(W) Restrictive Specifications - 10 CSR 20 4.040(18)
- _____(X) Prompt Payment Provisions - 10 CSR 20-4.040(21)
- _____(Y) Late Payment Clause - 34.057 RSMo.
- _____(Z) Clean Air Act - 42 U.S.C. 7506(C)
- _____(AA) Clean Water Act - 33 U.S.C. 1368
- _____(BB) Contract Work Hours and Safety Standards Act – 40 U.S.C. 327-330
- _____(CC) Energy Efficiency Requirements - Energy Policy and Conservation Act (P.L.94-163, 89 Stat. 871)
- _____(DD) False Claims Act
- _____(EE) Recycled Materials – U.S.C. 6962 (RCRA Section 6002)
- _____(FF) Small Business Act – P.L. 100-590
- _____(GG) Bid Alternates
- _____(HH) Storm Water Permit – 10 CSR 20-6.200
- _____(II) Historical and Archaeological
- _____(JJ) OSHA Training – Sec. 292.675 RSMo.
- _____(KK) Privity of Contract
- _____(LL) Provisions to Terminate

_____ (MM)	Record Retention
_____ (NN)	Central Contractor Registration
_____ (OO)	Missouri Products - Chap. 71.140 RSMo. 1986
_____ (PP)	Missouri Firms - Sec. 34.076 RSMo. 1986
_____ (QQ)	Excessive Unemployment

____ (A) Advertising Time – Regulation 10 CSR 20-4.040(19) requires that projects be publicly advertised, allowing sufficient time for bids to be prepared and submitted. Projects should be bid for a period of 30 days to allow for maximum participation by prospective bidders.

____ (B) Nondiscrimination in Advertisement - The "Advertisement for Bids" must contain the following paragraph:

Nondiscrimination in Employment

Bidders on this work will be required to comply with the President's Executive Order Number 11246. Requirements for bidders and contractors under this order are explained in the specifications.

____ (C) SRF - All requests for proposals and bid solicitations must include a statement that the project was financed through the Missouri State Revolving Fund, established by the sale of Missouri Water Pollution Control bonds and federal Capitalization Grants to Missouri.

____ (D) Missouri Wage Determination - Missouri Law and 10 CSR 20-4.040(18), require the inclusion of state wage determinations in your specification. State wage determinations may be obtained by contacting the Missouri Department of Labor and Industrial Relations, Division of Labor Standards, P.O. Box 59, 421 East Dunklin Street, Jefferson City, Missouri 65102. Telephone (314) 751-4091.

____ (E) Davis-Bacon – All contracts and subcontracts for the construction of treatment works carried out in whole or in part with assistance made available through the State Revolving Fund shall insert in full in any contract in excess of \$2,000 the contract clauses set forth on the enclosed “Wage Rate Requirements.”

Include attachment for recipient responsibilities (informational) and attachment of language that goes into the spec book. Include a statement describing the attachments.

____ (F) Nonsegregated Facilities – The enclosed Certification of Nonsegregated Facilities must be included in the specifications.

____ (G) Equal Employment Opportunity - 41 CFR 60-4 published April 7, 1978 and amended October 3, 1980, requires that the enclosed "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" (Executive Order 11246) (Notice) and Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) (Specifications) be included in the solicitation for bids, contracts, and subcontracts for all federally assisted construction contracts exceeding \$10,000. The enclosed EEO Minority Goals for Contractor Workforce are to be used, as appropriate, to complete the Notice.

____ (H) DBE - The following documents must be included in the specifications: 6100-2, DBE Subcontractor Participation Form, 6100-3, DBE Subcontractor Performance Form and 6100-4, DBE Subcontractor Utilization Form. Forms 6100-2 and 6100-3 must be provided to all DBE subcontractors. Form 6100-4 must be completed by the prime contractor. Also, the specifications must include the negotiated “fair share” objectives. The current negotiated “fair share” percentages for Minority and Women’s Business Utilization are 10% (MBE) and 5% (WBE). The “Six Good Faith Efforts” must be included in the specifications in order for the contractor to use them in obtaining DBE subcontractors.

____ (I) Bidders List - The recipient must create and maintain a bidders list of all contractors and their subcontractors bidding or quoting on EPA assisted projects. The bidders list must be kept until the project period for the loan has ended. The following information must be obtained from all prime and subcontractors:

- (1) Entities name and point of contact.
- (2) Entities mailing address, telephone number, and e-mail address.
- (3) The procurement on which the entity bid or quoted, and when.
- (4) Entities status as an MBE/WBE or Non-MBE/WBE.

_____ (J) Debarment and Suspension - Executive Order 12549 - Debarment and Suspension establishes procedures which require EPA to deny any individual, organization, or unit of government the opportunity to participate in federally-assisted programs because of misconduct or poor performance. The General Services Administration (GSA) publication entitled "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs" will identify those who are prohibited from the bidding process. The following paragraph must be included in the Instructions to Bidders:

“The Code of Federal Regulations at Title 2, Part 180, prohibits participation in EPA funded contracts by persons excluded or disqualified from doing business with the federal government. Bidders are responsible for advising the Owner if they are excluded or disqualified, and to check whether subcontractors they intend to use are excluded or disqualified. All tiers of subcontractors have the same responsibility to notify the one for which they are providing services if they are excluded or disqualified, and to check the status of any subcontractors they intend to use. Status can be checked on the Excluded Parties List System located on the Internet at www.epls.gov. All subcontracts at any tier should include this language.”

_____ (K) Employment of Unauthorized Aliens Prohibited - The contract documents must contain the following statement regarding compliance with section 285.530 RSMo. and the attached affidavit for signature regarding employment of unauthorized aliens prohibited along with the supporting enrollment documentation in a federal work authorization program.

“Pursuant to §285.530.1, RSMo, the contractor assures that it, as well as its subcontractors do not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri, and shall affirm, by sworn affidavit and provision of documentation, its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Further, the contractor assures that it, as well as its subcontractor shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

In accordance with sections 285.525 to 285.550, RSMo a general contractor or subcontractor of any tier shall not be liable when such contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of section 285.530, RSMo if the contract binding the contractor and subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of subsection 1 of section 285.530, RSMo and shall not henceforth be in such violation and the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor’s employees are lawfully present in the United States.”

_____ (L) Domestic Products Procurement Law – In accordance with sections 34.350 - 34.359, RSMo, the bid documents shall contain the following statement: “All manufactured goods or commodities used or supplied in the performance of any contract or subcontract awarded on this project shall be manufactured, assembled or produced in the United States, unless obtaining American-made products would increase the cost of the contract by more than ten percent (10%). In accordance with sections 34.350 through 34.359 RSMo a waiver may be requested from the owner.” The enclosed Domestic Products Procurement Law – RSMo 34.350 – 34.359 Certification, must be included in the specifications and submitted with the bid proposal.

_____ (M) Anti-Lobby Act – The contract documents must contain a statement regarding compliance, by the parties to the contract, with the Anti-Lobbying Act, Section 319 of Public Law 101-121.

Recipient also agrees to include in all solicitation documents the following:

“Sub recipients who request or receive from the grant recipient a subgrant, contract, or subcontract exceeding \$100,000, at any tier under a federal grant shall comply with the Anti-Lobbying Act, Section 319 of Public Law 101-121, and file an Anti-Lobbying Certification form, and the Disclosure of Lobbying Activities form, if required, to the next tier above.”

_____ (N) Award of Contract - In accordance with 10 CSR 20-4.040(19), the proposal must fully explain the basis for determining the low bidder and include a statement that the contract will be awarded to the lowest responsive, responsible bidder. The contract must be for a firm fixed-price.

The specifications should advise bidders that contract award will be made only to responsible contractors possessing the ability to perform successfully, which will be determined by considering such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

_____ (O) Protest Provisions - The applicant must have protest provisions adopted prior to advertising this project for bids. The provisions should contain filing and protest resolution procedures. The applicant shall, in all instances, disclose information regarding the protest to the Missouri Department of Natural Resources. Neither the EPA nor the Missouri Department of Natural Resources will be involved in protest(s) and their resolution.

_____ (P) Rejection of Bids - The specifications should advise bidders that any or all bids may be rejected for a sound, documented reason.

_____ (Q) Definite Completion Time - Regulation 10 CSR 20-4.040(19) requires the bidding documents to include a provision for the maximum calendar or work days allowed for completion of the project.

_____ (R) Access to Construction Site and Contract Records - The specifications must include a requirement that the contractor shall provide access to the project site and project records by the, Missouri Department of Natural Resources, the EPA, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

_____ (S) One Hundred Percent Performance and Payment Bonds - Separate performance and payment bonds, each in the amount of 100 percent of the contract price are required by 10 CSR 20-4.040(18) on construction contracts of \$100,000 or more. Where bonds are required, they must be obtained from companies holding certificates of authority as acceptable sureties (31 CFR Part 223). Use of the grantee's own bonding policies and requirements may be authorized, if they can be determined to be adequate to protect the Government's interest

_____ (T) Five Percent Bid Bond Guarantee – 10 CSR 20-4.040 (18) requires each bidder to furnish a bid guarantee equivalent of 5% of the bid.

_____ (U) Surety Statement - In accordance with Title 31 U.S.C. Sec. 9304-9308, the following statement must be included on all bond forms.

IMPORTANT - Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in Missouri

- _____(V) Restrictive Experience Clauses - The specifications include a restrictive experience clause for equipment or material suppliers. Regulations, 10 CSR 20-4.040(18) restrict the use of experience clauses to cases where adequate justification can be made. When experience clauses are used, they will be limited to reasonable periods of time. It is also recommended that submission of a bond or cash deposit be permitted instead of a specified experience period, which will guarantee replacement in the event of failure. The period of time for which a guarantee bond or cash deposit is required should not exceed the experience period specified.
- _____(W) Restrictive Specifications - No proprietary, exclusionary or discriminatory requirements other than those based upon performance are allowable. Recipients must state clearly in the specification the salient requirements of the named brand which must be met by offerers and that other brands may be accepted. Please revise sections _____ of the specifications to reflect that other brands may be accepted and the process for obtaining that acceptance.
- _____(X) Prompt Payment Provisions - Except as provided for under 10 CSR 20-4.040(21), prompt progress payments should be made by the Recipient to contractors. Adequate provisions for such payments should be included in the specifications.
- _____(Y) Late Payment Clause - The following paragraph must be included in the specifications:
- If the OWNER fails to make payment thirty (30) days after receipt of the CONTRACTORS application for payment, in addition to other remedies available to the CONTRACTOR, then shall be added to each such payment interest in accordance with section 34.057 RSMo.
- _____(Z) Clean Air Act - The contract documents must contain a statement regarding compliance, by the parties to the contract, with the Clean Air Act (42 U.S.C. 7506(C)).
- _____(AA) Clean Water Act - The contract documents must contain a statement regarding compliance, by the parties to the contract, with the Clean Water Act (33 U.S.C. 1368).
- _____(BB) Contract Work Hours and Safety Standards Act – The specifications must include a requirement that the contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR part 5).
- _____(CC) Energy Efficiency Requirements – The specifications must require the contractor to comply with the mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871).
- _____(DD) False Claims Act – The specifications must include a requirement that the contractor, as well as its subcontractors, if required by future OMB guidance, shall promptly refer to the State of Missouri or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

_____(EE) Recycled Materials – In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (U.S.C. 6962), preference shall be given to the procurement of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are contained in 40 CFR 247-254.

_____(FF) Small Business Act - Prior to awarding contracts, the loan recipient and any contractor awarding subcontracts must take the following affirmative steps in accordance with Section 129 of Public Law 100-590, Small Business Administration Reauthorization and Amendment Act of 1988:

- a. Placing Small Business in Rural Areas (SBRA) on solicitation lists;
- b. Ensuring that SBRA's are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by SBRA's;
- d. Establishing delivery schedules, where the requirements of work will permit which would encourage participation by SBRA's;
- e. Utilizing the services of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce, as appropriate.

_____(GG) Bid Alternates - The current bidding climate is resulting in very high construction bids. It may be advisable to include the option to deduct certain portions of the project, or bid alternates, in the event the total bid exceeds the recipient's total funds. Good construction estimates are essential. Even low bids can result in tying up the city's bonding capacity since excess funds can only be used to make annual principal payments on the bonds issued for the project. If the final engineer's estimate made prior to loan closing is more than the loan ceiling as provided in the Intended Use Plan (IUP), the recipient may request that program staff or the Clean Water Commission increase the amount on the IUP, up to the limits of the recipient's bonding capacity.

_____(HH) Storm Water Permit – In accordance with 10 CSR 20-6.200(1)(A) and (1)(B)(7), if the proposed project disturbs one (1) contiguous surface acre or more of land, then a land disturbance permit to discharge storm water is required. If the SRF recipient's population is greater than ten thousand (10,000) or is located within an urbanized area and/or the design flow of the wastewater treatment plant is greater than or equal to 1 MGD, then storm water discharges should be included in the existing NPDES permit. In the first case, the city must ensure that the storm water discharges are covered by their municipal separate storm sewer system (MS4) permit. In the second case, the city should check with the appropriate Regional Office to ensure that storm water discharges are covered in the existing permit for the wastewater treatment plant. For further information, contact the Missouri Department of Natural Resources, Water Protection Program, Permits Section, P.O. Box 176, Jefferson City, Missouri 65102. Telephone: (573) 751-6825.

_____(II) Historical or Archaeological - Inclusion in the specifications of a paragraph approximately as follows is required by P.L. 93-291.

“If during the course of construction evidence of deposits of historical or archaeological interest is found, the contractor shall cease operations affecting the find and shall notify the owner who shall notify the Missouri Department of Natural Resources and the Director, Division of State Parks, P.O. Box 176, Jefferson City, Missouri 65102-0176, Telephone (573) 751-2479. No further disturbances of the deposits shall ensue until the contractor has been

notified by the owner that he may proceed. The owner will issue a notice to proceed only after the state official has surveyed the find and made a determination to the Missouri Department of Natural Resources and the owner. Compensation to the contractor, if any, for lost time or changes in construction to avoid the find, shall be determined in accordance with changed conditions or change order provisions of the specifications.”

- _____(JJ) Occupational Safety and Health Administration (OSHA) Training - The contract documents must contain a statement regarding compliance with section 292.675 RSMo. Any person signing a contract to work on the construction of public works for any public body shall provide a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for their on-site employees which includes a course in construction safety and health approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program. All employees are required to complete the program within sixty days of beginning work on such construction project.
- _____(KK) Privity of Contract - The specifications must contain a paragraph stating that neither the Missouri Department of Natural Resources, its divisions nor its employees are or will be a party to the contract(s) at any tier.
- _____(LL) Provisions to Terminate - For contracts exceeding \$10,000, the specifications must include provisions for the applicant to terminate the contract for cause and for convenience, including the manner by which the termination will be effected and the basis for settlement.
- _____(MM) Record Retention - The specifications must include a requirement that the contractor and all sub-contractors shall retain all project related records for three years after final payment(s) and all other pending matters are closed.
- _____(NN) Central Contractor Registration - In accordance with the Federal Funding Accountability Act of 2006, the contractor assures that it, as well as its subcontractor(s), shall register in the Central Contractor Registration (CCR) database at www.ccr.gov, and maintain current registration at all times during the pendency of this contract. In order to register in CCR, a valid Dun and Bradstreet Data Universal Numbering System (DUNS) Number is required. See www.dnb.com.
- _____(OO) Missouri Products - In accordance with Chapter 71.140, Missouri Revised Statutes 1986, preference shall be given to Missouri products.
- _____(PP) Missouri Firms - Pursuant to Section 34.076 RSMo. 1986 Cumulative Supplements, a preference shall be given to those persons doing business as Missouri firms, corporations, or individuals, or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less. In addition, in order for a nondomiciliary Missouri bidder to be successful, his bid must be that same percentage lower than a domiciliary Missouri bidder's bid, as would be required for a Missouri bidder to successfully bid in the nondomiciliary's state.
- _____(QQ) Excessive Unemployment – Only Missouri laborers and laborers from nonrestrictive states are allowed by law to be employed on Missouri’s public works projects when the unemployment rate exceeds 5% for two consecutive months. (See Sections 290.550 through 290.580 RSMO). For questions call (573) 751-3403 Extension 0.

CLEAN WATER STATE REVOLVING FUND
SPECIFICATION REVIEW GUIDANCE CHECKLIST
EQUIPMENT CONTRACTS

Project Name _____ Project No. _____

Reviewer _____ Date _____

- _____ (A) Advertising Time – 10 CSR 20-4.040 (19)
- _____ (C) SRF
- _____ (J) Debarment and Suspension – 10 CSR 20-4.040 (18); E.O. 12549
- _____ (L) Domestic Products Procurement Law – CSR 20-4.040 (18); Sec. 34.350 -34.359 RSMo.
- _____ (N) Award of Contract – 10 CSR 20-4.040 (19)
- _____ (O) Protest Provisions
- _____ (Q) Definite Completion/Delivery Time
- _____ (V) Restrictive Experience Clause – 10 CSR 20-4.040 (18)
- _____ (W) Restrictive Specifications – 10 CSR 20-4.040 (18)
- _____ (X) Payment Provisions – 10 CSR 20-4.040 (22) (may be modified to reflect equipment delivery schedules)
- _____ (Y) Late Payment Clause – 34.057 RSMo.
- _____ (FF) Small Business Act – P.L. 100-590, Sec. 129
- _____ (KK) Privity of Contract
- _____ (NN) Central Contractor Registration
- _____ (OO) Missouri Products – Chapter 71.140 RSMo. 1986
- _____ (PP) Missouri Firms – Sec. 34.076 RSMo. 1986