

Agency of Natural Resources
Department of Environmental Conservation

Facilities Engineering Division (FED)
Old Laundry Building
802-241-3752

MEMORANDUM

To: All Engineering Consultants providing construction contract specifications and Step III Construction Phase services to clients anticipating Drinking Water (DW) and/or Clean Water (CW) State Revolving Funds (SRF) provided by the American Recovery and Reinvestment Act of 2009 (ARRA).

From: R. Allyn Lewis, P.E., Chief Construction Engineer



Date: June 3, 2009

Subject: U.S. Department of Labor (DOL) – MEMORANDUM NO. 207 – May 29, 2009
Applicability of Davis-Bacon labor standards to projects funded with ARRA \$\$\$

Earlier draft guidance from the U.S. Environmental Protection Agency (EPA) suggested that the US Department of Labor may allow for less stringent payroll records reporting by contractors and sub-contractors working under contract with public entities that receive ARRA DWSRF and/or CWSRF financing. EPA was advocating DOL for paperwork reduction since EPA officials recognized the burden that would be placed on the states and the loan recipients if each and every ARRA funded contract (including Small Purchases) over \$ 2,000 had to supply copies of their weekly payroll records to the Owner and/or the appropriate federal agency. Apparently, according to the referenced memorandum, DOL was not willing to relieve this requirement.

As a result of this May 29th DOL Memorandum No. 207, you are hereby advised that the for all contract work in excess of \$ 2,000 the contractor and their sub-contractors "...shall submit weekly for each week in which any contract work is performed a copy of all payrolls ...to the Owner ...for transmission to the appropriate agency." The contractor is responsible for obtaining their sub-contractor's weekly payroll records. These weekly payroll records shall be certified by a statement of compliance signed by the contractor. This supersedes previous guidance that required the Owner or their Resident Project Representative to weekly review the contractor's payroll records and report on compliance at the monthly progress meetings.

The minimum federal wage rate for each classification of laborers and mechanics employed applies to each and every work contract in excess of \$ 2,000. These rates can be found at the following DOL website: <http://www.gpo.gov/davisbacon/vt.html> Select the wage rate decisions for "HEAVY – for water and sewer lines" applicable to the Vermont County in which the contract is located. The FED construction staff can also be contact for assistance in selecting the

appropriate wage decision for a particular contract and will be of assistance during the execution of the contract work.

To facilitate this ARRA requirement, the following ARRA CS-1 and CS-5 front end documents now dated June 3, 2009 are modified: Information for Bidders, Supplemental General Conditions (SGC) Index, the EPA Procurement Requirements, DOL Labor Standards Provisions. The following documents now referenced in the SGC Index are to be added to these specification front end sets: DOL Memorandum No. 207, U. S. DOL Payroll form with the required contractor's and sub-contractor's certification and the U. S. DOL Website for the Wage & Hour Division that contains instructions for completing the "Payroll" weekly reporting form along with a copy of the is form. These revised or new documents are attached for your immediate reference.

Instructions for:

ARRA funded Construction Contracts

All work contracts not yet Bid must contain these revised pages and additional information relating to the ARRA Davis-Bacon requirements. If the work contract is already in the advertisement period and more than 7 calendar days remains before Bid opening, insert in the specifications by addendum. For work contracts already Bid or under contract Agreement, these revisions & additional information must be given to the contractor and a Change Order needs to be processed.

ARRA funded Small Purchases – services requiring laborers and mechanics

When procuring services such as plumbing, electrical, general contract site and building work, equipment machinery with operator, well installation, carpentry, etc. the Owner must obtain written approval by me to be assured that the "Small Purchase" will be eligible for loan funding. When soliciting preferably three pricing proposals (minimum of two required), the Owner must provide the following information to all parties solicited: EPA Procurement Requirements, ARRA Buy American Provisions, DOL Labor Standards Provisions, DOL Memorandums Nos. 143 and 207, and the Payroll weekly reporting form with website link for instructions on completing the form.