

DISCLAIMER: The contents of this guidance document does not have the force and effect of law and is not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

UNITED STATES DEPARTMENT OF AGRICULTURE
Rural Utilities Service
RUS BULLETIN 1780-35
RD-GD-2017-88

SUBJECT: Guidance for the Implementation of American Iron and Steel (AIS) Requirements with Rural Utilities Service (RUS) Financial Assistance

TO: Rural Development (RD) state directors, RUS program directors, and state engineers.

EFFECTIVE DATE: Date of approval.

OFFICE OF PRIMARY INTEREST: Engineering and Environmental Staff (EES), Water and Environmental Programs (WEP).

INSTRUCTIONS: This is a new Bulletin and does not replace any existing RUS Bulletin.

AVAILABILITY: This Bulletin, as well as any RD or RUS instructions, regulations, or forms referenced in this Bulletin are available at any RD State Office. The State Office staff is familiar with the use of the documents in their States and can answer specific questions on RD requirements.

This Bulletin is available on the RUS website at <https://www.rd.usda.gov/publications/regulations-guidelines/bulletins/water-and-environmental>.

PURPOSE: This Bulletin assists RD staff in providing information and guidance to applicants, professional consultants, general contractors, and manufacturers regarding the AIS Requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. The intended outcome of this Bulletin is to instruct and inform RD State Office staff and others on how to implement these requirements to ensure compliance with the AIS requirements.

MODIFICATIONS: RD State Offices may modify this guidance when appropriate to comply with state statutes and regulations in accordance with the procedures outlined at RD Instruction 2006-B (2006.55).

for 
SCOTT BARRINGER
Acting Assistant Administrator
Water and Environmental Programs

August 30, 2017
Date

TABLE OF CONTENTS

1	BACKGROUND	8
2	APPLICABILITY	10
3	IMPLEMENTATION	11
4	RESPONSIBILITIES UNDER THE WATER & WASTE DISPOSAL (WWD) LOAN & GRANT PROGRAM: <i>AGENCY RESPONSIBILITIES</i>	11
5	OWNER RESPONSIBILITIES	13
6	CONSULTING ENGINEER RESPONSIBILITIES.....	13
7	CONSTRUCTION CONTRACTOR RESPONSIBILITIES	14
8	MANUFACTURER, SUPPLIER, DISTRIBUTOR RESPONSIBILITIES	15
9	PASS THROUGH ENTITIES.....	15
10	ULTIMATE RECIPIENT	15
11	RESPONSIBILITIES UNDER THE GUARANTEED LOAN PROGRAM.....	16
12	ECWAG	16
13	SECTION 306C COLONIAS AND TRIBAL SET-ASIDE GRANTS	16
14	RURAL ALASKAN NATIVE VILLAGE GRANTS	16
15	RURAL ECONOMIC AREA PARTNERSHIP ZONE (REAP)	16
16	CONTRACT PROVISIONS	16
17	PROVISIONS OF LETTERS OF CONDITIONS, LOAN RESOLUTIONS, GRANT AGREEMENTS, AND CONDITIONAL COMMITMENTS	29
18	PURCHASE OF EQUIPMENT AND MATERIALS.....	31
19	WAIVER PROCESS.....	32
20	MONITORING	34
21	NON-COMPLIANCE	34
22	INTERNATIONAL AGREEMENTS.....	34
23	USE OF EXHIBITS	34

Exhibits:

- A AMERICAN IRON & STEEL COMPLIANCE STATEMENT
- B ENGINEER'S CERTIFICATION OF COMPLIANCE
- C GENERAL CONTRACTOR'S (PRIME) CERTIFICATION OF COMPLIANCE
- D EXAMPLE OF A MANUFACTURER'S CERTIFICATION LETTER OF COMPLIANCE
- E EXAMPLES OF MUNICIPAL CASTINGS
- F EXAMPLES OF CONSTRUCTION MATERIALS
- G EXAMPLES OF NON-CONSTRUCTION MATERIALS
- H INFORMATIONAL CHECKLIST FOR PROJECT SPECIFIC WAIVER REQUEST
- I EXAMPLE COST TABLE FOR A PROJECT COST WAIVER
- J CHECKLIST FOR STATE ENGINEERS

ABBREVIATIONS

AIS – American Iron and Steel
ANTHC – Alaska Native Tribal Health Consortium
AWWA – American Water Works Association
CFR – Code of Federal Regulations
EO – Executive Order
NIST – National Institute of Standards and Technology
NSF – National Sanitation Foundation
OGC – Office of General Counsel
PL – Public Law
PER – Preliminary Engineering Report
RAVG – Rural Alaska Village Grant
RD – Rural Development
RUS – Rural Utilities Service
USC – United States Code
USDA – United States Department of Agriculture
WEP – Water and Environmental Programs
WWD – Water and Waste Disposal

DEFINITIONS

“Assistance recipient” is the entity that receives funding assistance from programs required to comply with Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. This term includes owner and/or applicant.

“Certifications” means the following:

- *Manufacturers’* certification is documentation provided by the manufacturer or fabricator to various entities stating that the iron and steel products to be used in the project are produced in the United States in accordance with American Iron and Steel (AIS) Requirements. If items are purchased via a supplier, distributor, vendor, etc. vs. from the manufacturer or fabricator directly, then the supplier, distributor, vendor, etc. will be responsible for obtaining and providing these certification letters to the parties purchasing the products.
- *Engineers’* certification is documentation that plans, specifications, and bidding documents comply with AIS.
- *Contractors’* certification is documentation submitted upon substantial completion of the project that all iron and steel products installed were produced in the United States.

“Coating” means a covering that is applied to the surface of an object. If a coating is applied to the external surface of a domestic iron or steel component, and the application takes place outside of the United States, said product would be considered a compliant product under the AIS requirements. Any coating processes that are applied to the external surface of iron and steel components that would otherwise be AIS compliant would not disqualify the product from meeting the AIS requirements regardless of where the coating processes occur, provided that final assembly of the product occurs in the United States. This exemption only applies to coatings on the *external surface* of iron and steel components. It does not apply to coatings or linings on internal surfaces of iron and steel products, such as the lining of lined pipes. All manufacturing processes for lined pipes, including the application of pipe lining, must occur in the United States for the product to be compliant with AIS requirements.

“Construction materials” are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”. See Exhibit F for examples.

Note: Mechanical and electrical components, equipment and systems are not considered construction materials. See definition of mechanical and electrical equipment.

“Consulting engineer” is an individual or entity with which the owner has contracted to perform engineering/architectural services for water and waste projects funded by the programs subject to AIS requirements).

“De minimis incidental components” are various miscellaneous low-cost components that are essential for, but incidental to, the construction and are incorporated into the physical structure of

the project. Examples of incidental components could include small washers, screws, fasteners (such as “off the shelf” nuts and bolts), miscellaneous wire, corner bead, ancillary tube, signage, trash bins, door hardware etc.

Costs for such de minimis incidental components cumulatively may comprise no more than a total of five percent of the total cost of the materials used in and incorporated into a project; the cost of an individual item may not exceed one percent of the total cost of the materials used in and incorporated into a project.

“General contractor” is the individual or entity with which the applicant has contracted (*or is expected to*) to perform construction services (or for water and waste projects funded by the programs subject to AIS requirements). This includes bidders, contractors that have received an award from the applicant and any party having a direct contractual relationship with the owner/applicant. A general contractor is often referred to as the prime contractor.

“Iron and steel products” are defined as the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. Only items on the above list made primarily of iron or steel, permanently incorporated into the project must be produced in the United States. For example trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

“Manufacturers” meaning a supplier, fabricator, distributor, materialman, or vendor is an entity with which the applicant, general contractor or with any subcontractor has contracted to furnish materials or equipment to be incorporated in the project by the applicant, contractor or a subcontractor.

“Manufacturing processes” are processes such as melting, refining, forming, rolling, drawing, finishing, and fabricating. Further, if a domestic iron and steel product is taken out of the United States for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin. Raw materials, such as iron ore, limestone, scrap iron, and scrap steel, can come from non-U.S. sources.

“Mechanical equipment” is typically that which has motorized parts and/or is powered by a motor. “Electrical equipment” is typically any machine powered by electricity and includes components that are part of the electrical distribution system. AIS does apply to mechanical equipment.

“Minor components” are components *within* an iron and/or steel product otherwise compliant with the American Iron and Steel requirements. This is different from the de minimis definition where de minimis pertains to the entire project and the minor component definition pertains to a single product. This waiver, would allow non-domestically produced miscellaneous minor

components comprising up to five percent of the total material cost of an otherwise domestically produced iron and steel product to be used. However, unless a separate waiver for a product has been approved, all other iron and steel components in said product must still meet the AIS requirements. This waiver does not exempt the whole product from the AIS requirements only minor components within said product and the iron or steel components of the product must be produced domestically. Valves and hydrants are also subject to the cost ceiling requirements described here. Examples of minor components could include items such pins and springs in valves/hydrants, bands/straps in couplings, and other low cost items such as small fasteners etc.

“Municipal castings” are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and solid waste infrastructure. See Exhibit E for examples.

“National Office” refers to the office responsible for the oversight and administration of the program nationally. The National Office sets policy, develops program regulations, and provides training and technical assistance to help the state offices administer the program. The National Office is located in Washington, D.C.

“Owner” is the individual or entity with which the general contractor has contracted regarding the work, and which has agreed to pay the general contractor for the performance of the work, pursuant to the terms of the contract for water and waste projects funded by the programs subject to AIS requirements. For the purpose of this Bulletin, this term is synonymous with the term “applicant” as defined in 7 CFR 1780.7 (a) (1), (2) and (3) and is an entity receiving financial assistance from the programs subject to the AIS requirements.

“Pass through Entities” is an entity that provides a subaward to a loan and/or grant recipient to carry out part of a Federal program. Examples are grantees utilizing the Revolving Loan Program and Household Water Well Program and Alaska Native Tribal Health Consortium (ANTHC) or the State of Alaska from the RAVG Program.

“Primarily iron or steel” is defined as a product made of greater than 50 percent iron or steel, measured by cost. The cost should be based on the material costs. An exception to this definition is reinforced precast concrete (see Definitions). All technical specifications and applicable industry standards (e.g. NIST, NSF, AWWA) must be met. If a product is determined to be less than 50 percent iron and steel, the AIS requirements do not apply.

For example, the cost of a fire hydrant includes:

- (1) The cost of materials used for the iron portion of a fire hydrant (e.g. bonnet, body and shoe); and
- (2) The cost to pour and cast to create those components (e.g. labor and energy).

Not included in the cost are:

- (1) The additional material costs for the non-iron and steel internal workings of the hydrant (e.g. stem, coupling, valve, seals, etc.); and
- (2) The cost to assemble the internal workings into the hydrant body.

“Produced in the United States” means that the production in the United States of the iron or steel products used in the project requires that all manufacturing processes must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives.

“Project” is the total undertaking to be accomplished for the applicant by consulting engineers, general contractors, and others, including the planning, study, design, construction, testing, commissioning, and start-up, and of which the work to be performed under the contract is a part. A project includes all activity that an applicant is undertaking to be financed in whole or part by programs subject to AIS requirements. The intentional splitting of projects into separate and smaller contracts or obligations to avoid AIS requirements is prohibited.

“Reinforced Precast Concrete” may not consist of at least 50 percent iron or steel, but the reinforcing bar and wire must be produced in the United States and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the United States. The cement and other raw materials used in concrete production are not required to be of domestic origin. If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are considered to be a construction material and must be produced in the United States.

“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel, and other specialty steels.

“Structural steel” is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees, and zees. Other shapes include but are not limited to, H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

“Ultimate recipient” is a loan or grant recipient receiving funds from a pass-through entity. Examples include: (1) a loan recipient from the Revolving Loan Fund; (2) a loan recipient from the Household Water Well Program; and (3) a grant recipient from ANTHC or the State of Alaska from the RAVG Program.

“United States” means each of the several states, the District of Columbia, and each Federally Recognized Indian Tribe.

1 BACKGROUND

- a Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, applies a new American Iron and Steel (AIS) requirement to the following programs:
- (1) Water and Waste Disposal Loan and Grant program;
 - (2) Guaranteed Loan Funds;
 - (3) Revolving Loan Funds;
 - (4) Emergency Community Water Assistance Grants;
 - (5) Section 306C Colonias and Tribal Set-Aside Grants;
 - (6) Rural Alaskan Native Village Grants;
 - (7) Household Water Well System Grants; and
 - (8) Rural Economic Area Partnership Zone projects.
- b The basic concept of this new requirement is that all iron and steel products used in projects funded by RUS WEP must be produced in the United States. Iron and steel products are specifically defined and does not include every item consisting of any quantity of iron and/or steel.
- c Statutory Language: SEC. 746 Division A Title VII the Consolidated Appropriations Act of 2017.
- (a)(1) No Federal funds made available for this fiscal year for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, 306E, and 310B of the Consolidated Farm and Rural Development Act ([7 U.S.C. 1926](#) et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron and steel products used in the project are produced in the United States.
- (2) In this section, the term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(b) Subsection (a) shall not apply in any case or category of cases in which the Secretary of Agriculture (in this section referred to as the “Secretary”) or the designee of the Secretary finds that—

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the Secretary or the designee receives a request for a waiver under this section, the Secretary or the designee shall make available to the public on an informal basis a copy of the request and information available to the Secretary or the designee concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Secretary or the designee shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Department.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

(e) The Secretary may retain up to 0.25 percent of the funds appropriated in this Act for “Rural Utilities Service—Rural Water and Waste Disposal Program Account” for carrying out the provisions described in subsection (a)(1) for management and oversight of the requirements of this section.

(f) Subsection (a) shall not apply with respect to a project for which the engineering plans and specifications include use of iron and steel products otherwise prohibited by such subsection if the plans and specifications have received required approvals from State agencies prior to the date of enactment of this Act.

(g) For purposes of this section, the terms “United States” and “State” shall include each of the several States, the District of Columbia, and each federally recognized Indian tribe.

- d American Iron and Steel (AIS) refers to requirements mandated by Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.
- e The statute refers to Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.

2 APPLICABILITY

- a The requirements of AIS apply only to projects that construct, alter, enlarge, extend, maintain, repair or otherwise improve rural water, sanitary sewage, solid waste disposal, and storm wastewater disposal facilities.
- b The requirements apply to projects using funds from programs listed in Section 1 a of this Bulletin. Any amount of funding from these programs requires compliance with the AIS requirements. Use of funds from these programs is not allowed unless the requirements for AIS are met for the entire project. Projects that leverage funds from other funding sources are also subject the requirements.
- c The requirements apply in the United States as defined in Section 746 (g) of the statute and therefore do not apply to projects located in Puerto Rico, the Virgin Islands, or the Western Pacific Territories.
- d The requirements apply to any used AIS products to be constructed in the project.
- e The requirements do not apply to projects for which any funds were obligated on or before May 5, 2017. The requirements therefore do not apply to subsequent obligations of funds for projects which had an initial obligation of funds on or before May 5, 2017.
- f The requirements do not apply to contracts which were executed prior to or on May 5, 2017, regardless of the date of obligation.
- g The requirements do not apply to projects for which contracts were executed and/or construction is already underway and/or completed prior to applying to USDA funding.
- h The requirements do not apply to products primarily composed of iron and/or steel (composed of more than 50 percent) if they are not listed in the statute.
- i The requirements do not apply to raw materials used in the production of iron or steel such as iron ore, limestone, scrap iron and scrap steel.
- j The requirements do not apply to any items that are at the construction site temporarily, such as scaffolding, trench boxes, or equipment temporarily used or stored on site.
- k The requirements do not apply when the sole purpose of the loan and/or grant is to fund non-construction activities such as capacity/connection fees or the acquisition of a system.

- l The requirements supersede any regulation on full and open competition stated in 7 CFR 1780.70 (b) and 2 CFR Part 200.319. For example, if an iron and steel product that is compliant with AIS is made by only one manufacturer provided documentation is submitted and verified, sole source procurement of said product may be used.
 - m The requirements only apply to the final product as delivered to the work site and incorporated into the project. The need for compliance of an item with AIS depends on whether or not the final assembled product is listed. Components of a final product even if they are listed, do not need to comply with the AIS requirements. In the case of an assembled product where the primary component is not listed in the 2017 Consolidated Appropriations Act and includes components/appurtenances that are specifically listed, said assembled product is not subject to AIS (e.g. pump assembly).
- 3 IMPLEMENTATION (Agency, Owner, Engineer, General Contractor, Manufacturers et. al., Pass through Entities, Ultimate Recipients)
- a There are several parties involved in compliance with the AIS requirements and some requirements are specific to a party.
 - b The parties that have one or more responsibilities under AIS include: the Agency, funding recipients under the Water and Waste Disposal Loan and Grant program and Guaranteed Loan Program, consulting engineers, construction contractors, suppliers, distributors, manufacturers, lenders under the Guaranteed Loan Program; grantees under the revolving loan program, Household Water Well program, and grantees under the 306C, ECWAG programs, and RAVG programs, as well as loan recipients under the Revolving Loan and Household Water Well program.
 - c For exceptions please see Section 2.
- 4 RESPONSIBILITIES UNDER THE WATER & WASTE DISPOSAL (WWD) LOAN & GRANT PROGRAM: *AGENCY RESPONSIBILITIES*
- a State Director:
 - (1) ***Approve*** and set aside a sufficient budget for travel so that Area Specialists and State Engineers can perform their responsibilities under this section.

b Community Programs Director:

- (1) **Ensure** that all Grant Agreements, Letters of Conditions, Loan Resolutions and Conditional Commitments for Guarantees, include appropriate language prior to obligation of funds (see Section 17).
- (2) **Budget** for travel so that State Engineers (as applicable) can perform their responsibilities under this section.

c State Engineer:

- (1) **Ensure** that the cost estimates in the PER reflect AIS requirements.
- (2) **Ensure** that agreements for engineering services include AIS language (see Section 16).
- (3) **Ensure** that plans, specifications and bidding documents include required language (see Section 16).
- (4) **Obtain** engineer's certification letter where the consulting engineer certifies that plans, specifications, and bidding documents comply with AIS and commits that bid addenda, executed contracts and change orders will comply with AIS (see Exhibit B).
- (5) Monitoring: For each project, **perform** a site visit during active construction and complete the AIS checklist (see Exhibit J). Provide an electronic copy to National Office upon final payment.
- (6) Change orders and partial payment estimates: **Verify** the consulting engineer, general contractor and owner have signed C-941 and C-620 of EJCDC and manufacturers' certifications letters (as applicable) (see Exhibit D) are included with the submittal.
- (7) Substantial completion of project: **Obtain** a copy of the contractor's certification letter (see Exhibit C). **Obtain** a list of manufacturers from the consulting engineer for AIS products used in the project (including manufacturer name and location, product(s)) and provide an electronic copy to the National Office Engineer(s).
- (8) Special cases:
 - (a) Where owner provides their own engineering and/or construction services, **obtain** copies of engineers', contractors' (prepared by the owner), and manufacturers' certification letters (as applicable) for the Agency to insert into the Agency file.
 - (b) Where owner directly procures AIS products, **obtain** copies of manufacturers' certification letters for the Agency to insert into the Agency file.

d Area Office Specialist:

- (1) Pre-construction Conference: **Read** a statement outlining the AIS requirements (see Exhibit A) during the conference.
- (2) Guaranteed Program: **Ensure** that conditional commitments include AIS language (i.e. Section 17 a)
- (3) Partial payment estimates: **Verify** that the consulting engineer, general contractor and owner have signed C-620 of EJCDC.

5 OWNER RESPONSIBILITIES

- a Owners are ultimately responsible for compliance with AIS requirements.
- (1) **Sign** loan resolutions, grant agreements and letters of intent to meet conditions which include AIS language, accepting AIS requirements in those documents and in the letter of conditions.
 - (2) **Sign** agreements for engineering services, executed construction contracts and all other appropriate and necessary documents which include AIS language.
 - (3) **Acknowledge** responsibility for compliance with AIS requirements by signing change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC).
 - (4) Substantial completion of project: **Obtain** the certification letters from the consulting engineer and **maintain** this documentation for the life of the loan.
 - (5) Special Cases
 - (a) Where the owner provides their own engineering and/or construction services, **provide** copies of engineers' (see Exhibit B), contractors' (see Exhibit C), and manufacturers' certification letters (see Exhibit D) (*as applicable*) to the Agency. All certification letters must be kept in the engineer's project file and on site during construction. For Owner Construction (Force Account), all AIS clauses from Section 16 must be included in the Agreement for Engineering Services.
 - (b) Where the owner directly procures AIS products, the owner must:
 - (i) **Include** clauses from Section 17 a not including 17 a (1) in the procurement contracts.
 - (ii) **Obtain** manufacturers' certification letters and provide copies to consulting engineers and contractors.

6 CONSULTING ENGINEER RESPONSIBILITIES

- (1) **Include** costs of compliance with AIS in engineering fees (if appropriate) and in engineer's opinions of probable cost and associated revisions.
- (2) Agreements for engineering services: **Include** AIS language (see Section 16).
- (3) Plans, specifications, bidding documents and bid addenda: **Include** required AIS language (see Section 16). For any AIS products specified by brand names, **obtain** a manufacturer's certification letter (see Exhibit D) from the manufacturer to verify the products comply with AIS.
- (4) **Certify** that plans, specifications, and bidding documents comply with AIS and **commit** that bid addenda, executed contracts and change orders will comply with AIS and **submit** a letter to the Agency prior to authorization to advertise for bids (see Exhibit B).
- (5) Award: **Provide** copies of manufacturers' certification letters to the general contractor on any specified brand name AIS products in the plans, specifications and bidding documents including any bid addenda.

- (6) Shop drawing submittal: **Review** shop drawings and change orders to ensure compliance with AIS. For shops drawings under consideration for any brand name, equal and/or substitute, and any iron and steel products subject to AIS, **obtain** a manufacturers' certification letter (see Exhibit D) from the general contractor to verify the products comply with AIS.
- (7) **Keep** all certification letters (including those from the engineer, contractor and any manufacturer providing AIS products) in the engineer's project file.
- (8) Change Order: For any change order under consideration for any AIS products, **obtain** a manufacturer's certification letter (see Exhibit D) from parties submitting the change proposal to ensure compliance with AIS.
- (9) **Acknowledge** responsibility for compliance with AIS requirements by signing change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC).
- (10) Substantial completion of project: **Obtain** the contractors' certification letter (see Exhibit C) and copies of manufacturers' certification letters for all AIS products used in the project. **Provide** copies of engineer's, contractors', and manufacturers' certification letters to the owner and copy of contractor's certification letter to the Agency. **Provide** a list of manufacturers to the RD State Engineer for AIS products used in the project (including manufacturer name and location, product(s)).

7 CONSTRUCTION CONTRACTOR RESPONSIBILITIES

- a Construction contractors must use and install iron and steel products that are compliant with AIS as part of the permanent work.
 - (1) Bid submittal: for proposed equals and substitutes, **provide** manufacturers' certification letter (see Exhibit D) to verify the products comply with AIS.
 - (2) Award: **Obtain** copies of manufacturers' certification letters (see Exhibit D) from the consulting engineer for brand name products specified by the consulting engineer.
 - (3) Shop drawing submittal: For proposed equals, substitutes and any iron and steel product subject to AIS, **provide** manufacturers' certification letters (see Exhibit D) to verify the products comply with AIS.
 - (4) Prior to construction: **Ensure** that copies of manufacturers' certification letters including those from others (e.g. consulting engineer, owner, etc.) for any AIS products to be used in the project is in the project file on site prior to installation.
 - (5) Change Order: For any AIS products proposed in a change proposal, **provide** manufacturers' certification letter (see Exhibit D) to the consulting engineer to verify the products comply with AIS.
 - (6) **Acknowledge** responsibility for compliance with AIS requirements by signing change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC).

- (7) **Keep** all manufacturer certification letters (including those from the engineer, general contractor and any manufacturer providing AIS products) on site during construction in the construction project file.
- (8) **Substantial completion of the project: Provide** the general contractor's certification (see Exhibit C) letter to the engineer that all iron and steel products installed comply with AIS. This certification is to be submitted upon substantial completion of the project to the project engineer.

8 MANUFACTURER, SUPPLIER, DISTRIBUTOR RESPONSIBILITIES

- (1) If iron and steel products are produced in the United States as defined in this Bulletin, **prepare** (*applicable to manufacturers and fabricators*) or **obtain** (*applicable to suppliers, distributors, vendors, etc.*) manufacturers' certification letters (see Exhibit D) and make available upon request to consulting engineers, general contractors, etc.

9 PASS THROUGH ENTITIES (e.g. Grantees utilizing the Revolving Loan Program and Household Water Well Program)

- (1) **Sign** Grant Agreements which include AIS language (See Section 17).
- (2) **Include** AIS language in loan agreement their borrowers (See Section 17 a).
- (3) **Monitor** for compliance.
- (4) **Perform** corrective actions to ensure compliance where needed.

10 ULTIMATE RECIPIENT (e.g. Loan Recipients under Revolving Loan Program, Homeowners under the Household Water Well Program)

- a Loan recipients are ultimately responsible for compliance with AIS requirements.
 - (1) **Sign** loan agreements which include AIS language (see Section 17 a).
 - (2) **Include** required AIS language (see Section 17 a) in any agreements for engineering services and contracts for construction services and procurement of AIS products.
 - (3) **Obtain** manufacturers' certification letters for AIS products and include a copy in project files.
- b Homeowners are ultimately responsible for compliance with AIS requirements.
 - (1) **Sign** a loan agreement accepting responsibility to ensure AIS products used to construct, refurbish, or service individually-owned household water well systems are produced in the United States.
 - (2) **Obtain** manufacturers' certification letters (see Exhibit D) from contracted service providers (e.g. well driller) and maintain a copy on-site for the duration of the loan.

11 RESPONSIBILITIES UNDER THE GUARANTEED LOAN PROGRAM

AIS applies to projects funded by Section 306A – Guaranteed Loan Program.

- a Lenders are responsible to ensure that ultimate recipients comply with AIS requirements.
- b Loan recipients are ultimately responsible for compliance with AIS requirements.
- c Project specialists will ensure that conditional commitments include AIS language (i.e. Section 17 a)

12 ECWAG

AIS applies to projects funded by ECWAG.

- a If construction contracts were awarded and/or executed or construction began prior to application, these projects are not subject to AIS (see Section 2).
- b If construction contracts were awarded and/or executed or construction began during the application process, these projects are subject to AIS.

13 SECTION 306C COLONIAS AND TRIBAL SET-ASIDE GRANTS

AIS applies to projects funded by Section 306 C including Colonias and Tribes.

14 RURAL ALASKAN NATIVE VILLAGE GRANTS

AIS applies to projects funded by Section 306 D – the Rural Alaskan Native Village Grant Program.

- a Special Cases:
 - (1) If a project is administered by Alaska RD State Office, please **follow** this Bulletin.
 - (2) If the project is administered by the State of Alaska or ANTHC:
 - (a) **Sign** grant agreements and letters of intent to meet conditions which include AIS language (See Section 17), accepting AIS requirements in those documents and in the letter of conditions.
 - (b) **Include** AIS language in grant agreement their grantees (See Section 17 a).
 - (c) **Monitor** for compliance.
 - (d) **Perform** corrective actions to ensure compliance where needed.

15 RURAL ECONOMIC AREA PARTNERSHIP ZONE (REAP)

AIS applies to projects funded by Section 310 B – REAP.

16 CONTRACT PROVISIONS

To ensure compliance with the AIS requirements specific AIS contract language must be included in each contract including agreements for engineering services, construction contract documents and purchase agreements prepared by the owner.

- a Agreement Between Owner and Engineer for Professional Services (EJCDC E-500, 2014)
- (1) (E-500, Article 5.01.A)
Add the following to 5.01.A: “Opinions of Probable Cost and any revisions thereof should reflect compliance with American Iron & Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.”
 - (2) (E-500, Article 5.03.B)
Add paragraph 5.03.B: “Opinions of Total Project Costs and any revisions thereof should reflect compliance with American Iron & Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.”
 - (3) (E-500, Exhibit A.1.03.A.13):
Add paragraph A.1.03.A.13: “Services required to determine and certify that to the best of the Engineer’s knowledge and belief all iron and steel products referenced in engineering analysis, the Plans, Specifications, Bidding Documents, and associated Bid Addenda requiring design revisions are either produced in the United States or are the subject of an approved waiver; and services required to determine to the best of the engineer’s knowledge and belief that approved substitutes, equals, and all iron and steel products proposed in the shop drawings, Change Orders and Partial Payment Estimates are either produced in the United States or are the subject of an approved waiver under Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The de minimis and minor components waiver *{add project specific waivers as applicable}* apply to this contract.”
 - (4) (E-500, Exhibit A.1.04.A.10)
Add paragraph A.1.04.A.10: “Provide copies of Manufacturers’ Certification letters to the Bidders on any brand name iron and steel products along with the Plans, Specifications and Bidding Documents. Manufacturers’ Certification Letters are to be included in the Bidding

Documents and must be kept in the engineer's project file and on site during construction."

- (5) (E-500, Exhibit A.1.04.11)
Add paragraph A.1.04.A.11: "Provide copies of Manufacturers' Certification letters to the Contractor on any brand name iron and steel products along with the Plans, Specifications, Bidding Documents including any Bid Addenda and Change Orders. Manufacturers' Certification Letters must be kept in the engineer's project file and on site during construction."
- (6) (E-500, Exhibit A.1.05.A.17)
Modify A.1.05.A.17 by adding the following prior to the first sentence: "Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. Any iron and steel products included in any submittal by the General Contractor, must include a Manufacturers' Certification letter to verify the products were produced in the United States. Copies of Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction."
- (7) (E-500, Exhibit A.1.05.A.18)
Add the following to A.1.05.A.18 to the end of the paragraph as amended by RUS Bulletin 1780-26: "Prior to approval of any substitute "or equal" obtain a Manufacturers' Certification letter to verify the products were produced in the United States. Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, if applicable."
- (8) (E-500, Exhibit A.1.05.A.19)
Add subparagraph A.1.05.A.19.d: "Receive and review all Manufacturers' Certification Letters for materials required to comply with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference to verify the products were produced in the United States. Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction."

- (9) (E-500, Exhibit A.1.05.A.20)
Add subparagraph (c) to the end of A.1.05.A.20: “(c) Review Change Proposals to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.”
- (10) (E-500, Exhibit A.1.05.A.25)
Add item “a” as a deliverable under paragraph A.1.05.A.25: “(a) Obtain the Contractors’ Certification letter and copies of Manufacturers’ Certification letters for all American Iron and Steel products used in the project. Upon Substantial Completion, provide copies of Engineer’s, Contractors’, and Manufacturers’ Certification letters to the Owner and a copy of Contractor’s Certification letter to the Agency. Provide a list of manufacturers of American Iron and Steel products used in the project and include manufacturer’s name and location, and product(s) to the Agency.”
- (11) (E-500, Exhibit B.2.02)
Add the following language to B.2.02: “Owners are ultimately responsible for compliance with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference and will be responsible for the following:
- (a) **Signing** loan resolutions, grant agreements and letters of intent to meet conditions which include American Iron and Steel language, accepting American Iron and Steel requirements in those documents and in the letter of conditions.
 - (b) **Signing** change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC) and thereby **acknowledging** responsibility for compliance with American Iron and Steel requirements.
 - (c) **Obtaining** the certification letters from the consulting engineer upon substantial completion of the project and **maintaining** this documentation for the life of the loan.
 - (d) Where the owner provides their own engineering and/or construction services, **providing** copies of engineers’, contractors’, and manufacturers’ certification letters (*as applicable*) to the Agency. All certification letters must be kept in the engineer’s project file and on site during construction. For Owner Construction (Force Account), all clauses from Section 17 of RUS Bulletin 1780-35 must be included in the Agreement for Engineering Services.
 - (e) Where the owner directly procures American Iron and Steel products, **including** American Iron and Steel clauses in the procurement

contracts and **obtaining** manufacturers' certification letters and **providing** copies to consulting engineers and contractors.

- (12) (E-500, Exhibit D1.01.C.11.g)
Add sub paragraph D.1.01.C.11.g: “(g) Maintain all Manufacturers’ Certification letters in the project file and on site during construction to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, as applicable.”

b Bidding and Construction Contract Documents (EJCDC C-Series, 2013)

- (1) Advertisement for Bids (C-111):
Add at the end of C-111 prior to the Owner’s name: “Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel requirement to this project. All listed iron and steel products used in this project must be produced in the United States. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The de minimis and minor components waiver *{add project specific waivers as applicable}* apply to this contract.”
- (2) Instructions to Bidders (C-200):
- (a) (C-200, Article 5.01.C)
Delete the semicolon at the end of 5.01.C and *insert the following:*
...including but not limited to American Iron and Steel requirements as mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference which apply to the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.
- (b) (C-200, Article 11.01)
Modify paragraph 11.01, as previously amended by RUS 1780-26, by inserting the following sentence after “Each such request shall comply with the requirements of Paragraphs 7.04 and 7.05 of the General Conditions.

Each such request shall include Manufacturer's Certification letter for compliance with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, if applicable. Refer to Manufacturer's Certification Letter provided in these Contract Documents."

(c) (C-200, Article 24.02)

Add paragraph to 24.02: "Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel requirement to this project. All iron and steel products used in this project must be produced in the United States. The term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The de minimis and minor components waiver *{add project specific waivers as applicable}* apply to this contract."

(3) Bid Form (C-410)

(a) (C-410, Article 3.01.C)

Add language at the end of the sentence of Article 3.01.C: "...and including all American Iron and Steel requirements."

(b) (C-410, Article 7.01)

Add 7.01.K after 7.01.J (7.01.J added by RUS 1780-26): K. Manufacturer's Certification letter of compliance with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference for all equals or substitutes approved by Addenda for American Iron and Steel products as provided in these Contract Documents.

(4) Supplementary General Conditions (C-800)

(a) (C-800, Article SC 1.01.A.51)

Add 1.01.A.51 after 1.01.A.50 (as amended by RUS 1780-26):

"*Manufacturer's Certification letter* is documentation provided by the manufacturer, supplier, distributor, vendor, fabricator, etc. to various entities stating that the American Iron and Steel products to be used in the project are produced in the United States in accordance with American Iron and Steel requirements. Refer to Manufacturer's Certification Letter provided in these Contract Documents."

- (b) (C-800, Article SC 1.01.A.52)
Add 1.01.A.52 after 1.01.A.51: “AIS - refers to requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.”
- (c) (C-800, Article SC 7.03)
Add sentence 7.03.d: “All iron and steel products must meet American Iron and Steel requirements.”
- (d) (C-800, Article SC 7.04.B.1)
Add 7.04.B.1: “Contractor shall include a Manufacturer’s Certification letter for compliance with American Iron and Steel requirements in support data, if applicable. Refer to Manufacturer’s Certification Letter provided in these Contract Documents. In addition, for the Deminimis Waiver, Contractor shall maintain an itemized list of incidental components and ensure that the cost is less than 5% of total materials cost for project; for the Minor Components Waiver, the Contractor shall maintain a list of products to which the minor components waiver applies and the cost of the non-domestically produced component is less than 5% of total materials cost of that product.”
- (e) (C-800, Article SC 7.05.A.3.a.4)
Add 7.05.A.3.a.4: “4) comply with American Iron and Steel by providing Manufacturer’s Certification letter of American Iron and Steel compliance, if applicable. Refer to Manufacturer’s Certification Letter provided in these Contract Documents.”
- (f) (C-800, Article SC 7.11.A)
Modify 7.11.A by inserting the following after “written interpretations and clarifications,”: “Manufacturers’ Certification letter is documentation provided by the manufacturer, supplier, distributor, vendor, fabricator, etc. to various entities stating that the iron and steel products to be used in the project are produced in the United States in accordance with American Iron and Steel Requirements. Refer to Manufacturer’s Certification Letter provided in these Contract Documents.”
- (g) (C-800, Article SC 7.16.A.1.e)
Add 7.16.A.1.e: “e. obtained Manufacturer’s Certification letter for any item in the submittal subject to American Iron and Steel requirements and include

the Certificate in the submittal. Refer to Manufacturer's Certification Letter provided in these Contract Documents."

- (h) (C-800, Article SC 7.16.D.9)
Add 7.16.D.9: "Engineer's review and approval of Shop Drawing or Sample shall include review of compliance with American Iron and Steel requirements, as applicable."
- (i) (C-800, Article SC 7.17.E)
Add 7.17.E: "Contractor shall certify upon Substantial Completion that all Work and Materials has complied with American Iron and Steel requirements as mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. Contractor shall provide said Certification to Owner. Refer to General Contractor's Certification Letter provided in these Contract Documents."
- (j) (C-800, Article SC 10.10.A)
Add 10.10.A American Iron & Steel: "A. "Services required to determine and certify that to the best of the Engineer's knowledge and belief all iron and steel products referenced in engineering analysis, the Plans, Specifications, Bidding Documents, and associated Bid Addenda requiring design revisions are either produced in the United States or are the subject of an approved waiver and services required to determine to the best of the engineer's knowledge and belief that approved substitutes, equals, and all iron and steel products proposed in the shop drawings, Change Orders and Partial Payment Estimates are either produced in the United States or are the subject of an approved waiver under Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017).
- (k) (C-800, Article SC 11.06.A.1)
Modify 11.06.A.1 by inserting the following sentence after "within 15 days after the submittal of the Change Proposal.": "Include supporting data (name of manufacturer, city and state where the product was manufactured, description of product, signature of authorized manufacturer's representative) in the Manufacturer's Certification Letter, as applicable."

- (l) (C-800, Article SC 14.03.G)
Add 14.03.G: “G. Installation of Materials that are non-compliant with American Iron and Steel requirements shall be considered defective work.”
- (m) (C-800, Article SC 15.01.B.4)
Add 15.01.B.4: “4. By submitting Materials for payment, Contractor is certifying that the submitted Materials are compliant with American Iron and Steel requirements. Manufacturer’s Certification letter for Materials satisfy this certification. Refer to Manufacturer’s Certification Letter provided in these Contract Documents.”
- (n) (C-800, Article SC 15.01.C.2.d)
Add 15.01.C.2.d: “d. the Materials presented for payment comply with American Iron and Steel.”
- (o) (C-800, Article SC 15.03.A)
Modify 15.03.A by adding the following after the last sentence: “Services required to determine and certify that to the best of the Contractor’s knowledge and belief all substitutes, equals, and all iron and steel products proposed in the shop drawings, Change Orders and Partial Payment Estimates, and those installed for the project are either produced in the United States or are the subject of an approved waiver under Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.”
- (p) (C-800: Article 19, SC 19.14):
Add “Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel requirement to this project. All iron and steel products used in this project must be produced in the United States. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The de minimis and minor components waiver *{add project specific waivers as applicable}* apply to this contract.”
- (q) (C-800: Article 19, SC 19.15):
Add SC 19.15 Definitions:
“Assistance recipient” is the entity that receives funding assistance from programs required to comply with Section 746 Division A Title VII of the Consolidated Appropriations Act of 2017 (Agriculture, Rural Development,

Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. This term includes owner and/or applicant.

“Certifications” means the following:

- *Manufacturers’* certification is documentation provided by the manufacturer or fabricator to various entities stating that the iron and steel products to be used in the project are produced in the United States in accordance with American Iron and Steel (AIS) Requirements. If items are purchased via a supplier, distributor, vendor, etc. vs. from the manufacturer or fabricator directly, then the supplier, distributor, vendor, etc. will be responsible for obtaining and providing these certification letters to the parties purchasing the products.
- *Engineers’* certification is documentation that plans, specifications, and bidding documents comply with AIS.
- *Contractors’* certification is documentation submitted upon substantial completion of the project that all iron and steel products installed were produced in the United States.

“Coating” means a covering that is applied to the surface of an object. If a coating is applied to the external surface of a domestic iron or steel component, and the application takes place outside of the United States, said product would be considered a compliant product under the AIS requirements. Any coating processes that are applied to the external surface of iron and steel components that would otherwise be AIS compliant would not disqualify the product from meeting the AIS requirements regardless of where the coating processes occur, provided that final assembly of the product occurs in the United States. This exemption only applies to coatings on the *external surface* of iron and steel components. It does not apply to coatings or linings on internal surfaces of iron and steel products, such as the lining of lined pipes. All manufacturing processes for lined pipes, including the application of pipe lining, must occur in the United States for the product to be compliant with AIS requirements.

“Construction materials” are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”.

Note: Mechanical and electrical components, equipment and systems are not considered construction materials. See definition of mechanical and electrical equipment.

“Consulting engineer” is an individual or entity with which the owner has contracted to perform engineering/architectural services for water and waste projects funded by the programs subject to AIS requirements).

“De minimis incidental components” are various miscellaneous low-cost components that are essential for, but incidental to, the construction and are incorporated into the physical structure of the project. Examples of incidental components could include small washers, screws, fasteners (such as “off the shelf” nuts and bolts), miscellaneous wire, corner bead, ancillary tube, signage, trash bins, door hardware etc.

Costs for such de minimis incidental components cumulatively may comprise no more than a total of five percent of the total cost of the materials used in and incorporated into a project; the cost of an individual item may not exceed one percent of the total cost of the materials used in and incorporated into a project.

“General contractor” is the individual or entity with which the applicant has contracted (*or is expected to*) to perform construction services (or for water and waste projects funded by the programs subject to AIS requirements). This includes bidders, contractors that have received an award from the applicant and any party having a direct contractual relationship with the owner/applicant. A general contractor is often referred to as the prime contractor.

“Iron and steel products” are defined as the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. Only items on the above list made primarily of iron or steel, permanently incorporated into the project must be produced in the United States. For example trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

“Manufacturers” meaning a supplier, fabricator, distributor, materialman, or vendor is an entity with which the applicant, general contractor or with any subcontractor has contracted to furnish materials or equipment to be incorporated in the project by the applicant, contractor or a subcontractor.

“Manufacturing processes” are processes such as melting, refining, forming, rolling, drawing, finishing, and fabricating. Further, if a domestic iron and steel product is taken out of the United States for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin. Raw materials, such as

iron ore, limestone, scrap iron, and scrap steel, can come from non-U.S. sources.

“Mechanical equipment” is typically that which has motorized parts and/or is powered by a motor. “Electrical equipment” is typically any machine powered by electricity and includes components that are part of the electrical distribution system. AIS does apply to mechanical equipment.

“Minor components” are components *within* an iron and/or steel product otherwise compliant with the American Iron and Steel requirements. This is different from the de minimis definition where de minimis pertains to the entire project and the minor component definition pertains to a single product. This waiver, would allow non-domestically produced miscellaneous minor components comprising up to five percent of the total material cost of an otherwise domestically produced iron and steel product to be used. However, unless a separate waiver for a product has been approved, all other iron and steel components in said product must still meet the AIS requirements. This waiver does not exempt the whole product from the AIS requirements only minor components within said product and the iron or steel components of the product must be produced domestically. Valves and hydrants are also subject to the cost ceiling requirements described here. Examples of minor components could include items such pins and springs in valves/hydrants, bands/straps in couplings, and other low cost items such as small fasteners etc.

“Municipal castings” are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and solid waste infrastructure.

“National Office” refers to the office responsible for the oversight and administration of the program nationally. The National Office sets policy, develops program regulations, and provides training and technical assistance to help the state offices administer the program. The National Office is located in Washington, D.C.

“Owner” is the individual or entity with which the general contractor has contracted regarding the work, and which has agreed to pay the general contractor for the performance of the work, pursuant to the terms of the contract for water and waste projects funded by the programs subject to AIS requirements. For the purpose of this Bulletin, this term is synonymous with the term “applicant” as defined in 7 CFR 1780.7 (a) (1), (2) and (3) and is an entity receiving financial assistance from the programs subject to the AIS requirements.

“Pass through Entities” is an entity that provides a subaward to a loan and/or grant recipient to carry out part of a Federal program. Examples are grantees utilizing the Revolving Loan Program and Household Water Well Program and Alaska Native Tribal Health Consortium (ANTHC) or the State of Alaska from the RAVG Program.

“Primarily iron or steel” is defined as a product made of greater than 50 percent iron or steel, measured by cost. The cost should be based on the material costs. An exception to this definition is reinforced precast concrete (see Definitions). All technical specifications and applicable industry standards (e.g. NIST, NSF, AWWA) must be met. If a product is determined to be less than 50 percent iron and steel, the AIS requirements do not apply.

For example, the cost of a fire hydrant includes:

- (1) The cost of materials used for the iron portion of a fire hydrant (e.g. bonnet, body and shoe); and
- (2) The cost to pour and cast to create those components (e.g. labor and energy).

Not included in the cost are:

- (1) The additional material costs for the non-iron and steel internal workings of the hydrant (e.g. stem, coupling, valve, seals, etc.); and
- (2) The cost to assemble the internal workings into the hydrant body.

“Produced in the United States” means that the production in the United States of the iron or steel products used in the project requires that all manufacturing processes must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives.

“Project” is the total undertaking to be accomplished for the applicant by consulting engineers, general contractors, and others, including the planning, study, design, construction, testing, commissioning, and start-up, and of which the work to be performed under the contract is a part. A project includes all activity that an applicant is undertaking to be financed in whole or part by programs subject to AIS requirements. The intentional splitting of projects into separate and smaller contracts or obligations to avoid AIS requirements is prohibited.

“Reinforced Precast Concrete” may not consist of at least 50 percent iron or steel, but the reinforcing bar and wire must be produced in the United States and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the United States. The cement and other raw materials used in concrete production are not required to be of domestic origin. If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are

considered to be a construction material and must be produced in the United States.

“Steel” means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel, and other specialty steels.

“Structural steel” is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees, and zees. Other shapes include but are not limited to, H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

“Ultimate recipient” is a loan or grant recipient receiving funds from a pass-through entity. Examples include: (1) a loan recipient from the Revolving Loan Fund; (2) a loan recipient from the Household Water Well Program; and (3) a grant recipient from ANTHC or the State of Alaska from the RAVG Program.

“United States” means each of the several states, the District of Columbia, and each Federally Recognized Indian Tribe.

c Purchase Agreements

Add award language from Section 17 a not including 17 a (1).

17 PROVISIONS OF LETTERS OF CONDITIONS, LOAN RESOLUTIONS, GRANT AGREEMENTS, AND CONDITIONAL COMMITMENTS

a Standard Award Language for WWD, ECWAG, Guaranteed Loan Program, 306C, RAVG Administered by USDA, and REAP

Add the following language:

“Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies a new American Iron and Steel (AIS) requirement to obligations made after May 5th, 2017:

(1) No Federal funds made available for this fiscal year for the rural water, waste water, waste disposal, and solid waste management programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron and steel products used in the project are produced in the United States.

(2) The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(3) The requirement shall not apply in any case or category of cases in which the Secretary of Agriculture (in this section referred to as the “Secretary”) or the designee of the Secretary finds that—

- (a) applying the requirement would be inconsistent with the public interest;
- (b) iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (c) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.”

(1) Additional Language (not to be included in purchase agreements)

Add: “Owners are ultimately responsible for compliance with AIS requirements and will be responsible for the following:

- (a) **Signing** loan resolutions, grant agreements and letters of intent to meet conditions which include AIS language, accepting AIS requirements in those documents and in the letter of conditions.
- (b) **Signing** change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC) and thereby **acknowledging** responsibility for compliance with American and Iron Steel requirements.
- (c) **Obtaining** the certification letters from the consulting engineer upon substantial completion of the project and **maintaining** this documentation for the life of the loan.
- (d) Where the owner provides their own engineering and/or construction services, **providing** copies of engineers’, contractors’, and manufacturers’ certification letters (*as applicable*) to the Agency to insert into the Agency file. All certification letters must be kept in the engineer’s project file and on site during construction. For Owner Construction (Force Account), all clauses from Section 17 must be included in the Agreement for Engineering Services.
- (e) Where the owner directly procures AIS products, **including** AIS clauses in the procurement contracts and **obtaining** manufacturers’ certification letters and **providing** copies to consulting engineers and contractors.

b Standard Award Language for Revolving Loan Funds, RAVG Administered by ANTHC or the State of Alaska, Guaranteed Loan Program and Household Water Well Program

Add the following language to award agreements to ultimate recipients:
 “Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies a new American Iron and Steel requirement to obligations made after May 5th, 2017:

(1) No Federal funds made available for this fiscal year for the rural water, waste water, waste disposal, and solid waste management programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron and steel products used in the project are produced in the United States.

(2) The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(3) The requirement shall not apply in any case or category of cases in which the Secretary of Agriculture (in this section referred to as the “Secretary”) or the designee of the Secretary finds that—

- (a) applying the requirement would be inconsistent with the public interest;
- (b) iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (c) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.”

18 PURCHASE OF EQUIPMENT AND MATERIALS

Irrespective of who purchases AIS products, owner, contractor or other parties must ensure that the products were produced in the United States as defined in this Bulletin. It is the manufacturers’ responsibility to provide manufacturers’ certification letters to ensure compliance with AIS requirements. The AIS requirements supersede any regulation on full and open competition stated in 7 CFR 1780.70(b) and (d) and 2 CFR Part 200.319. For example, if an iron and steel product that is compliant with AIS is made by only one manufacturer, sole source procurement of said product may be used.

19 WAIVER PROCESS

a General

Each entity that receives financial assistance for the construction, alteration, maintenance, or repair of water and waste infrastructure from programs mandated to comply with the statute, must use iron and steel products produced in the United States. A waiver is a legal document granting a project an exception to AIS requirements, to use iron and steel products of non-domestic origin specified in the waiver(s). More than one waiver could be applied to a project.

Any funding recipient including the ultimate recipients subject to AIS requirements are eligible to apply for waivers as outlined in the statute which states:

“A waiver may be granted by the Secretary of Agriculture or designee, if one or more of the following conditions are met:

1. Applying the American Iron and Steel requirements of the Act would be inconsistent with the public interest;
2. Iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
3. Inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.”

Until a waiver is granted by USDA, the AIS requirement stands except with respect to municipalities covered by international agreements (see Section 22).

One public interest waiver has been granted by the Secretary of Agriculture or designee that addresses: (1) de minimis items and (2) minor components. This waiver is national in scope and applies to all projects. The term de minimis applies to products when they occur as de minimis incidental components and is intended for assistance recipients to use for their projects. The term minor components applies to minor components *within* an iron and/or steel product and is intended for manufacturers to certify that their products comply with the AIS requirements. For definitions of de minimis and minor components see Definitions.

b Application

To request a project specific waiver, proper and sufficient documentation must be provided by the assistance recipient (see Exhibit H).

To apply for a waiver under *condition one (public interest)*, applicants and their consulting engineers must demonstrate definitive impacts on the community if a specified product is not utilized. Information must be submitted to the National

Office (via ESEEngineering@wdc.usda.gov), copy the RD State Engineer and approved by the Administrator of RUS. Public interest waivers national in scope will be identified and approved by the Administrator of RUS.

To apply for a waiver under *condition two (quantity or quality)*, applicants and their consulting engineers must submit the information outlined in Exhibit I to the National Office (via ESEEngineering@wdc.usda.gov).

To apply for a waiver under *condition three (25 percent of project cost)*, applicants and their consulting engineers must submit the information in Exhibit I and J to the National Office (via ESEEngineering@wdc.usda.gov).

All waiver applications must be submitted to National Office. If a RD State Office receives any waiver requests, the request must be submitted to National Office for approval.

c Timing

Waivers should be submitted prior to and no later than with the submission of final plans, specifications, and bidding documents for any iron and steel products of known foreign origin. All waivers requests must be approved by the Agency prior to authorization to advertise for bids. In the event that a waiver is requested post award, it must be approved by the Agency prior to construction. In the event that a waiver is requested during construction such as via a change order, it must be approved by the Agency prior to installation.

d Evaluation by USDA

After receiving an application for a waiver of the AIS requirements, USDA National Office will publish the request on its website for 15 days and receive informal comment. National Office will evaluate whether the application adequately documents the statutory basis cited for the waiver. The Secretary or designee will determine whether or not to grant the waiver. Approved and disapproved waivers will be posted on the USDA AIS website.

For project specific waivers where EPA and USDA are co-funding and the applicant has already submitted a request to and received an approved waiver from EPA, USDA will review said waiver for the co-funded project. Applicants/owners or their representatives are required to submit the *approved* waiver to ESEEngineering@wdc.usda.gov for USDA RD review and concurrence.

All approved waivers must be included in the bidding documents, any bid addenda, change orders, and partial estimates. All information presented in waiver requests are subject to verification. Waiver requests deliberately containing false information will be rejected.

20 MONITORING

In order to comply with the Executive Order 13788 “Buy American, Hire American”, dated April 18, 2017, and AIS requirements, monitoring activities will be completed by the State Office and/or the National Office.

21 NON-COMPLIANCE

No Federal funds made available for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, 306E, and 310B of the Consolidated Farm and Rural Development Act ([7 U.S.C. 1926](#) et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public utility system unless all of the iron and steel products used in the project are produced in the United States.

Noncompliance occurs when funds are used from these programs for construction, alteration, maintenance, or repair using non-domestic iron or steel products and the product is not covered by either a project-specific or a national waiver. Loan and grant recipients should avoid noncompliance at all times as it is a violation of a Federal statute.

Process for Noncompliance

- (1) Identify the noncompliant product.
- (2) The loan or grant recipient or pass through entity notifies appropriate USDA RD State or National Office contact.
- (3) If USDA RD State Office is notified, the Program Director will notify the National Office, Director of EES.
- (4) USDA will apply remedies for noncompliance as per 2 CFR 200 §§338 – 342.

22 INTERNATIONAL AGREEMENTS

The AIS requirements apply in a manner consistent with United States obligations under international agreements. In the few cases where such an agreement exists between a loan and/or grant recipient and an international entity, that recipient is under the obligation to determine the applicability of the AIS requirements and document the actions taken to comply with these requirements.

23 USE OF EXHIBITS

The following explains the purpose of each Exhibit to this Bulletin:

- a **AMERICAN IRON & STEEL COMPLIANCE STATEMENT:** Exhibit A consists of a statement to be read by the Rural Development representative during the preconstruction conference. In addition, the RD representative should read Sections 5, 6, and 7 of this Bulletin to remind the owner, consulting engineer, and general contractor of their roles and responsibilities to comply with AIS.
- b **ENGINEER’S CERTIFICATION OF COMPLIANCE:** Exhibit B consists of a letter to be completed and signed by the consulting engineer certifying that he/she will ensure that

plans, specifications, and bidding documents and associated bid addenda, executed contracts and change orders for this project will comply with the AIS requirements. This certification letter is to be submitted to the Agency for approval prior to approval of the Advertisement for Bids and must be kept in the engineers project file and on-site during construction.

- c **GENERAL (PRIME) CONTRACTOR'S CERTIFICATION OF COMPLIANCE:** Exhibit C consists of a letter to be completed and signed by the general contractor certifying that he/she will ensure that all iron and steel products installed for this project by their company and by any and all subcontractors and manufacturers their company has contracted with comply with the AIS requirements. This certification letter is to be submitted upon substantial completion of the project to the project engineer.
- d **EXAMPLE OF A MANUFACTURER'S CERTIFICATION LETTER OF COMPLIANCE:** Exhibit D is an example of a letter to be completed and signed by the manufacturer certifying that he/she will ensure that all iron and steel products and/or materials shipped or provided for the subject project are in full compliance with the American Iron and Steel requirement. This includes listing each individual item/product/material provided to the project and providing the location of this/these item(s) being manufactured including assembly. All manufacturers' certification letters must be kept in the engineer's project file and on site during construction.
- e **EXAMPLES OF MUNICIPAL CASTINGS:** Exhibit E provides a sample list of iron and steel products that are subject to the AIS requirements. This list is not exhaustive and is meant to provide examples.
- f **EXAMPLES OF CONSTRUCTION MATERIALS:** Exhibit F provides a sample list of construction materials that are subject to the AIS requirements. This list is not exhaustive and is meant to provide examples.
- g **EXAMPLES OF NON-CONSTRUCTION MATERIALS:** Exhibit G provides a sample list of items that are not subject to the AIS requirements. This list is not exhaustive and is meant to provide examples.
- h **INFORMATIONAL CHECKLIST FOR PROJECT SPECIFIC WAIVER REQUEST:** Exhibit I is a checklist that is to be completed by the applicant and/or consulting engineer to help ensure that all appropriate and necessary information is submitted with the request to USDA. This checklist should not be used for a public interest waiver, is for informational purposes only and does not need to be included as part of a waiver application. Project specific waivers may be requested if one or more of the following conditions applies: (1) The iron and/or steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; (2) The inclusion of iron and/or steel products produced in the United States will increase the cost of the overall project by more than 25 percent. All approved waivers must be included in the bidding documents, any bid addenda, change orders, and partial estimates.

All information presented in waiver requests are subject to evaluation. Waiver requests deliberately containing false information will be rejected.

- i **EXAMPLE COST TABLE FOR A PROJECT COST WAIVER:** This exhibit is an example of a table that must be included with any cost based project waiver request. Information included in the table: product reference in the specification, brief description of the product, quantity, unit, unit price and two costs of the item: (1) cost of an AIS compliant product and (2) cost of a non-domestic product. The total cost for all items will be part of the evaluation for the project cost waiver. Note: Information in this table is subject to evaluation. Waiver requests deliberately containing false information in order to receive a project cost waiver will be rejected.

- j **CHECKLIST FOR STATE ENGINEERS:** This exhibit is a checklist that should be completed by the RD State Engineer for each project during active construction. It is important to note items being stored on-site for installation are compliant with AIS. Please ask the Resident Project Representative (RPR) if it is unclear whether or not the items in question are compliant with AIS (e.g. via manufacturer's certification letters). For checklists, RD field staff should take pictures of visible items subject to AIS. Pictures should include the manufacturer's label. If there is no label, please ask to be shown the manufacturer's certification for the item in question from the RPR or consulting engineer if on-site to verify that the items in question are compliant. These checklists and attached pictures are to be submitted to National Office upon final payment.

AMERICAN IRON & STEEL COMPLIANCE STATEMENT

“Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference applies an American Iron and Steel requirement to this project.

All parties are required to comply with these requirements and to ensure that all iron and steel products used in this project must be produced in the United States. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.”

ENGINEER'S CERTIFICATION OF COMPLIANCE WITH PROVISIONS OF THE AMERICAN IRON AND STEEL REQUIREMENTS OF SECTION 746 OF TITLE VII OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2017 (DIVISION A - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017) AND SUBSEQUENT STATUTES MANDATING DOMESTIC PREFERENCE

DATE:

**RE: PROJECT NAME
APPLICANT
CONTRACT NUMBER**

I hereby certify that to the best of my knowledge and belief all iron and steel products referenced in the Plans, Specifications, and Bidding Documents for this project comply with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference or are the subject of a waiver approved by the Secretary of Agriculture or designee. This certification is not intended to be a warranty in any way, but rather the designer's professional opinion that to the best of their knowledge the documents comply.

I hereby commit that to the best of my ability all iron and steel products that will be referenced in the Bid Addenda, Executed Contracts, and Change Orders will comply with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference or will be the subject of a waiver approved by the Secretary of Agriculture or designee.

Name of Engineering Firm (PRINT)

By Authorized Representative (SIGNATURE)

Title

This letter is to be submitted prior to Agency authorization of Advertisement for Bids.

GENERAL (PRIME) CONTRACTOR'S CERTIFICATION OF COMPLIANCE WITH PROVISIONS OF THE AMERICAN IRON AND STEEL REQUIREMENTS OF SECTION 746 OF TITLE VII OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2017 (DIVISION A - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017) AND SUBSEQUENT STATUTES MANDATING DOMESTIC PREFERENCE

DATE:

RE: PROJECT NAME
APPLICANT
CONTRACT NUMBER

I hereby certify that to the best of my knowledge and belief all iron and steel products installed for this project by my company and by any and all subcontractors and manufacturers my company has contracted with for this project comply with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference or are the subject of a waiver approved by the Secretary of Agriculture or designee.

This certification is to be submitted upon completion of the project to the project engineer.

Name of Construction Company (PRINT)

By Authorized Representative (SIGNATURE)

Title

EXAMPLE OF A MANUFACTURER'S CERTIFICATION LETTER OF COMPLIANCE WITH PROVISIONS OF THE AMERICAN IRON AND STEEL (AIS) REQUIREMENTS OF SECTION 746 OF TITLE VII OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2017 (DIVISION A - AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2017) AND SUBSEQUENT STATUTES MANDATING DOMESTIC PREFERENCE

Date:

Company Name:

Company Address:

Subject: AIS Step Certification for Project (X), Owner's Name, and Contract Number

I, (company representative), certify that the (melting, bending, galvanizing, cutting, etc.) processes for (manufacturing or fabricating) the following products and/or material shipped or provided for the subject project is in full compliance with the AIS requirement as mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.

Item, Products and/or Materials, and location of delivery (City, State):

- 1.
- 2.

Such processes for AIS took place at the following location:

(City, State)

This certification is to be submitted upon request to interested parties (e.g. municipalities, consulting engineers, general contractors, etc.)

If any of the above compliance statements change while providing materials to this project, please immediately notify the person(s) who is requesting to use your product(s).

Authorized Company Representative Signature

(Note: *Authorized signature shall be manufacturer's representative not the material distributor or supplier*)

EXAMPLES OF MUNICIPAL CASTINGS (*includes but not limited to*):

Access Hatches;
Ballast Screen;
Benches (Iron or Steel);
Bollards;
Cast Bases;
Cast Iron Hinged Hatches, Square and Rectangular;
Cast Iron Riser Rings;
Catch Basin Inlet;
Cleanout/Monument Boxes;
Construction Covers and Frames;
Curb and Corner Guards;
Curb Openings;
Detectable Warning Plates;
Downspout Shoes (Boot, Inlet);
Drainage Grates, Frames and Curb Inlets;
Inlets;
Junction Boxes;
Lampposts;
Manhole Covers, Rings and Frames, Risers;
Meter Boxes;
Service Boxes;
Steel Hinged Hatches, Square and Rectangular;
Steel Riser Rings;
Trash receptacles;
Tree Grates;
Tree Guards;
Trench Grates; and
Valve Boxes, Covers and Risers.

EXAMPLES OF CONSTRUCTION MATERIALS (*includes but not limited to*):

Wire rod, bar, angles

Concrete reinforcing bar, wire, wire cloth

Wire rope and cables

Tubing

Framing

Joists

Trusses

Fasteners (i.e., nuts and bolts)

Welding rods

Decking

Grating

Railings

Stairs

Access ramps

Fire escapes

Ladders

Wall panels

Dome structures

Roofing

Ductwork

Surface drains

Cable hanging systems

Manhole steps

Fencing and fence tubing

Guardrails

Doors

Stationary screens

EXAMPLES OF NON-CONSTRUCTION MATERIALS – *(includes but not limited to):*
(NOTE: *includes appurtenances necessary for their intended use and operation and are not subject to AIS*)

Pumps

Motors

Gear reducers

Drives (including variable frequency drives (VFDs))

Electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators)

Mixers

Gates (e.g. sluice and slide gates)

Motorized screens (such as traveling screens)

Blowers/aeration equipment

Compressors

Meters (flow and water meters)

Sensors

Controls and switches

Supervisory control Data acquisition (SCADA)

Membrane bioreactor systems

Membrane filtration systems (includes RO package plants)

Filters

Clarifier arms and clarifier mechanisms

Rakes

Grinders

Disinfection systems

Presses (including belt presses)

Conveyors

Cranes

HVAC (excluding ductwork)

Water heaters

Heat exchangers

Generators

Cabinetry and housings (such as electrical boxes/enclosures)

Lighting fixtures

Electrical conduit

Emergency life systems

Metal office furniture

Shelving

Laboratory equipment

Analytical instrumentation

Dewatering equipment.

INFORMATIONAL CHECKLIST FOR PROJECT SPECIFIC WAIVER REQUEST

Please reference the specifications of the product.

Information	<input type="checkbox"/>	Note
<p>General</p> <ul style="list-style-type: none"> • Waiver request includes the following information: <ul style="list-style-type: none"> – Description of the foreign and domestic construction materials – Unit of measure – Quantity – Price – Date that product is needed (e.g. time of delivery or availability) – Location of the construction project – Name and address of the proposed supplier – A detailed justification for the use of foreign construction materials • Waiver request was submitted according to the instructions in the memorandum • Assistance recipient made a good faith effort to solicit bids for domestic iron and steel products, as demonstrated by language in requests for proposals, contracts, and communications with the prime 		
<p>Cost Waiver Requests</p> <ul style="list-style-type: none"> • Waiver request includes the following information: <ul style="list-style-type: none"> – Comparison of overall cost of project with domestic iron and steel products to overall cost of project with foreign iron and steel products (Exhibit J) – Relevant excerpts from the bid documents used by the contractors to complete the comparison – Supporting documentation indicating that the contractor made a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers 		
<p>Availability Waiver Requests</p> <ul style="list-style-type: none"> • Waiver request includes the following supporting documentation necessary to demonstrate the availability, quantity, and/or quality of the materials for which the waiver is requested: <ul style="list-style-type: none"> – Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials – Documentation of the assistance recipient’s efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers. – Date that product is needed (e.g. time of delivery or availability) to provide justification – Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials • Waiver request includes a statement from the prime contractor and/or supplier confirming the non-availability of the domestic construction materials for which the waiver is sought • Has the State received other waiver requests for the materials described in this waiver request, for comparable projects? 		

EXAMPLE COST TABLE FOR A PROJECT COST WAIVER

AIS/Non-AIS Cost Comparison Table						
Specification	Item or Description	Quantity	Unit	Unit Price	Cost if applying AIS	Cost if a waiver to AIS is applied
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -
					\$ -	\$ -

TOTAL COST:

\$0.00

\$0.00

CHECKLIST FOR STATE ENGINEERS

Date _____ Project Name _____

Project Type: __Water__ Wastewater__ Stormwater__ Solid Waste

Applicant/Owner Name:

Project % Completion (*estimated*):

Total Project Cost:

Estimated Materials Cost:

<u>Items</u>	<u>Stored</u>	<u>OR</u>	<u>Installed?</u>	<u>US Made (Y/N)/Manufacturer Name</u>
Ductile Iron Pipe	<input type="checkbox"/>		<input type="checkbox"/>	_____
Reinforced Conc. Pipe	<input type="checkbox"/>		<input type="checkbox"/>	_____
Other Steel Pipe	<input type="checkbox"/>		<input type="checkbox"/>	_____
Fittings	<input type="checkbox"/>		<input type="checkbox"/>	_____
Valve Boxes	<input type="checkbox"/>		<input type="checkbox"/>	_____
Hydrants	<input type="checkbox"/>		<input type="checkbox"/>	_____
Valves	<input type="checkbox"/>		<input type="checkbox"/>	_____
Fittings/Bends/etc.	<input type="checkbox"/>		<input type="checkbox"/>	_____
Manholes	<input type="checkbox"/>		<input type="checkbox"/>	_____
Manhole Frames/Covers	<input type="checkbox"/>		<input type="checkbox"/>	_____
Other Municipal Castings	<input type="checkbox"/>		<input type="checkbox"/>	_____
Detection Plates	<input type="checkbox"/>		<input type="checkbox"/>	_____
Grates	<input type="checkbox"/>		<input type="checkbox"/>	_____
Manholes/Precast Conc.	<input type="checkbox"/>		<input type="checkbox"/>	_____
Steel Roofing Materials	<input type="checkbox"/>		<input type="checkbox"/>	_____
Steel Doors & Frames	<input type="checkbox"/>		<input type="checkbox"/>	_____
Steel Tanks/Pressure Vessels	<input type="checkbox"/>		<input type="checkbox"/>	_____
Reinforcing Bar/Wire	<input type="checkbox"/>		<input type="checkbox"/>	_____
Steel Stairs/Catwalks/Railings	<input type="checkbox"/>		<input type="checkbox"/>	_____
Unknown Iron/Steel Item	<input type="checkbox"/>		<input type="checkbox"/>	_____

Deminimis Waiver

General contractor maintains an itemized list of incidental components and the cost is less than 5% of total materials cost for project. YES NO

Minor Components Waiver

General contractor maintains a list of products to which the minor components waiver applies and the cost of the non-domestically produced component is less than 5% of total materials cost of that product. YES NO

Project Specific Waiver

Is there an approved waiver for this project? Is so, please list. YES NO
 Inconsistent with public interest YES NO
 Not produced in U.S. in sufficient and reasonable available quantities or of a satisfactory quality. YES NO
 Cost of the overall project increased by more than 25%. YES NO

Miscellaneous

Is there a project file that includes all manufacturers' certifications on site? If yes, please review the project file for compliance. YES NO

This inspection form was prepared by:

(Print and sign name)

Consulting Engineer/RPR present (If yes, print name):

General Contractor present (If yes, print name):

Owner/Applicant present (If yes, print name):

Others (If yes, print name):