



CERTIFICATION OF ENGINEERING OR PROFESSIONAL SERVICES CONTRACTS FOR LOAN FUNDED PROJECTS

You may complete this form online using Adobe Acrobat Reader and save a copy to your computer before printing, signing, and submitting pages 1 and 2.

Loan Applicant: _____	Loan Number: <u>L17</u>
Engineering Firm Name: _____	
Type of Loan Project: <input type="radio"/> Water Pollution Control (WPC) <input type="radio"/> Public Water Supply (PWS)	

Project Description:

Date of Original Engineering or Professional Service Agreement: _____	
If this is an amendment(s) to the original contract issued, provide the amendment number(s) and date(s):	
Amendment Number: _____	Amendment Date: _____
Amendment Number: _____	Amendment Date: _____
Amendment Number: _____	Amendment Date: _____
Amendment Number: _____	Amendment Date: _____
Amendment Number: _____	Amendment Date: _____

FILL IN THE BLANK WITH THE PAGE AND/OR SECTION WHERE THIS ITEM IS FOUND IN THE CONTRACT.
Please provide the page number and/or section of the contract that shows the location of the required information listed by each item number below. Additional information and/or sample language for each item are provided by corresponding numbers contained in the attachment. Please note that some items are required for all contracts, and some are required for only design or construction engineering contracts as indicated in the shaded section headings.

CLAUSES AND CERTIFICATION REQUIRED FOR ALL CONTRACTS:	
	1. Audit and Access to Records Clause included in contract.
	2. Covenant against Contingent Fees Clauses included in contract.
	3. Engineer certifies compliance with Executive Order 12549 (debarment, suspension, and other responsibility matters) using EPA Form 5700-49 or within the contract.
	4. The engineer's scope of work is described in the contract/amendment.
	5. Completion date or time for the contract/amendment work included in contract/amendment: _____
	6. A payment method and amount are included in the contract/amendment.
	7. USEPA nondiscrimination clause included in the contract.
	8. USEPA fair share percentage clause included in the contract.
	9. The contract/amendment has been signed by both parties (Borrower & Consultant) and a copy has been provided to the Agency.
	10. Wastewater Projects: Was a Qualifications-Based Selection (QBS) used to select an engineer? <input type="radio"/> YES <input type="radio"/> NO

COMPLETE THIS SECTION FOR CONTRACTS WITH PLANNING AND DESIGN ENGINEERING COSTS:		
	11. Total design phase contract amount, including amendments:	
	12. Total design phase costs that are not being requested to be included in the loan and/or ineligible costs, such as redesign or easement compensation:	
	13. Was any design performed by subcontractors/subconsultants? <input type="radio"/> YES <input type="radio"/> NO	
	14. If YES to item 13: Were any DBE subcontractors/subconsultants utilized? <input type="radio"/> N/A <input type="radio"/> YES <input type="radio"/> NO	
<input type="radio"/> N/A <input type="radio"/> FORM(S) ATTACHED	15. If YES to item 14: DBE Form 3 must be completed for each subcontractor and submitted with this form.	
COMPLETE THIS SECTION FOR CONTRACTS WITH CONSTRUCTION ENGINEERING OR OBSERVATION COSTS:		
	16. Total construction phase contract amount, including amendments:	
	17. Total construction phase costs that are not being requested to be included in the loan and/or ineligible costs, such as outside the scope of the approved project:	
	18. Will construction engineering be performed by subcontractors/subconsultants? <input type="radio"/> YES <input type="radio"/> NO	
<input type="radio"/> N/A <input type="radio"/> FORM(S) ATTACHED	19. If YES to item 18: The consultant must advertise for DBE subcontractors/subconsultants and submit proof of publication, along with DBE Form 2. Advertising must meet Illinois Environmental Protection Agency (Illinois EPA) DBE solicitation requirements.	
<input type="radio"/> N/A <input type="radio"/> FORM(S) ATTACHED	20. If DBE subcontractors are utilized: DBE Form 3 must be completed for each and submitted with this form.	

I hereby certify that the professional services contract and associated documents for the project and loan number described at the beginning of this form have been prepared in accordance with either the requirements of [Ill. Adm. Code 662](#), Procedures for Issuing Loans from the Public Water Supply Loan Program or [Ill. Adm. Code 365](#), Procedures for Issuing Loans from the Water Pollution Control Loan Program.

Any person who knowingly makes a false, fictitious, or fraudulent material statement, orally or in writing, to the Illinois EPA commits a Class 4 felony. A second or subsequent offense after conviction is a Class 3 felony. (415 ILCS 5/44(h)).

_____	_____
Professional Service Provider	Phone Number
_____	_____
Signature	Date
_____	_____
Loan Applicant's Authorized Representative	Phone Number
_____	_____
Signature	Date

INSTRUCTIONS

The certification form and the associated sample language can be used to satisfy the Illinois Environmental Protection Agency (Illinois EPA) loan requirements for professional services contracts. The required information must be provided if the loan applicant elects to use Illinois EPA loan funding to pay for personal or professional services, such as engineering. If Illinois EPA loan funding is not being requested for professional services, submittal of the certification form is not necessary, however a copy of the professional service agreement may still be requested to document that appropriate technical over-sight is available to complete the proposed loan project. Existing contracts that do not contain the required information can be amended to include any outstanding items. Amendments to engineering contracts can also be made after the loan is issued by submitting a signed copy with new completed certification form. An amendment to the engineering agreement that is made after the loan is issued will need to be accompanied with an Illinois EPA change order form.

The contract and checklist will be reviewed by the Illinois EPA to determine if the required items are included within the contract and for loan eligibility. Contracts can be separate for only design or construction, or they can be comprehensive and include planning, design and construction within a single contract. Costs for some professional services included in a contract may be considered ineligible for Illinois EPA loan funding. Examples of ineligible items are services associated with: redesign due to easement problems, negligence, operation and maintenance, bonus payments, costs paid by other State or Federal assistance programs, costs outside of the scope of the approved project, etc. Illinois EPA loan eligibility decisions are project specific.

Why is this information required? Per [Section 365.630](#) or [Section 662.630](#), "All subagreements for personal or professional services for design or construction that will be with paid with loan funds, where the aggregate amount of services involved is expected to exceed \$25,000 must include the following subagreement provisions". (<\$25,000 must, at a minimum, include the scope of work and cost.) Note: Subagreement is OMB's definition of a contract.

Definition of Design - All administrative, legal, and engineering tasks, subsequent to plan approval but prior to advertisement for bid proposal, associated with receiving approval of a loan application. This shall include the following: surveys, designs, plans, working drawings, specifications, soil investigations and any other tests or process determinations required to establish design criteria, and development of user charge systems.

Definition of Construction - Any one or more of the following which is undertaken for a public purpose: engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement or extension of public water supply facilities or facilities to transport and treat wastewater, or the inspection or supervision of any of the foregoing items.

INSTRUCTION FOR CERTIFICATION OF ENGINEERING OR PROFESSIONAL SERVICES CONTRACT FORM

Item 1.

An "audit and access to records clause" with the following language must be included in all contracts and subcontracts directly related to the project:

- a. Books, records, documents and other evidence directly pertinent to performance of PWSLP/WPCLP loan work under this agreement shall be maintained in accordance with generally accepted Accounting Principles. The Agency or any of its authorized representatives shall have access to the books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities shall be provided for access and inspection.
- b. Audits conducted pursuant to this provision shall be in accordance with auditing standards generally accepted in the United States of America.
- c. All information and reports resulting from access to records pursuant to the above shall be disclosed to the Agency. The auditing agency shall afford the engineer an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report.
- d. The final audit report shall include the written comments, if any, of the audited parties.
- e. Records shall be maintained and made available during performance of project services under this agreement and for three years after the final loan closing. In addition, those records that relate to any dispute pursuant to the Loan Rules Section 365.650 or Section 662.650 (Disputes) or litigation or the settlement of claims arising out of project performance or costs or items to which an audit exception has been taken, shall be maintained and made available for three years after the resolution of the appeal, litigation, claim or exception.

Item 2.

A "covenant against contingent fees" clause as follows: "The professional services contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bonafide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee."

Item 3.

Certification Regarding Debarment, Suspension and Other Responsibility Matters - The following language may be used within the contract or [Form EPA 5700-49](#) and may be submitted with engineer's signature: The prospective participant certifies to the best of its knowledge and belief that it and its principals: (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency; (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property. (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Item 4.

The scope of work is described in the contract/amendment. A detailed description of services that will be performed by the professional services provider during the design/construction phase must be included within the contract.

Item 5.

Design/construction engineering or professional services phase contract completion date: It can be an actual date or a time period after construction is complete. Any time period that is 60 days or less after the construction completion date will automatically be approved. If additional time beyond 60 days is proposed to complete engineering services, you must provide justification and obtain Illinois EPA approval. Design is normally complete prior to the construction permit issue date. Provide the completion date or duration in the space provided.

Item 6.

Contract/amendment includes payment method and amount. A description of how and when the loan applicant will pay the professional services provider for services must be included within the contract and include a contract amount not to exceed, if time and materials billing is used, or a lump sum amount.

Item 7.

USEPA nondiscrimination clause: "The contractor (engineer) shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies."

Item 8.

USEPA fair share percentage clause: "The engineer agrees to take affirmative steps to assure that disadvantaged business enterprises are utilized when possible as sources of supplies, equipment, construction and services in accordance with the [WPC or PWS] Loan Program rules. As required by the award conditions of USEPA's Assistance Agreement with Illinois EPA, the engineer acknowledges that the fair share percentages are 5% for MBEs & 12% for WBES".

Item 9.

The contract/amendment must be signed by both parties (loan applicant and consultant) and provided to the Illinois EPA. In the Item 9 page box, please indicate the signature page(s) for the contract/amendment.

Item 10.

For Wastewater & Stormwater Projects Only! WRRDA regulations contain specific requirements regarding the procurement of engineering/architectural related services. Check YES or NO indicating if a Qualifications-Based Selection (QBS) process was utilized to select an engineer. QBS is a competitive procurement process whereby consulting firms submit qualifications; the most qualified firm is selected; and then negotiates the project scope of work, schedule, budget, and fee. Information regarding this requirement is available [on the Agency's website](#) or by calling (217)782-2027.

Item 11.

Total contract amount for design phase, including contract amendments. Provide the total design phase costs at right side of box. A time and materials basis is acceptable if the contract also specifies a total not to exceed cost.

Item 12.

Total costs for design phase that are not being requested to be included in the loan and/or ineligible costs. Provide the total unrequested/ineligible costs at right side of box. The Illinois EPA makes the final determination of ineligible costs and the amount of design costs that can use Illinois EPA loan funding. If the project includes ineligible construction costs > 5% of the total construction cost or \$100,000, loan eligible design engineering will be prorated. If there are no unrequested or known ineligible costs, enter "n/a" in the page number box and \$0 for the amount.

Items 13, 14, and 15.**Disadvantaged Business Enterprise (DBE) Requirements for Design and Planning Phases**

Information regarding the use of disadvantaged business enterprises (DBEs) during the planning/design service phase must be provided by the professional services provider. You must provide written statements concerning DBE participation during project design which indicates the following; a) whether or not any design engineering was performed by subcontractors, b) if yes, was any subcontracted design work completed by SBE's, MBE's, WBE's or DBE's?, and c) information including the cost of design engineering that was completed by SBE's, MBE's, WBE's or DBE's. This information does not have to be included in the professional services contract. It should be a reported using DBE Form No. 3 and signed by the by the professional services provider and their subcontractor. Write "Attached" in the Item 15 box if DBEs were utilized.

Any time subcontracting opportunities exist, an effort must be made to include DBEs. Planning and design are sometimes complete before the decision is made to utilize SRF funding; therefore, advertising for DBE subcontractors is not a design phase requirement. If the decision to subcontract design or planning is made after a project plan or application is initially submitted to Illinois EPA, be prepared to report what efforts were made to obtain DBE subcontractors for planning or design work. When possible, soliciting DBEs for participation on federally funded projects is required by 40 CFR Part 33. A DBE Guidance Manual is available on the Illinois EPA website.

Item 16.

Total contract amount for construction phase, including contract amendments. Provide the total construction engineering costs at right side of box. A time and materials basis is acceptable if the contract also specifies a total not to exceed cost.

Item 17.

Total costs for construction phase that are not being requested to be included in the loan and/or ineligible costs, such as outside the scope of the approved project. Provide the total unrequested/ineligible construction phase costs at right side of box. The Illinois EPA makes the final determination of ineligible costs and the amount of construction costs that can use Illinois EPA loan funding. If the project includes ineligible construction costs > 5% of the total construction cost or \$100,000, loan eligible construction engineering will be prorated. If there are no unrequested or known ineligible costs, enter "n/a" in the Item 17 box and \$0 for the amount.

Items 18, 19, and 20.**Disadvantaged Business Enterprise (DBE) Requirements for Construction Phase**

If subcontractors/subconsultants are used for construction engineering or oversight, positive efforts to obtain disadvantaged business enterprises (DBE's) are required or the subcontracted work is not eligible for loan funding. Evidence must be provided that affirmative steps have been taken to assure that DBEs are used whenever possible as sources of supplies, equipment, construction, and services.

If the engineer has subcontracting opportunities, an ad seeking DBEs must be put in a DAILY newspaper for a minimum of 1 day. An established, online clearinghouse such as the Dodge Report may be used in lieu of the newspaper. Other methods may be used, but only with prior approval. Advertisement should run one day, preferably, at least 16 days prior to award.

A "Certificate of Publication" or other adequate evidence of publication from a DAILY newspaper must be submitted to Illinois EPA along with DBE Form No. 2. If an online advertisement was placed with the "Dodge Report" or an equivalent website, a screenshot of the advertisement along with the webpage address, and a receipt must be submitted to Illinois EPA. If DBEs are hired, the information is reported using DBE Form No. 3 which is signed by the professional services provider and their subcontractor. Write "Attached" in the Item 20 box if DBEs were utilized.

Questions? Please call the Illinois EPA, Bureau of Water, Infrastructure Financial Assistance Section at 217-782-2027.

ILLINOIS EPA DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
DBE FORM #2 – CONSULTANT CERTIFICATION

(To be completed by all Prime Consultants)

Please check the appropriate boxes that apply and complete the information on the bottom of the form.

- ☐ This firm will award no subcontractors (including in the procurement of equipment, supplies, and services), in the performance of this contract.
- ☐ This firm advertised for DBE subcontractors according to the good faith efforts outlined in the Illinois EPA DBE Guidance Document.
- ☐ This firm received proposals from DBE(s) that will not be utilized. A list of the DBEs not hired, along with their address, phone number, and reason(s) for non-utilization, is below.

NAME OF DBE	ADDRESS	PHONE	REASON FOR NON-UTILIZATION

- ☐ This firm did not receive any inquiries from DBEs.

I certify that the above is true. I further certify that this firm and its partners, directors, and officers do not possess a controlling interest in ownership or conflict of interest or any other authority to control the DBE to be used during the performance of the contracts.

Signature: _____

Name: _____

Date: _____

Title: _____

Company: _____

ILLINOIS EPA DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

DBE FORM #3 – SUBCONTRACTOR UTILIZATION

(Only complete this form if DBE subcontractors or sub-consultants will be working on the project.)

This form is intended to capture the DBE subcontractor's description of work to be performed and the price of the work submitted to the prime contractor. All subcontractors must complete this form, and it must be included in the prime contractor's bid package.

Subcontractor Name:	Project Name:
Contact Person's Name & Title:	
Address:	
Telephone:	Email:
DBE Certified By:	Select all that apply. At least one is required: <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> SBE <input type="checkbox"/> DBE
Prime Contractor Name:	
Type of Work to be Performed:	Cost Estimate of Work:

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to using the subcontractors above. I am aware that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 C.F.R. Part 33 Section 33.302(c).

Prime Contractor Signature:	Printed Name:
Date:	Title:
Subcontractor Signature:	Printed Name:
Date:	Title: