

ENGINEERING CONTRACT

LOUISIANA DEPARTMENT OF HEALTH • OFFICE OF PUBLIC HEALTH

An **Engineering Contract** is a written agreement between a public water system's owner and a Professional Engineer, or a company providing professional engineering services. It is required anytime a water system intends to seek DWRLF assistance and must be submitted to and accepted by DWRLF prior to execution of the Loan Agreement. The only exceptions, with DWRLF pre-approval, are 1) when a water system engages a second engineer to either replace the first or for additional work not under the scope of work of the first engineering contract, or 2) when a water system has its own engineering staff. The engineering contract must be accepted before any engineering or associated costs will be considered eligible for reimbursement with DWRLF funds.

ENGINEERING CONTRACT REQUIRED PROVISIONS

The Engineering Contract may be a document written specific to the work being done, or it may be a general standardized document that an engineering company uses for all clients. Regardless of the type, the Engineering Contract must specifically state/address the following provisions in order to be accepted and considered eligible for reimbursement:

1. The Consultant Engineer will prepare and submit the following documents to LDH-OPH/DWRLF for review and acceptance per program requirements:
 - (a) The System Improvement Plan (See the "DWRLF System Improvement Plan with Environmental Impacts Guidance Document");
 - (b) The Plans and Specifications (See the "DWRLF Plans and Specifications Guidance Document");
 - (c) The Comprehensive System-Wide Operation and Maintenance (O&M) Manual covering the entire water system including the proposed project additions (See the "DWRLF O&M Manual Guidance Document").
2. Whether the Consultant Engineer or the Water System will submit to LDH-OPH/DWRLF for review and acceptance:
 - (a) Addenda and Change Orders (See the "DWRLF Addenda and Change Orders Guidance Document");
 - (b) Bid and Executed Contract Documents (See the "DWRLF Bid and Executed Contract Documents Guidance Document").
3. The itemized engineering fees (exact price) for completing (a) the System Improvement Plan (SIP), (b) the Plans and Specifications, and (c) the Operation & Maintenance (O&M) Manual.
4. Whether the Consultant Engineer or the Water System will be responsible for the hiring and the billing cost of the Resident Inspector.

Note: Typically, the Consultant Engineer is responsible for the hiring and the billing of the Resident Inspector. However, there are various reasons and circumstances when water systems may wish to utilize staff personnel as resident inspectors. For all entities, there are ethical considerations and EPA Policy Requirements to evaluate; and for governmental entities, there are State Public Bid Law requirements that must be considered in these cases. DWRLF does not recommend this practice, but will authorize it under certain conditions.

 - I. In the case where the **Consultant Engineer** will be responsible for the hiring and billing costs of the Resident Inspector, a resume for the proposed resident inspector(s) must be submitted to DWRLF for review and approval before their costs can be reimbursed (can be done after loan closing). This must be stated in the Engineering Contract,
 - II. In the case where the **Water System** wishes to utilize their own staff (a.k.a. 'force account labor') to serve as the Resident Inspector for the project and be reimbursed, please refer to the "**DWRLF Guidance for Using Force Account Labor**", which must be strictly followed. **AUTHORIZATION to use force account labor must be requested and approved by DWRLF and EPA prior to commencement of work** (DWRLF recommends this authorization be completed before the loan closing as it can be a time-consuming process).
5. Whether the Consultant Engineer or the Water System will be responsible for:
 - (a) Preparing and submitting Payment Requests to LDH-OPH/DWRLF for payment;
 - (b) Filing of the Contract(s) with the parish clerk of court's office.

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6. Whether the Consultant Engineer or the Water System will be responsible for the hiring and the billing cost of the Davis Bacon Act (DBA) Administrative Consultant (a.k.a. 'Labor Compliance Officer'), whom must also be submitted to LDH-OPH/DWRLF for approval (See the "DWRLF Approved DBA Administrative Consultants" list).
7. For Projects where the **American Iron and Steel (AIS) Requirement** applies (Loans closed after Jan. 17, 2014 and contract Plans and Specifications approved after Jan. 17, 2014), **a statement is required that the Engineer will be responsible for ensuring that Contractors maintain and provide adequate AIS verification documentation (i.e. Manufacturer's Certification, AIS Waiver Documentation, Materials Invoices, etc.)** to the water system and DWRLF for meeting the project's AIS Requirement. This should be monitored or completed through the use of the Resident Inspector (RI) and noted on the RI's Daily Inspection Report Form (an AIS Requirement section has been added to the DWRLF RI Daily Inspection Report Form). The RI should note all materials delivered to the site wherein the AIS Requirement would apply and collect Manufacturer Certifications for those materials or add them to the project's AIS De Minimis Waiver list, wherein invoices for those particular materials would need to be collected. The Engineer must maintain an up-to-date AIS Materials List with Certifications and an up-to-date AIS De Minimis Waiver List with Invoices to be reviewed by DWRLF during inspections and provided to the water system at the end of the project. If an AIS De Minimis Waiver is being used, invoices for ALL project components will be needed to compare total materials cost to the AIS De Minimis Waiver materials cost in order to come up with a % of AIS De Minimis Waivered materials – this will also need to be kept up-to-date for inspections. A separate line item for doing this work may be provided on the project budget (Pay Request Form 105).
8. **NEW:** For projects where the **Build America, Buy America Act (BABA)** applies (*i.e. those that did not initiate project design planning before May 14, 2022, etc.*), **a statement is required that the Engineer will be responsible for ensuring that Contractors maintain and provide adequate BABA verification documentation (i.e. Manufacturer's Certifications, BABA Waiver Documentation, Materials Invoices, etc.)** to the water system and DWRLF for meeting the project's BABA Requirement. This should be monitored or completed through the use of the Resident Inspector (RI) and noted on the RI's Daily Inspection Report Form (a BABA Requirement section has been added to the DWRLF RI Daily Inspection Report Form). The RI should note all materials delivered to the site wherein the BABA Requirement would apply and collect Manufacturer Certifications for those materials or add them to the project's BABA De Minimis Waiver list, wherein invoices for those particular materials would need to be collected. The Engineer must maintain an up-to-date BABA Materials List with Certifications and an up-to-date BABA De Minimis Waiver List with Invoices to be reviewed by DWRLF during inspections and provided to the water system at the end of the project. If a BABA De Minimis Waiver is being used, which should be the case most often, invoices for ALL project components will be needed to compare total materials cost to the BABA De Minimis Waiver materials cost in order to come up with a % of BABA De Minimis Waivered materials – this will also need to be kept up-to-date for inspections. A separate line item for doing this work may be provided on the project budget (Pay Request Form 105).