

Baldwin County Commission

Request for Qualifications (RFQ) for Engineering/Environmental Services for the Dauphin Island Sea Lab (DISL)/Mobile Bay National Estuary Program's (MBNEP) Baldwin County Monitoring Task – Low Impact Development (LID) Practices/Techniques Suspended Solids and Nutrient Load Reduction Excel Site Review Tool

Overview:

The Baldwin County Commission, acting by and through the Planning & Zoning Department, seeks qualifications from qualified engineering consultant firms for the development of a LID Practices/Techniques Load Reduction Excel Site Review Tool and support of all activities related to the DISL/MBNEP Project allocations provided to the County.

The consultant proposes to develop the County a LID Site Review Tool, which will estimate a site's reduction in suspended solid and nutrient loading associated with the installation of certain LID practices/techniques.

The consultant chosen will develop the excel site review tool, incorporate the tool results into the county's permit applications and review process, and provide hands-on training for staff and local professionals.

Requirements:

The successful firm chosen will have experience with assisting local government in reviewing LID practices/techniques for developments and their associated load reductions. The chosen firm must have Professional Engineer (P.E.) licensure, and proper business licensure, both in the State of Alabama, at the time of submittal. Firms responding to this RFQ should provide Dun and Bradstreet number and be registered with the GSA database at www.sam.gov to confirm debarment/suspension status.

Scope of Services:

The scope of services to be performed by the consultant firm shall include but not be limited to the following:

- Perform all work under the direction of the Baldwin County Planning & Zoning Department.
- Project Objectives: The development of a (LID) Site Review Tool, which estimates a developments reduction of suspended solids (by 80%), and nutrient loading (by 50%) associated with the use of LID practices/techniques.
- Tasks & Deliverables:
 1. Excel Tool Development & beta testing before full release.
 2. Hands-On Training
 - Training sessions for County staff and local developers, covering:
 - Tool navigation, input assumptions, and result interpretation
 - Incorporation of results into permit applications and subdivision plans
- Attend any necessary meetings and make presentations at the request of the County.
- Provide detailed and timely schedules throughout the approved contract time-period.
- Provide any additional information the County may need in relation to the project.
- Provide one contact person to coordinate project information.

Period of Performance:

The firm selected shall be able to complete the following services outlined below within the time periods shown:

1. LID Excel Tool Development & Training (+/- 12 months after notice to proceed)

Submittal of Qualifications:

Qualifications submitted in response to this RFQ must provide detailed information to show evidence of qualifications, experience, and expertise. Seven (7) hard copies of the RFQ are required. No emailed or faxed materials will be accepted. Please limit proposals to ten (10) pages, not including (1) a two-page maximum Letter of Transmittal, (2) Table of Contents and (3) up to fifteen (15) pages for Appendices. Cover page should include Dun and Bradstreet (DUNS) number and company point of contact information. The cover pages and RFQ Response Form do not count towards the page numbers.

Questions regarding this information shall be directed to Wanda Gautney, Baldwin County Purchasing Director at wgautney@baldwincountyal.gov Questions must be received no later than **Month ?, 2025, at 2:00 pm CDT.**

Qualifications should be sent to the address below on or before 2:00 pm CDT **Month ?, 2025.**

Baldwin County Purchasing Department
Mrs. Wanda Gautney
Purchasing Director

Mailing Address:

312 Courthouse Square,
Suite 15
Bay Minette, AL. 36507

Physical Address:

257 Hand Avenue
Bay Minette, AL 36507

Selection Process and Evaluation Criteria:

A committee consisting of Baldwin County Commission staff members will evaluate and rank the most qualified firms' written qualifications based on demonstrated competence and professional qualifications for performance of the services required.

The County Selection Committee will select the most qualified firm from the submitted qualifications. Upon selection of a consulting firm, a scope of work meeting will be conducted and a proposal for work will be required. The County reserves all rights in the selection of the firm of its choosing regarding this RFQ.

The County Commission will approve the most highly qualified firm and a contract with that firm to be negotiated by the Planning & Zoning Department with a budgeted firm-fixed price amount. Contracts will be awarded to the responsible firm whose proposal is most advantageous to the County Commission. Upon completion of the contract and fee negotiations, the County Commission executes the contract. Contract award will be subject to the timely completion of contract negotiations between the County and the selected Respondent.

The County reserves the right to reject all Statements, negotiate further with any entity submitting Statements, seek additional Statements, or waive any irregularities or informalities in the RFQ process.

Qualifications should contain information sufficient to enable the Selection Committee to properly evaluate the competence and qualifications of the consultant for achieving the project objectives. Qualifications will be evaluated based on the following criteria:

- Understanding of project objectives
- Qualifications of the personnel to be used on the project including project availability
- Proposed project approach
- Previous experience of the firm on similar projects (include firm's role in the projects)
- Location of where work will actually be accomplished
- Estimated time to perform the work including a timeline with major tasks/benchmarks

Qualifications will be scored as follows:

Criteria	Possible Points
Understanding of Project Objectives	10
Qualifications of Personnel and Availability	20
Proposed Project Approach	30
Previous Experience	25
Location of Work	5
Estimated Timeline	10
Total	100

Project Funding

The funds to be disbursed by MBNEP to the **Subrecipient** under this Agreement (the "Funds") are awarded under the Infrastructure Investment and Jobs Act (IIJA) of 2021 (P.L. 117-58 - Nov 15, 2021). All recipient's agreements awarded under U.S. EPA IIJA are required to comply with EPA's National Estuary Program Infrastructure Investment and Jobs Act Funding Implementation Memo for Fiscal Years 2022-2026 signed by Radhika Fox, EPA Assistant Administrator, on July 26, 2022 (Attachment B).

Any contract made as a part of this grant shall be subject to the applicable sections of 2 CFR Part 200, uniform administrative requirements, cost principles, and audit requirements, as adopted pursuant to 2 CFR § 5900.101.

Qualifications are being requested in accordance with 2 CFR 200.320 (d) (5), as issued by the Office of Management and Budget. The firm that is selected will be notified and a contract negotiated. The contract will be for a period coinciding with the completion and closeout of the project for which services are being requested. The contract will include provisions required by 2 CFR 200, Appendix II, as follows:

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or

regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. **(See attached Certification Regarding Lobbying)**

(K) See § 200.322 Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Warranties:

By responding to this RFQ, firms/individuals submitting proposals warrant and represent the following:

1. The firm/individual does not have a judgment lien against the property for a debt to the United States.

Equal Opportunity Business Development:

Non-Discrimination. The Baldwin County Commission does not discriminate on the basis of race, color, religion, age, gender, pregnancy, national origin, genetic information, veteran status, or disability in its hiring or employment practices nor in admission to, access to, or operations of its programs, services, or activities.

Contracting with Small and Minority Businesses, Women's Businesses Enterprises, and Labor Surplus Area Firms. Minority and/or Women Businesses are encouraged to respond to this request. Baldwin County Commission takes all necessary affirmative steps, as set forth in 2 C.F.R. 200.321(b) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Should a contract be awarded, the prime contractor must take all necessary affirmative steps to assure the minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps **MUST** include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and,
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business

Administration and the Minority Business Development Agency of the Department of Commerce.

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

Equal Employment Opportunity is an Equal Opportunity Employer. Minority firms and women business enterprises are encouraged to submit proposals.

Open Trade. By submitting a Statement, the Respondent represents that he/she and the business entity he/she represents is not currently engaged in the boycott of a person or entity based in or doing business with a jurisdiction with whom the State of Alabama can enjoy open trade, as defined in Act 2016-312.

Indemnification:

The firm shall indemnify, defend and hold County and its affiliates, employees, agents, and representatives (collectively "County") harmless from and against any and all claims, demands, liabilities, damages, losses, judgments, costs, and expenses including, without limitations, attorneys' fees, for any and all personal injury (including death) and property damage of any kind or nature whatsoever, incurred by, asserted against, or imposed upon County, as a result of or in any manner related to provision of services hereunder resulting from any negligent act or omission by the Engineer. The Engineer shall provide the COUNTY with proof of general liability coverage including the COUNTY as an additional insured. This indemnification shall survive the expiration of this agreement.

Insurance:

The Engineer agrees to carrier at their own cost and expense for the length of the contract and with insurers satisfactory to the Baldwin County Commission, maintain in effect the following insurance coverage from an insurance company or companies authorized to do business in Alabama.

Comprehensive General Liability Policy
Comprehensive Liability Insurance covering all owned and non-owned Automobiles
Worker's Compensation Insurance as required by law.

Bidder Qualifications

All consultant firms, to the best of their knowledge and belief, must be in, and remain in compliance with all applicable Federal, Alabama State, County and municipal laws, regulations, resolutions and ordinances. In particular and without limitation, all bidders must be licensed and permitted in accordance with The Code of Alabama Title 10, concerning corporations doing business within Alabama, Title 34, dealing with licensing for businesses, Title 40, concerning licenses and taxation, unless otherwise exempt. All bidders should be prepared to timely submit to the County non-confidential evidence or documentation demonstrating the fact that they are presently licensed and permitted under Alabama law. Such non-confidential evidence or documentation is encouraged to be submitted with the Request for Qualifications (RFQ) Package.

All vendors, contractors and the grantee are required to comply with the Alabama Immigration Law under Sections 31-13-9 (a) and (b) of the Code of Alabama. Forms and documents will be included with award documents. Information and forms can be found on the Baldwin County Commission's Purchasing website under E-Verify at www.baldwincountyal.gov

All bidders must provide proof of proper certification of authority, and any required registration, to transact business in this State, in order to perform work for the Baldwin County Commission. Bidder's Registration Number shall be provided on the Bid Response Form. The phone number for the Alabama Secretary of State is (334) 242-5324, Corporate Division.

Termination of Services

The COUNTY may terminate this Contract, with or without cause or reason by giving written notice of such to the other party. Upon receipt of such notices, PROVIDER shall discontinue its work to the extent specified in the notice. In the event of termination, the COUNTY shall pay PROVIDER for all services satisfactorily rendered, and for any expenses deemed by COUNTY to be a reimbursable expense incurred pursuant to this Contract and prior to the date of termination.

ATTACHMENT A: CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

Documentation of compliance with the following requirements is a matter of contractor responsibility. When subcontracting, the contractor must submit documentation of good faith efforts to meet the project's MBE/WBE requirements before contracted work can commence. (MBE/WBE requirements are outlined below and can be found at 2 C. F. R. §200.321.) Failure on the part of the contractor to submit proper documentation may cause the Owner not to execute or to terminate the contract.

(a) The prime contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and,
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

The prime contractor should note that this requirement mandates two responsibilities. Separate solicitations must be made of minority **and** women's business enterprises.

SUBMITTAL OF MINORITY BUSINESS ENTERPRISE AND WOMEN'S BUSINESS ENTERPRISE (MBE/WBE) DOCUMENTATION

Prior to contract execution, the prime contractor must submit:

- A written certification that no subcontracts will be issued.
- OR -

- The Subcontractor Listing Form detailing all subcontractors from whom quotes were received including name, contact person, address, phone, and status (MBE, WBE or Non).

If subcontractors will be utilized, the prime contractor must submit the following for subcontracts proposed to be awarded to MBE/WBE enterprises:

- A certification from each MBE and/or WBE firm declaring its status as an MBE or WBE firm. A self-certification is acceptable, if the certification specifies the basis for MBE/WBE designation (e.g., the business is 51% owned and daily operation is controlled by one or more women or minority owners).

If subcontractors will be utilized, the prime contractor must submit the following for subcontracts proposed to be awarded to Non-MBE/WBE:

- For all subcontracts for which there are capable certified MBE/WBE firms existing to potentially perform the work, letters transmitted to MBE and WBE firms requesting quotes or proposals for specific subcontracting opportunities and encouraging inquiries for further details. Solicitations should have been sent in a timely manner, including allowed response time.

-A listing of certified MBE and WBE firms from whom quotes, or proposals were received, if any, who were not awarded subcontracts.

- Evidence that each Non-MBE/WBE subcontractor selected for the scope of work, was lower in price than each MBE/WBE proposal (or that there is some other acceptable reason to select the Non-MBE/WBE) and that the scope of work was the same for both the MBE/WBE and Non-MBE/WBE.

The contractor may utilize the following resources to assist in MBE/WBE affirmative outreach:

The Alabama Department of Economic and Community Affairs' Office of Minority Business Enterprise's Certified MWBE List and the Alabama Department of Transportation's Certified Disadvantaged Business Enterprise List.

Should the Prime Contractor intend to later issue a subcontract, the above affirmative steps must be followed and documentation of such submitted to the Owner for review as described under this section.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

July 26, 2022

MEMORANDUM

SUBJECT: National Estuary Program Bipartisan Infrastructure Law Funding Implementation
Memorandum for Fiscal Years 2022-2026

FROM: Radhika Fox
Assistant Administrator

A handwritten signature in black ink, appearing to be "R. Fox", is placed next to the name Radhika Fox.

TO: EPA Regional Water Division Directors
National Estuary Program Directors

1. Introduction

On November 15, 2021, President Biden signed the Bipartisan Infrastructure Law (P.L. 117-58), also known as the "Infrastructure Investment and Jobs Act of 2021" (IIJA) or "BIL." The law's investment in water is nothing short of transformational. It includes \$50 billion to the U.S. Environmental Protection Agency (EPA) for water infrastructure, the single largest investment in water that the federal government has ever made. The BIL provides \$132 million in funding for the 28 longstanding National Estuary Programs (NEPs) for fiscal years 2022 through 2026. This funding will be evenly distributed to the NEPs, annually providing each with approximately \$900,000 in BIL funds. EPA is committed to continuing the effective partnership with the NEPs to address critical water needs of communities and ecosystems in estuaries of national significance.

Since 1987 this place-based program, located in 28 estuaries of national significance along the Atlantic, Gulf, and Pacific coasts, and in Puerto Rico, has developed and implemented long-term Comprehensive Conservation and Management Plans (CCMPs), funding projects that restore the water quality and ecological integrity of their regions. These CCMPs provide a structured framework for the delivery of investments. NEPs involve community members in the decision-making process and the challenges and priorities they address are defined by local, city, state, federal, private, and non-profit stakeholders in coordination with their management conferences. The NEPs' collaborative, locally driven approach has over time generated an average of approximately \$22 return on each federal dollar invested, delivering nearly \$6 billion for habitat protection and restoration and water quality enhancement projects.

This NEP BIL Funding Implementation Memorandum (memorandum) applies to funding provided under the BIL and provides guidance on uses of funds, timeframes, how to award the funds, and tracking and reporting requirements. This memorandum describes the process for FY 2022 – FY 2026 BIL funds and may be supplemented by additional implementation memoranda as needed. Unless otherwise noted in this document, the FY 2021 – FY 2024 Clean Water Act §320 National Estuary Program Funding Guidance also applies to BIL funding.

2. NEP BIL Priorities

A core emphasis of the NEP BIL funding is the acceleration of environmental and community restoration goals within the CCMPs. The substantial increase in NEP funding appropriated in the BIL is expected to significantly enhance NEP capacities to do this work, as well as enable the NEPs to develop and strengthen partnerships necessary to make the most effective use of these new funds.

Environmental justice (EJ) and addressing climate change are key EPA priorities reflected in the Agency's [*FY 2022–2026 EPA Strategic Plan*](#), which provides the framework for EPA to integrate EJ considerations into its programs, plans, and actions, and to ensure equitable and fair access to the benefits from environmental programs for all individuals. The Strategic Plan's first two goals are to:

- “Tackle the Climate Crisis” by reducing emissions that cause climate change and accelerating resilience and adaptation to climate change impacts; and
- “Take Decisive Action to Advance Environmental Justice and Civil Rights” by promoting EJ and protecting civil rights at the federal, state, and local levels.

EPA is embedding these goals in its programs, policies, and activities, including the implementation of the NEP BIL funds. NEP projects funded through BIL should seek to:

- **Accelerate and more extensively implement CCMPs:** The significant and multi-year expansion of funds through the BIL provides an opportunity for NEPs to execute long-term projects within the communities they serve, leverage additional resources, and work with their management conferences and other key stakeholders to advance a wide range of projects identified in CCMPs.
- **Ensure that benefits reach disadvantaged¹ communities:** The BIL is a transformational opportunity to ensure that the benefits of federal investments are shared equitably by communities benefiting from estuary program projects. In identifying priority actions, management conferences should prioritize projects with benefits that flow to historically disadvantaged communities. Specifically, the NEP BIL funds are covered under the Justice40 Initiative, and the national program, as a whole, has a target of ensuring that at least 40% of the benefits from the BIL flow to disadvantaged communities. Each estuary program will be required to develop an equity strategy (see section 4 of this memorandum) that will outline the approach it will take to contribute to the nationwide NEP Justice40 target.
- **Build the adaptive capacity of ecosystems and communities:** NEPs have long been at the forefront of efforts to address climate change impacts in their watersheds, working with federal, state, and local partners, often using green infrastructure and nature-based solutions. NEPs should use BIL resources to continue to expand on their climate change adaptation, hazard mitigation, and resilience activities, where appropriate, including protection and restoration of key habitats that increase resiliency and carbon sequestration. In identifying priority actions, NEPs should select projects that advance the climate resilience of ecosystems and communities and deliver climate emissions mitigation co-benefits. Moving forward, NEPs' reporting on BIL

¹ Executive Order 14008 uses the phrase “disadvantaged communities,” and this term has been used in existing Federal and state programs to prioritize funding for environmental justice. Some community members and advocates prefer alternative terminology, and specifically the use of “overburdened and underserved communities.” Until subsequent guidance can address the question of the most appropriate terminology, this memorandum relies on the language used in Executive Order 14008.

funding will include metrics addressing climate benefits. Where possible and aligned with the priorities identified in their CCMPs, NEPs should engage and educate the public and private sectors on key climate-related vulnerabilities and solutions and provide technical and financial assistance to accelerate progress in response to a changing climate. NEPs should elevate climate efforts through BIL implementation including, but not limited to:

- Assessment and planning projects that involve climate change vulnerability assessments, community resilience and adaptation plans, or hazard mitigation plans;
 - Restoration, water infrastructure, green infrastructure, stormwater management, and nonpoint source projects that prioritize innovative climate adaptation, hazard mitigation, and resilience solutions;
 - Projects focused on climate-related research, including those that measure, monitor, and increase carbon sequestration;
 - Projects focused on climate-related outreach and education.
- **Leverage additional resources:** The NEPs have a history of significantly leveraging and supporting program implementation with additional federal and non-federal resources. As NEPs select BIL projects, EPA expects programs to collaborate with other federal agencies and new partners and identify opportunities to leverage other EPA and federal agencies' funds (including other BIL funds), as well as state, local, and nongovernmental organization funds as available and appropriate.²

3. NEP BIL Authority and Eligible Uses

The BIL references EPA's underlying authority under CWA §320 to fund the implementation of the NEP CCMPs. **As with annual appropriations distributed to NEPs to implement CWA §320, the funds distributed under the BIL must implement the management conference and EPA-approved CCMP and workplan.**

As described in CWA §320, NEPs should have a CCMP that:

- (A) recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;*
- (B) addresses the effects of recurring extreme weather events on the estuary, including the identification and assessment of vulnerabilities in the estuary and the development and implementation of adaptation strategies; and*

² NEPs are particularly encouraged to explore significant new funding streams in the BIL including an additional \$11.7 billion for EPA's Clean Water State Revolving Funds (CWSRFs), over \$2 billion in new and existing water programs at the Department of Interior, and over \$30 billion in resiliency funding across multiple federal agencies. Details on these programs can be found at [Build.gov](https://www.build.gov). Although BIL funds cannot serve as non-federal cost-share, NEP BIL funds can be combined with other funding sources, and during distinct phases of projects already identified in workplans that implement approved CCMPs. For example, NEP BIL funds can augment NOAA funds for fish habitat improvements by providing planning, design, and permitting assistance, monitoring post-project implementation, or other project enhancements. NEP BIL funds can support stormwater projects that advance the use of nature-based solutions and that could apply for funding through the CWSRFs and other federal funding sources to expand restoration efforts. In the above examples, "distinct phases" could include policy recommendations, planning and/or design, implementation, and monitoring. Projects that are funded with BIL and non-BIL funds (including external sources) must track the use BIL funds separately for reporting.

(C) increases public education and awareness of the ecological health and water quality conditions of the estuary.

Since each NEP characterizes and reflects the priority needs in its own estuary and surrounding watershed in its CCMP, eligible actions and activities will vary across programs. BIL funds can support CCMP implementation activities that include, but are not limited to:

- Protecting and restoring critical habitats, including wetlands and addressing challenging issues that threaten the ecological and economic well-being of NEP watersheds and communities;
- Supporting water quality protection and restoration, including Total Maximum Daily Load plan implementation;
- Monitoring and addressing toxics and pathogen loads and contamination;
- Implementing stormwater management practices that reduce non-point source pollution impacts;
- Promoting the adoption of green and nature-based infrastructure approaches;
- Preventing the spread of aquatic invasive species and/or managing their impacts;
- Developing and implementing nutrient reduction strategies;
- Measuring, monitoring, and increasing carbon sequestration;
- Conducting climate vulnerability assessments, developing and implementing climate change adaptation strategies and using adaptation tools to promote coastal resilience; and
- Developing and implementing strategies to increase opportunities for disadvantaged communities to access, enjoy, and benefit from surface waters and waterways, participate in ecosystem restoration, and engage in capacity-building or educational activities.

NEPs may also use funds to support other activities identified in their CCMP, including projects that build organizational or financial capacity. NEP Regional Coordinators can answer specific questions on eligible uses.

4. Annual BIL Workplan and Long-Term Plan

Due to the long-term nature of BIL funding, each NEP will be required to develop a BIL Long-Term Plan to submit no later than June 1, 2023, and submit an Annual BIL Workplan by June 1 of each year starting in 2023. EPA expects FY 2023 – FY 2026 funds to be available early in each fiscal year, so earlier workplan submissions are encouraged.

Annual BIL Workplans: A detailed, management conference-approved annual BIL workplan must be submitted by June 1 of each year, with the exception of FY 2022. For FY 2022, workplans should be submitted within 90 days after the issuance of this memorandum. Regions and NEPs may want to consider a single incremental agreement combining at least FY 2022 and FY 2023 BIL funds to reduce the grant management workload and to capture efficiencies regarding the non-federal match waiver for these funding years. NEPs must provide a complete SF 424 application, including required forms and certifications, a management conference-approved Workplan, and beginning in June 2023, an updated BIL Long-Term Plan through Grants.gov. Annual BIL Workplans can be submitted in the same format as annual appropriations workplans per the NEP funding guidance and must contain the following workplan elements:

- CCMP Goals and BIL-supported tasks or activities related to each;
- Discussion of how projects reflect BIL priorities and implement their CCMP, particularly with respect to how the proposed work may benefit disadvantaged communities, provide climate

- adaptation or mitigation co-benefits, and support CCMP goals;
- Budget and personnel per SF 424 categories;
- New and ongoing project information, including the following for each project:
 - Project or activity name: indicate whether it is a “New” project or distinct phase of an “Ongoing” project;
 - Objective(s): describe in one or more sentences;
 - Description, describe the project briefly in one or more sentences (including location if known);
 - Leads, partners and their role(s) (if available) – making note of coordination with Urban Waters Federal Partnership (UWFP) locations (where applicable), particularly on reaching disadvantaged communities;
 - Anticipated output(s) or deliverable(s);
 - Estimated milestones, where appropriate;
 - Anticipated long-term outcome(s); (including benefits to disadvantaged communities); and
 - Estimated project budget.

BIL Long-Term Plan: NEPs must develop a long-term plan that describes the key activities each NEP will pursue with BIL funds through all years of BIL funding (FY 2022 – FY 2026). The BIL long-term plan may have less detail than the annual workplans, and may be amended, modified, or revised at any time. Changes may be submitted each year along with the annual BIL workplan. The initial BIL long-term plan will be due no later than June 1, 2023.

The certainty of BIL funding for 5 years allows NEPs to develop a plan that organizes and communicates each program’s long-term expectations for using BIL funds. Importantly, **NEP BIL funds are available until expended**. As “no-year” funds, NEPs have the opportunity to leverage BIL funds to undertake initiatives that have long lead times or require multiple years of support, such as long-term environmental management projects or organizational capacity-building.

EPA encourages efficient spending of these funds. To ensure consistency with timelines for other complex construction or restoration projects, and with existing grants policy, EPA recommends a project/budget period of multiple years for each award, with the option for no-cost extensions. Since BIL projects are not expected to be completed within a year of funding, the requested long-term plan should include:

- Proposed types of projects and/or short project descriptions;
- Estimated timelines for projects for program activities;
- Potential additional sources of funding;
- Program capacity building needs to deliver BIL supported activities;
- Opportunities for potential coordination with other key stakeholder groups, including current or future Urban Waters Federal Partnership locations, where applicable; and
- Equity strategy.

Equity Strategy: Each NEP’s long-term plan must include a strategy detailing how the NEP will contribute to the national program-wide goal of ensuring that at least 40% of the benefits and investments from BIL funding flow to disadvantaged communities. This equity strategy should be submitted as part of each NEP’s BIL long-term plan no later than June 1, 2023. The strategy will be reviewed prior to awarding FY 2024 – FY 2026 BIL funds and approved by EPA’s Assistant Administrator for Water.

The purpose of the equity strategy is to ensure that each NEP is reviewing potential projects and utilization of BIL funds through the lens of equitable and fair access to the benefits from environmental programs for all individuals. The equity strategy should outline how BIL funds will be utilized to increase investments in disadvantaged communities and the benefits that flow to them. The strategy should include:

- **Definition of disadvantaged communities.** For most NEPs, this will be the definition EPA described in the following section of this memorandum, “Defining Disadvantaged Communities.” If an NEP needs to use a different definition of disadvantaged communities, (e.g., a partner state agency already has an established definition, or the definition and screening tool do not reflect any disadvantaged communities in the study area), NEPs should work with EPA to develop an approved alternative prior to finalizing the equity strategy.
- **Baseline.** The baseline is a number that reflects the recent (pre-BIL) percentage of NEP funds flowing to projects that benefit disadvantaged communities.
- **Analysis of disadvantaged communities** that may benefit from NEP projects to identify where additional investments can be made that benefit such communities while implementing CCMPs.
- **Numeric target** for activities supporting disadvantaged communities that contribute to achieving a target at or above 40% of benefits to such communities for the national program over the lifespan of total NEP BIL funds;
- **Key activities.** An outline of the path to achieve the new goal may include projects, locations of activity, milestones, training and outreach needs, capacity building, and interim goals.³
- **Tracking benefits.** Further guidance will be provided in consultation with EPA’s Office of Environmental Justice (OEJ) for tracking benefits to disadvantaged communities. This may include:
 - Expanded adaptive capacity of disadvantaged communities to be resilient to climate change;
 - Improved wildlife habitat, addressed water quality challenges or prevented or reduced nonpoint source pollution affecting disadvantaged communities;
 - Increased disadvantaged communities’ access to recreation; and
 - Expanded education and/or deepened engagement or representation of disadvantaged communities (for example expanding management or other committees to include greater representation from disadvantaged communities).

Defining Disadvantaged Communities

NEPs should use a combination of the demographic indicators below to determine where disadvantaged communities that benefit from their programs may be located. The pending update to EPA’s [EJScreen](#) tool will include a new five-factor Supplemental Demographic Index that combines these factors:

- Percent low-income;
- Percent linguistically isolated;
- Percent less than high school education;
- Percent unemployed; and
- Low life expectancy.

³ The Urban Waters Federal Partnership (UWFP) focuses on water quality, habitat, and access to green-space in nature-deprived communities. NEPs that are co-located with current or future UWFP locations are encouraged to collaborate as much as possible with those partnerships on project ideas, leveraging opportunities and other on-the-ground support to address the needs of disadvantaged communities and environmental justice issues.

These demographic indicators can be used to highlight areas where vulnerable populations may be disproportionately impacted. Maps generated in EJScreen highlight census block groups above the 80th, 90th, and 95th percentiles when compared to the nation, calculated as the average of these demographic indicators. If the Supplemental Demographic Index percentile in a census block group exceeds 80%, it will be identified as a disadvantaged community for the purposes of establishing baselines in each NEP's equity strategy, and for tracking Justice40 investments and benefits.

NEPs have already articulated local environmental priorities within their CCMPs, and the connection between CCMP priorities and these demographically defined disadvantaged communities demonstrates the intersection of NEP environmental and demographic priorities. NEP projects can also benefit disadvantaged communities outside of NEP study areas, and those project investments and benefits should be included toward the Justice40 target when there is information to indicate this connection.

Consistent with OMB's [Interim Implementation Guidance for the Justice40 Initiative](#), this BIL funding memorandum offers flexibility to NEPs in selecting projects consistent with the intent to deliver benefits to disadvantaged communities. NEPs may consider appropriate data, indices, and screening tools to determine the best uses of BIL funding to support their CCMPs and their communities in need. If an NEP needs to use a different definition of disadvantaged communities (e.g., a partner state agency already has an established definition or the screening tools listed above do not reflect any disadvantaged communities in the NEP study area), to target their work, EPA will support NEPs in developing an approved alternative. However, for consistency, all NEPs should calculate a baseline using the methodology outlined above.

EPA will provide workshops and other technical assistance to support NEPs in mapping the disadvantaged communities that benefit from their projects. Additional EPA assistance will be available to NEPs to produce these maps and calculate their baseline for the purposes of the equity strategies.

5. Awarding BIL Funds

EPA Regions should consider using an incremental cooperative or grant agreement as the funding mechanism for funding appropriated in the BIL. An incremental agreement may include up to the full BIL amount anticipated over the next five years (FY 2022 – FY 2026), with funds disbursed annually as available. Regions and NEPs may especially want to consider a single incremental agreement combining FY 2022 and FY 2023 BIL funds to reduce the grant management workload and to capture efficiencies regarding the non-federal match waiver for these funding years.

Incremental awards will enable applicants to develop longer-term workplans and budgets which are then funded partially over time until the maximum amount of the award is distributed. This format will help EPA and recipients to align large projects to specific funding and to prepare for future funding needs, while providing flexibility to plan, organize, and support suitable projects as opportunities arise.

Although a multi-year incremental award is recommended, Regions have the flexibility to use the funding mechanism of their choice (annual, incremental, supplemental, etc.). If Regions choose alternatives to the incremental award, the same requirements for managing, tracking, and reporting apply.

In accordance with Policy Notice Number PN-2022-G03 regarding "Split Funding", EPA has determined, based on anticipated OMB direction for accounting, tracking, reporting on, documenting and conditioning BIL funds as well as the need to facilitate effective transaction testing for expenditures

of BIL grant funds, that EPA will not combine BIL appropriations and “regular” annual appropriations in the same grants. However, EPA may provide a waiver from this policy for an NEP because the BIL funds were appropriated for the same purpose as the “regular” annual appropriation in that account. NEPs may work with their regional coordinator to discuss this option on a case-by-case basis. Please note that administrative convenience is not a compelling reason for split funding with BIL appropriations.

Other Award Considerations

Assistance agreements will need to consider the following flexibilities, requirements, and priorities in implementation, including as appropriate in Terms and Conditions:

- **Flexibility to waive cost-share requirement:**⁴ This memorandum serves as approval to waive the NEP non-federal match/cost-share requirements, for all NEPs, for BIL funds in FY 2022 – FY 2023. For FY 2024 – FY 2026 BIL funds, after approval of each estuary program’s equity strategy, EPA will waive non-federal cost-share requirement. Cost-share waivers must be approved by the Assistant Administrator of the Office of Water, or by relevant Regional Administrator. Regions should consult with Headquarters prior to approving a cost-share waiver to ensure national consistency.
- **Fully enforce civil rights.** EPA’s nondiscrimination regulations prohibit recipients of EPA financial assistance from taking actions in their programs or activities that are intentionally discriminatory and/or have a discriminatory effect based on race, color, national origin (including limited English proficiency), age, disability, or sex. NEP funding under the BIL should ensure compliance with civil rights laws. EPA will provide interested NEPs with technical assistance and training to support their compliance with Title VI obligations.
- **Compliance with Build America Buy America Act Requirements.** Congress passed the Build America Buy America (BABA) Act in 2021, concurrently with the BIL. Congress established this domestic preference program to create long-term opportunities for domestic manufacturers and manufacturing jobs, and to build resilient domestic supply chains for a wide range of products used in construction and infrastructure, including iron and steel products, manufactured products, and construction materials. EPA will work with the NEPs to determine the types of products that may be covered by this new law and will support compliance where necessary. Additional guidance and information regarding program-wide, project-specific, and product-specific waivers, and the process to apply for them, will be forthcoming. Compliance instructions will also be addressed in the terms and conditions of each award, and these requirements extend to sub-awardees.
- **Compliance with the Federal Flood Risk Management Standard for built infrastructure.** Where appropriate, projects should incorporate the *Federal Flood Risk Management Standard* (FFRMS) defined in Executive Order 13690 to improve the resilience of communities, ensuring that federal investments located in or near floodplains are designed to be resilient to the impacts of flooding. The FFRMS requires that new construction, or significant improvements, of structural infrastructure funded using federal financial assistance be elevated to withstand local flood risk conditions. More information can be found at: <https://www.fema.gov/floodplain-management/intergovernmental/federal-flood-risk-management-standard>.
- **Support the American Worker and Renew the Conservation and Water Workforce.** The BIL is not only an opportunity to reinvest in America’s communities and ecosystems, but also an opportunity to invest in the American workers who support them. BIL investments through NEPs

⁴ Note: BIL funds cannot be used as non-federal match for other federal funding sources. Cost-share for annual (non-BIL) NEP funds cannot be waived.

should contribute to developing a strong restoration and conservation workforce, build capacity to maintain critical gray or green infrastructure, and support efforts to open pathways to environmental employment, especially for youth and groups currently under-represented in fields such as construction and trades, environmental restoration, science, and conservation. Note: funds from the NEP may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

6. Reporting

Regularly scheduled NEP Program Evaluations will include documentation and results of BIL projects as they proceed. Evaluations should consider tracking and reporting information collected over the life of the projects. As a part of CCMP implementation, the BIL-funded activities should be included in the program evaluation packages as appropriate.

Annual Reporting: NEPs are required to provide reports to the EPA Regions consistent with the Terms and Conditions stated in their assistance agreements. The purpose of these reports is to provide a clear record of how BIL funds were spent during the reporting period. This may align with the current regional schedule of reporting for CWA §320 annual appropriations. EPA intends to design a way to identify BIL projects within the existing NEP Online Reporting Tool (NEPORT) database where relevant, and to build a separate mechanism for reporting and tracking other required metrics for BIL funding.

The NEPs shall report on the following for all projects using BIL funding:

- Project/activity name and location (lat/long);
- Brief project description;
- Lead implementer, partners and their roles;
- Deliverables and completed activities;
- BIL funds spent on project implementation;
- Definition of disadvantaged communities used in the NEP;
- How BIL workplan tasks support BIL priorities and implement CCMP priorities;
- If applicable, any external constraints related to any/all workplan elements and how the NEP addressed those constraints; and
- Important key environmental and programmatic accomplishments, completed workplan activities, and noteworthy lessons learned, presented in enough detail to fully describe what was accomplished, along with whatever substantiating data are available.

EPA will provide NEPs with reporting schedules in their grant award Terms and Conditions. Regional Coordinators are asked to share the final Annual/End of Year Report for each NEP with their respective HQ Coordinator by the date consistent with the FY 2020 – FY 2024 Clean Water Act §320 National Estuary Program Funding Guidance.

Close-Out Reports: After the final expenditure of BIL funds, NEPs shall provide a final narrative that includes:

- Total BIL awards received;
- All actions taken with BIL funding, specifically highlighting actions aimed at advancing equity and climate priorities;

- Outcomes (including anticipated outcomes) of such activities for achieving specific CCMP goals;
- Discussion of how activities funded with BIL funds improved (or are expected to improve) disadvantaged communities' access to infrastructure funding, ability to influence decision making, and participation in CCMP implementation projects impacting public health and the environment; and
- Discussion of how activities improved (or are expected to improve) the ability to adapt to and mitigate climate change impacts through implementation of CCMPs.

7. Tracking

NEPs and Regions must ensure that all BIL funds are clearly tracked to the underlying appropriation in the law and must be prepared to report on the purpose of all obligations. EPA Regions should use the technical guidance from the Office of Budget that establishes codes to track all BIL funding. EPA anticipates that there will be OMB requirements for tracking, reporting on, documenting, and conditioning BIL funds that will be unique.

It will be necessary for auditors or other oversight personnel to perform transaction testing on expenditures of BIL funds. BIL funds must be awarded and managed in compliance with the "Purpose" statute, 31 U.S.C. 1301 as well as meet Congressional and OMB expectations for accounting, tracking, documenting, and reporting. At a minimum, NEPs must track BIL funds separately from other funds received. Additional tracking requirements will be included in the Terms and Conditions of their award.

8. Contact Information

For questions regarding implementation of this memorandum, please contact:

Robin Parker
 NEP Team Coordinator Office of Wetlands, Oceans & Watersheds
 Environmental Protection Agency
 Phone: 202-564-0662
 Email: Parker.Robin@epa.gov

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* APPLICANT'S ORGANIZATION	
<input type="text"/>	
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
Prefix: <input type="text"/>	* First Name: <input type="text"/> Middle Name: <input type="text"/>
* Last Name: <input type="text"/>	Suffix: <input type="text"/>
* Title: <input type="text"/>	
* SIGNATURE: <input type="text"/>	* DATE: <input type="text"/>

State of _____)

County of _____)

CERTIFICATE OF COMPLIANCE WITH THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535, as amended by Act 2012-491)

DATE: _____

RE Contract/Grant/Incentive (describe by number or subject): _____ by and
between _____ (Contractor/Grantee)
and _____ (State Agency or Department or other Public Entity)

The undersigned hereby certifies to the State of Alabama as follows:

1. The undersigned holds the position of _____ with the Contractor/Grantee named above, and is authorized to provide representations set out in this Certificate as the official and binding act of that entity, and has knowledge of the provisions of THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535 of the Alabama Legislature, as amended by Act 2012-491) which is described herein as "the Act".
2. Using the following definitions from Section 3 of the Act, select and initial either (a) or (b), below, to describe the Contractor/Grantee's business structure.

BUSINESS ENTITY. Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit. "Business entity" shall include, but not be limited to the following:

- a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.
- b. Any business entity that possesses a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without a business license.

EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

____ (a) The Contractor/Grantee is a business entity or employer as those terms are defined in Section 3 of the Act.

____ (b) The Contractor/Grantee is not is a business entity or employer as those terms are defined in Section 3 of the Act.

3. As of the date of this Certificate, Contractor/Grantee does not knowingly employ an unauthorized alien within the State of Alabama and hereafter it will not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama;
4. Contractor/Grantee is enrolled in E-Verify unless it is not eligible to enroll because of the rules of that program or other factors beyond its control.

Certified this _____ day of _____ 20____.

Name of Contractor/Grantee/Recipient

By: _____

Its _____

The above Certification was signed in my presence by the person whose name appears above, on

this _____ day of _____ 20____.

WITNESS: _____

Print Name of Witness

IMMIGRATION STATUS

I hereby attest that all workers on this project are either citizens of the United States or are in a proper and legal immigration status that authorizes them to be employed for pay within the United States.

Signature of Contractor

Witness