

BUREAU OF RECREATION AND CONSERVATION

Title: PA Recreational Trails Grants – Administrative Instructions and Process		
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Approved By: Tom Ford, Bureau Director	Program Area: Trails	

AUTHORITY

Act 18 of 1995, Section 306, Community Recreation and Heritage Conservation. The Department shall have the power to administer Federal and State programs for grants and loans to local governments, municipal authorities and nonprofit organizations for community and regional projects involving the planning, acquisition, rehabilitation and development of public park, recreation and conservation areas, facilities and programs.

SCOPE

Provides directive for administration of the Community Conservation Partnerships Grant Program

PURPOSE

The DCNR Community Conservation Partnerships Program (C2P2) is administered by the Bureau of Recreation and Conservation (BRC). This policy has been established to help define the various types of activities, costs and match, to include both cash and non-cash match values, which are eligible under this program.

Please note that it is difficult to identify all possible project activities, costs and match scenarios. The Bureau reserves the right to review and determine the eligibility of all proposed project activities, costs and match during both the grant application process and the grant administration process, should your project be selected for funding.

BACKGROUND

The Recreational Trails Program is a grant program of the Federal Highway Administration (FHWA) to develop and maintain recreational trails and trail-related facilities for both nonmotorized and motorized recreational trail uses. The Bipartisan Infrastructure Law of 2021 reauthorized the Recreational Trails Program (RTP) through Federal fiscal years 2022 through 2026 as a set-aside from the Transportation Alternatives Set-Aside. Each state department of transportation receives an annual apportionment of funds, and each state is responsible for administering its own recreational trails program. In Pennsylvania the DCNR has assumed responsibility as the administrator of the Pennsylvania Recreational Trails (PRT) grant program through a signed Memorandum of Understanding with the Pennsylvania Department of Transportation (PennDOT).

The PRT program allows an annual allocation of funds for development projects, educational projects and DCNR's administrative costs. The annual distribution of funds is required to be allocated using the following formula: 40 percent is allocated to diverse recreational trail use, 30 percent for motorized recreation, and 30 percent for nonmotorized recreation. Some projects can qualify simultaneously under the motorized and diverse categories or the nonmotorized and diverse categories. DCNR, in coordination with PennDOT and FHWA, determines the appropriate category for each project. Educational projects cannot exceed 5 percent of the annual

apportionment and must be counted in the 30-30-40 distribution. Up to 7 percent of the annual apportionment can be used for DCNR's administrative costs but does not count towards the 30-30-40 allocation requirement.

PRT applicants submit grant applications through DCNR's annual Community Conservation Partnerships Program (C2P2). The following is an overview of the Bureau's grant process for implementing trail projects funded through PRT, as promulgated under the Uniform Grant Guidance 2 *CFR* 200. FHWA's Recreational Trails Program Guidance can be found at this link:

https://www.fhwa.dot.gov/environment/recreational_trails/guidance/

DCNR is eligible to utilize PRT funding for trail projects on DCNR-owned land. When the situation arises, DCNR will apply any unallocated PRT funds annually to recreational trails projects on DCNR lands.

POLICY

A. Grant Administration Roles and Responsibilities

1. Local Project Coordinator (LPC)

A LPC is designated by the Grantee and serves as the official contact person for grant administration. All official correspondence will be sent to the LPC. If the LPC changes during the project, the Grantee must provide the assigned Bureau Project Manager with written notification of the change, including the name, title, address, email, and daytime telephone number of the new LPC. If the new LPC does not have a Grants Portal Account, they will need to register as a new user. Click [here](#) for instructions.

2. Bureau Project Manager

A Bureau Project manager is the assigned DCNR staff member serving as the Project Manager to work with the Grantee to successfully complete the grant project. The Project Manager will provide information and technical assistance to the LPC to ensure that the project is completed, that grant program requirements are met, and that the project can be successfully closed out. All correspondence and communications regarding the project should be directed to the Bureau Project Manager.

B. Grant Administration Process

It is the Bureau's intent to provide each Grantee with as much assistance as needed, on a step-by-step basis, to ensure a successful project. The project will be managed through the [DCNR Grants Customer Service Portal](#) (Grants Portal). The grant management process is outlined in the Grants Portal Project Checklist and Project Resources and consists of a series of Grantee submissions and Bureau approvals. The standard process for implementing trail development grant is as follows.

Note: For projects where PennDOT is controlling the design and bidding through their Electronic Construction Management System (ECMS), the Bureau will accept PennDOT's approvals and assurances to satisfy several of our grant management requirements. Those requirements will be addressed in the Grants Portal Checklist.

C. Eligible Applicants

Eligible PRT applicants include federal and state agencies, municipalities, nonprofit and for-profit organizations.

D. Eligible Project Types

Eligible PRT project types include construction, rehabilitation and maintenance of trails and trail-related facilities for both motorized and non-motorized recreational trails; the development of educational

materials and programs; and the purchase or lease of equipment for trail maintenance and construction. Planning and acquisition are not eligible project types.

E. Grant Match Requirements

Grantees are required to provide a minimum match of 20% of the total project cost. Match can include a combination of cash and/or non-cash values. Eligible match sources can be local, state or other federal funding sources. However, when other federal funding sources are used as match, the total federal share cannot exceed 95% of the total project cost. At least 5% of the match must come from non-federal sources such as state, local or private sources. If other government funding sources are used as match, they may bring additional requirements that may also apply to the PRT project.

F. Application Review Process

PRT applicants submit grant applications through DCNR's annual grant program. During the application review process, DCNR identifies projects that are eligible for PRT funding. Bureau staff work with the applicant to secure the appropriate environmental clearances, Title VI documentation and PA Historical and Museum Commission (PHMC) clearances. Once all clearances are received, Bureau staff will then submit the application and clearances to PennDOT and FHWA for review and approval. If any issues are identified with the clearances, review and approval by FHWA could be delayed which could also delay the start of the project.

1. DCNR Award and Pre-Contracting

- a) DCNR sends "Notice-of-Selection" correspondence to the LPC and the Chief Elected Official listed in the grant application.
- b) Bureau Project Manager conducts a pre-contracting call with the grantee to confirm the designated LPC, match, project scope, grant agreement dates, ownership and control of the project site. And next steps in the grant process. The grant agreement dates cannot be established until the project is approved for funding by FHWA. **The grantee cannot begin any project activities or incur any costs prior to the grant agreement beginning date.**
- c) Upon approval from FHWA, PennDOT establishes the beginning date of the grant agreement. A copy of the fully executed grant agreement is sent electronically, via email, to the LPC. This signifies the beginning of the project management process. The grant agreement period is approximately four years from the start date.
- d) The Grant Agreement will also be available on the Grants Portal under "Project Resources".

2. Project Start-up Correspondence and Initial Conference Call

Note: May run concurrently with the DCNR- Contracting.

- a) The Bureau Project Manager generates a checklist in the Grants Portal and sends project start-up correspondence to the Grantee outlining the initial phase of the grant management process and project requirements. The correspondence will also be available on the Grants Portal under "Project Resources – Correspondence".
- b) Upon receipt and review of the correspondence, the Grantee is to contact the Bureau Project Manager to schedule an initial conference call, to include the LPC and design consultant (if possible). During this conference call, the Grants Portal and project issues will be discussed.

- c) Grantee is instructed to review the Grant Agreement, correspondence and access the Grants Portal prior to scheduling a project start-up call with the Bureau Project Manager.
- d) Bureau Project Manager conducts a conference call or in-person meeting with the Grantee LPC and Design Consultant to review the Grant Agreement, Project Checklist, and Grants Portal.
- e) After the grant agreement is fully executed, Grantees are strongly encouraged to request a Partial Payment of 10% of the Grant Award through the Grants Portal Payments link.
- f) Throughout the life of the project, the LPC will receive an email on a regular basis requesting a Progress Report. Progress reports will all be submitted through the Grants Portal.
- g) All project procurement, including selection of design consultants, must follow the federal Methods of Procurement. See Appendix A for a complete description of the Methods of Procurement. Procurement following Small Purchase Procedures is the preferred method to be followed for design work up to the Simplified Acquisition Threshold of \$250,000. If Small Purchase Procedures are used, written price or rate quotations must be obtained from an adequate number of qualified sources.
- h) If the project design work is estimated to be above \$250,000, then the Competitive Proposal Procedures and Brooks Act procurement procedures must be followed. For more information, visit the FHWA Consultant Services Q&As:
<https://www.fhwa.dot.gov/programadmin/consultant.cfm>
- i) Note that all contracts and sub-contracts must include the [DCNR Nondiscrimination / Sexual Harassment Clause](#) in its entirety. The Non-Discrimination Clause can be found in Appendix D of the Grant Agreement.
- j) Bidding requirements cannot be avoided by splitting a project into phases or smaller bids.

3. **Initial Submission Review and Approval**

- a) After the initial conference call is completed, the LPC, in conjunction with the design consultant, prepares and uploads the documents outlined in the Project Checklist under “Approval to Proceed,” “Preliminary Drafts” and “Final Drafts.”
- b) The Bureau Project Manager will review submissions and either approve or request revisions.
- c) The Grantee shall not proceed with bidding and procurement until the Bureau Project Manager reviews the design submissions and provides written authorization to advertise and bid the project.
- d) See Appendix B for a list of the design submission items. Upon review and approval of the design submission, the Bureau Project Manager provides written authorization for the Grantee to advertise and bid the project.
- e) The Bureau encourages the grantee to hold a pre-bid meeting for potential bidders to review all bidding, DBE/SBE and Buy America requirements and procedures. Detailed requirements for these federal programs are below.

Disadvantaged Business Enterprise and Small Business Enterprise Requirements

- a) Under the federal regulations, projects are required to make a Good Faith Effort when procuring any project supplies or services to ensure that designated Disadvantaged Business Enterprises (DBEs) and Small Business Enterprises (SBEs) are provided the opportunity to participate in the performance of contracts and subcontracts. A Good Faith Effort is demonstrated through active and reasonable steps to solicit and utilize DBE and SBE firms on their projects.
- b) Prior to any project procurement, the Bureau Project Manager will discuss the DBE/SBE procedures and requirements with the grantee to ensure each project follows the Good Faith Effort requirements. The grantee must include DBE/SBE requirements in their project bids or RFPs. See Appendix C for DBE/SBE instructions and forms. The grantee must submit documents to their Bureau Project Manager confirming that Good Faith Efforts were taken during project procurement. Examples of documentation of a Good Faith Effort include copies of emails, faxes and documented phone calls to DBEs/SBEs.
- c) In cases where the sealed bid process is used for procurement, all bidders must submit the required DBE/SBE documentation with their bids, including documentation that a Good Faith Effort was used to obtain potential sub-contractors. In cases where competitive quotes for services or supplies are obtained directly by the grantee, the grantee is responsible for making a Good Faith Effort during procurement.
- d) All DBE and SBE firms contacted must be listed on the Pennsylvania Unified Certification Program (PA UCP) website or PennDOT's SBE website. Links to the PAUCP and SBE websites are below. All bid and RFP documentation must include links to these websites.
 - o <https://paucp.dbesystem.com/>
 - o <https://www.dotsbe.pa.gov/SBEWeb/sbe/viewHome.do>

Buy America Program Requirements

Note: Buy America is applicable to projects with Federal Financial Assistance of \$500,000 or more

- a) The federal Buy America Program requires that all projects, over the \$500,000 threshold, that permanently incorporate iron and steel, manufactured products, and construction materials must use products manufactured domestically. Specifically, the federal requirements state:

“(1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.”
- b) The grantee must include notification of the Buy America provisions in their bid or RFP specifications for procurement of steel, iron, manufactured products, and construction materials.

A Buy America Compliance Statement form must be completed by all bidders. See Appendix D for the Buy America provisions and Compliance Statement.

- c) Prior to any project procurement, the Bureau Project Manager will discuss the Buy America requirements with the grantee. The grantee should review the U.S. Department of Transportation Buy America webpage at <https://www.fhwa.dot.gov/construction/cqit/buyam.cfm> for more information. The grantee must notify their design consultant of these requirements. Design consultants must consider these requirements in the development of the specifications and designs. If there are any concerns or issues with compliance with the Buy America requirements, the grantee must discuss them with the Bureau Project Manager.

Flexibility in the Buy America provisions

- d) A minimal use of foreign steel and iron materials is allowed in PRT projects; however, the cost of the steel and iron materials cannot exceed one-tenth of one percent (0.1 percent) of the total contract amount, or \$2,500, whichever is greater. For PRT grant projects, \$2,500 is typically the greater amount. To clarify, \$2,500 is the total of all foreign steel under the construction and materials contracts shared across the entire grant project. The grantee cannot divide the project into multiple construction and materials contracts for \$2,500 per contract.
- e) Waivers of the Buy America provisions may be requested if projects do not comply with the stated requirements. However, the Buy America waiver review process is on hold indefinitely. Grantees who permanently incorporate iron, steel, manufactured products, and construction materials into their projects should consult with their Bureau Project Manager.

4. Advertising and Bidding

- a) The grantee must follow the federal guidelines for *Methods of Procurement* for procuring all project work. See Appendix A for a complete description of the Methods of Procurement (2 CFR 200.320). Prior to any project procurement, the grantee must discuss their procurement procedures with their Bureau Project Manager.
- b) The sealed bid method (formal advertising) must be used for procuring all construction contracts over the **Simplified Acquisition Threshold of \$250,000**. The invitation for bids must be publicly advertised and solicited from an adequate number of known bidders. All bids must be publicly opened at a time and place specified in the invitation for bids. Fixed price contracts must be awarded to the “*lowest responsive and responsible bidder*.” Negotiations are not allowed with bidders between opening and awarding bids. The grantee may not separate their project into phases in order to avoid the sealed bid process.
- c) All bids must include the DBE/SBE and projects with federal financial assistance of \$500,000 or more must include Buy America documentation. Bidders must follow the DBE/SBE and Buy America requirements and submit forms with their bids. Bids submitted without this documentation cannot be accepted. See Appendix C for DBE/SBE forms and documentation. See Appendix D for Buy America provisions and certification form.
- d) In cases where volunteers or in-house staff will be used for all project labor and the total cost of materials or supplies is below the **Simplified Acquisition Threshold of \$250,000**, then procurement by *Small Purchase Procedures* may be used to procure materials or supplies. For Small Purchase Procedures, written specifications must be used to obtain written price or rate

quotes from an adequate number of qualified sources. In general, three quotes is considered adequate.

- e) In cases where volunteers or in-house staff will be used for all project labor **and** the total cost of materials or supplies is below the **Micro-Purchase Threshold of \$10,000**, then procurement by micro-purchases is allowed. For Micro-Purchases, materials or supplies may be purchased without soliciting competitive quotations and the cost for the materials is reasonable. To the extent practicable, the grantee must distribute their micro-purchases equitably among qualified suppliers.
- f) Grantees who use the Small Purchase or Micro-Purchase procedure must still follow the DBE/SBE requirements and submit documentation confirming that these requirements were followed prior to awarding any contracts.

NOTE: The grantee may not separate their project into phases in order to avoid any of the above procurement procedures.

- g) *PA Prevailing Wage Rates*: The Pennsylvania State Prevailing Wage Act (PWA) requires that all workers on publicly funded construction projects that exceed \$25,000 be paid the State Prevailing Wage. The PWA applies to work completed by paid contractors and subcontractors; it does not apply to work performed by grantee in-house staff, volunteers, or donated construction services.
- h) The grantee may contact the Department of Labor and Industry's Bureau of Labor Law Compliance (717-705-7256) with questions about the PWA and/or for assistance in determining if the PWA applies to the project. The grantee may also refer to the Department of Labor and Industry website for additional information: <http://www.dli.pa.gov/laws-regs/Pages/default.aspx>.
- i) Davis-Bacon federal wage requirements apply if a project is located within the right-of-way of a federal aid highway. Refer to the U.S. Department of Labor website for additional information: <https://www.dol.gov/whd/govcontracts/dbra.htm>.
- j) If other state or federal funds are being used by the organization as a match for the project and other competitive purchasing procedures are to be used in conjunction with these funds, please provide this documentation to the Bureau Project Manager.
- k) *Commonwealth Public Works Employment Verification Form*: In order to comply with Section 4 of the Public Works Employment Verification Act, 43 P.S. §§167.1-167.11, all grantees who bid out their project work must include a Public Works Employment Verification form in their invitation to bid.
- l) The Public Works Employment Verification Form and instructions to bidders can be found in Appendix E. All bidders on a public works contract must complete and submit the Public Works Employment Verification Form as a condition of being awarded the contract.
- m) Note that all contracts and sub-contracts must include the [DCNR Nondiscrimination / Sexual Harassment Clause](#) in its entirety. The Non-Discrimination Clause can be found in Appendix D of the Grant Agreement.

5. Awarding of Construction / Materials Contracts and Bureau approval of Costs

- a) Before awarding any contracts, the grantee forwards the bid tabulation and bid submission of the lowest qualified responsible bidder to the Bureau Project Manager for review and approval. Any issues with the bid results should be discussed with the Bureau Project Manager before awarding any contracts. Bids should include:
 - a. Documentation of DBE/SBE Good Faith Efforts
 - b. Signed Buy America Compliance Statement (only applicable to projects over \$500,000)
 - c. Signed Public Works Employment Verification form
- b) The Bureau Project Manager provides written authorization to award contract(s) and requests a copy of each fully executed construction contract. The grantee must seek prior written approval from the Bureau Project Manager for any changes to the approved project scope of work, budget, and/or timeline.
- c) After submission of the executed construction contract, the grantee may be eligible to receive an additional partial payment. The Bureau Project Manager will discuss an appropriate partial payment amount with the Grantee. A minimum of 10% of the grant amount is held until project close-out requirements are met.
- d) If the successful bidder commits to hiring a DBE/SBE firm in their bid, they are required to follow through with hiring that DBE/SBE firm. If a DBE/SBE is hired for the project, the grantee must complete and submit Monthly DBE/SBE Status Reports. A copy of this report can be found in Appendix C of this policy. The grantee must seek prior written approval from the Bureau Project Manager for any changes to the contractor's approved DBE commitment.

6. Final Site Inspection

- a) Upon completion of project construction and posting of the DCNR funding acknowledgement sign, Grantee contacts a Bureau Regional Advisor to schedule the final site inspection.
- b) Bureau Regional Advisor inspects the project for satisfactory completion of the Grant Agreement scope of work and takes photos.
- c) Bureau Regional Advisor sends Finals Site Inspection Report and correspondence to Grantee and uploads to RACERS. If remediation is required, comments are provided in the correspondence. Remediation must be completed in consultation with the Bureau Project Manager. A satisfactory inspection is required for final payment and project closeout. The correspondence will also be available on the Grants Portal under "Project Resources – Correspondence".

7. Final Payment Request

- a) Per Article XII of the Grant Agreement, Grantee must submit the DCNR Final Payment Request and associated closeout documentation within 60 days of either completion of the project activities or the end date of the Grant Agreement, whichever occurs first.
- b) Grantee requests a Final Payment through the Grants Portal Payments link and uploads required close-out documents as outlined on the Grants Portal Project Checklist.

8. Final Payment Approval and Project Closeout

- a) Documentation of compliance with Buy America provisions must be submitted. Mill certifications for iron/steel or equivalent documentation for applicable materials are required for materials that are permanently incorporated in the project.
- b) If a DBE/SBE performed work on the project, the grantee must complete and submit the DBE Commercially Useful Function Report (E0-354) form to verify DBE/SBE participation in the project as well as copies of DBE/SBE invoices and proofs of payment from the prime contractor, or a letter from the DBE/SBE firm confirming payment in full.
- c) Bureau Project Manager reviews and approves the Final Payment Request and associated closeout documentation and sends the Grantee a Final Payment and Project Closeout correspondence outlining the final eligible project costs, approved final payment, and post-completion requirements of the Grant Agreement. The correspondence will also be available on the Grants Portal under “Project Resources – Correspondence”.
- d) Final Payment by check/ACH will be processed within 6-8 weeks of Bureau Project Manager approval.

DISCLAIMER

The policies and procedures outlined in this guidance document are intended to supplement existing requirements. The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of DCNR to give the rules in these policies that weight or deference. This document establishes the framework within which DCNR will exercise its administrative discretion in the future.

PAGE LENGTH

9 pages

EFFECTIVE DATE

Immediately. This policy is to be reviewed and updated every year.

EXPIRATION

This policy remains in effect until revised or rescinded.

Tom Ford, Bureau Director

12/14/2023

Name/Title of Bureau or Office Director

Date

APPENDICES

Appendix A – Methods of Procurement (2 CFR 200.320)

Appendix B – Bureau Design Submission List

Appendix C – DBE/SBE Forms and Documentation

Appendix D – Buy America Provisions and Certification (23 CFR 635.410)

Appendix E – Public Works Employment Verification Form

DCNR Administrative Policy/Grant Guidelines
For the PA Recreational Trails Federal Funding Program
Appendix A

Methods of Procurement (2 CFR 200.320)

<https://www.law.cornell.edu/cfr/text/2/200.320>

§ 200.320 Methods of procurement to be followed.

The **non-Federal entity** must use one of the following methods of procurement.

(a) Procurement by **micro-purchases**. Procurement by **micro-purchase** is the acquisition of **supplies** or services, the aggregate dollar amount of which does not exceed the **micro-purchase** threshold (§ 200.67 Micro-purchase). To the extent practicable, the **non-Federal entity** must distribute **micro-purchases** equitably among qualified suppliers. **Micro-purchases** may be awarded without soliciting competitive quotations if the **non-Federal entity** considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, **supplies**, or other **property** that do not cost more than the **Simplified Acquisition Threshold**. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price **contract** (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in **paragraph (c)(1)** of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price **contract** and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (iv) A firm fixed price **contract** award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type [contract](#) is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (1)** Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (2)** Proposals must be solicited from an adequate number of qualified sources;
- (3)** The [non-Federal entity](#) must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (4)** [Contracts](#) must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (5)** The [non-Federal entity](#) may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1)** The item is available only from a single source;
- (2)** The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3)** The [Federal awarding agency](#) or [pass-through entity](#) expressly authorizes noncompetitive proposals in response to a written request from the [non-Federal entity](#); or
- (4)** After solicitation of a number of sources, competition is determined inadequate.

[[78 FR 78608](#), Dec. 26, 2013, as amended at [79 FR 75885](#), Dec. 19, 2014; [80 FR 54409](#), Sept. 10, 2015]

DCNR Administrative Policy/Grant Guidelines
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Appendix B

Bureau Design Submission List

Design Consultant Selection

Selection of a design consultant should follow the Methods of Procurement: Small Purchase Procedures for design costs up to \$250,000 (See Appendix A). When a contract with a design consultant is signed, please submit:

- A copy of the executed contract with the Design Consultant
- Certification of Title form

Draft Design Submission

Before submitting the final design and bid documentation (see below), grantees must submit drafts for review by their Bureau Project Manager. Draft documentation includes:

- Draft site plans and construction plans, including
 - Documentation of ADA compliance
- Draft bid documents, which must include:
 - Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) documentation
 - Buy America Program documentation (only applicable for projects over \$500,000)
 - Public Works Employment Verification Form
 - Prevailing Wage Rate documentation
 - Draft Certification of Design Form

Final Design Submission

Before any bid(s) for construction or materials can be advertised, submit the following for review and approval:

- Electronic copy of the site plan and construction drawings signed, sealed and dated by your design consultant
- Bid documents signed, sealed and dated by your design consultant
 - Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) documentation
 - Buy America Program documentation (only applicable for projects over \$500,000)
 - Public Works Employment Verification Form
 - Prevailing Wage Rate documentation
- Certification of Design form, signed and sealed by your design consultant

Awarding of Construction/Materials Contract

After bids are received and *prior to awarding the construction contract*, the following must be submitted for review and approval by the Bureau Project Manager:

- Bid Tabulation
- A copy of the bid submission of the lowest qualified responsible bidder, including
 - DBE/SBE Good Faith Effort documentation
 - Signed Buy America Compliance Statement (only applicable for projects over \$500,000)
 - Signed Public Works Employment Verification form

Once the Bureau Project Manager provides authorization to award the contract(s), project construction may begin and the following must be submitted:

- Certification of Compliance with Bid Requirements
- A copy of the executed construction contract

Project Closeout

Once project construction is complete, the following must be submitted for review and approval by the Bureau Project Manager before the final payment can be issued:

- Acknowledgement Sign or Plaque
- Regional Advisor Final Site Inspection
- Incurred Costs Spreadsheet
- Proof of Costs Documentation
- Consultant Final Certification Letter
- GIS Shapefile of Final Trail Alignment
- DBE-SBE Payment Documentation
- Commercially Useful Function Form for each DBE-SBE Firm Utilized
- Finalized Title VI Policy
- Documentation of Compliance with Buy America Requirements

DCNR Administrative Policy/Grant Guidelines
For the PA Recreational Trails Federal Funding Program
Appendix C
Disadvantaged Business Enterprise (DBE) and
Small Business Enterprise (SBE) Forms and Documentation

All contractors are **required** to make a Good Faith Effort to provide the opportunity for Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) firms to participate in the performance of this construction contract. A specific participation goal has not been set for this project. Firms must be listed on at least one of these websites:

1. [PAUCP - DBE Certification Management System \(dbesystem.com\)](http://dbesystem.com)
2. [Small Business Enterprise \(pa.gov\)](http://pa.gov)

Bidders should use the following documents to comply with this requirement:

1. **Prime Contractor Compliance Statement** – Required to be submitted with bid along with documentation of Good Faith Effort.
2. **Exhibit A; DCNR Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) Requirements for the Recreational Trails Program** – For reference
3. [DBE Supportive Services](#) Center Brochure – Bidders can contact the Center to assist with making a Good Faith Effort.
4. [DBE Participation for Federal Projects – EO-380](#) – Required to be submitted with the bid only if the bidder has secured a DBE/SBE firm.
5. [Monthly DBE/SBE Status Report – EO-402](#) – Successful bidder will be required to submit this form throughout the course of the project.
6. [DBE Commercially Useful Function Report – EO-354](#) - Successful bidder will be required to submit this form during close-out of the project.

**PA Recreational Trails Program
Disadvantaged Business Enterprise (DBE) and
Small Business Enterprise (SBE) Prime Contractor Compliance Statement**

Contractor Name: _____

Contractor Owner/Authorized Officer Name: _____

DCNR Grant Recipient Name: _____

DCNR Grant Project Number: _____

Date(s) of Initial Solicitation: _____ Date(s) of Follow-up Solicitation: _____

Date(s) of Search(es): _____ Counties Searched: _____

Solicited By: ☐ Email ☐ Phone ☐ Fax

Please submit the following items, along with this form, to the DCNR Grant Recipient:

☐ DCNR Grant Recipient has been provided copies of all documentation that supports the direct search for and solicitation of potential participation of DBE/SBE contractors in the competitive process. This includes the documentation related to web searches, contact correspondence, and contact logs.

☐ Copies of any quotes received from DBE/SBE contractors in response to solicitation efforts are attached.

☐ If a DBE /SBE firm is secured, a signed DBE/SBE Participation for Federal Projects form (EO380).

As the Owner/Authorized Officer for the above-named company, I certify that good faith efforts have been performed in conformance with DBE/SBE regulations 49 CFR (Part 26). All good faith efforts have been properly documented as outlined in the Disadvantaged Business Enterprise Requirements. All documentation has been supplied to the above named DCNR Grant Recipient and will be retained in accordance with applicable record retention requirements under the financial assistance agreement for the above referenced project. I understand that such documentation is subject to an audit review by the Pennsylvania Department of Conservation & Natural Resources and/or the Pennsylvania Department of Transportation to further ensure compliance. I understand that I must comply with additional contract administrative requirements related to DBE/SBE regulations 49 CFR (Part 26).

Signature of Contractor Owner/Authorized Officer: _____

Printed Name of Contractor Owner/Authorized Officer: _____

Date: _____

***NOTE: Self-performing the contract does not annul the DBE/SBE Good Faith Effort Requirement**

EXHIBIT A
DCNR DISADVANTAGED BUSINESS ENTERPRISE (DBE) AND SMALL BUSINESS
ENTERPRISE (SBE) REQUIREMENTS FOR THE RECREATIONAL TRAILS
PROGRAM

1. DBE

Include the following provisions (Paragraphs a through d) in every contract, so that such provisions will be binding not only upon the grantee, but upon any contractor, supplier, service provider and trucking firm performing work towards the grant.

(a) Policy for Federally-Funded Projects. It is the policy of the U.S. Department of Transportation (DOT) and the Department that DBEs, as defined in 49 CFR Part 26, as amended, (Part 26) and this specification, be given the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this contract. Consequently, the DBE requirements of Part 26, as amended, apply to this contract.

(b) DBE Obligation. Take all necessary and reasonable steps to ensure that all DBEs are provided the opportunity to compete for and perform contracts. The grantee shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this contract.

(c) Failure to Comply with DBE Requirements. Failure by the grantee to carry out these requirements is a material breach of this contract, which may result in termination of this grant agreement or such other remedy as the Department deems appropriate, which may include, but is not limited to:

- a. Withholding progress payments;
- b. Assessing sanctions;
- c. Liquidated damages; and/or
- d. Disqualifying the contractor from future bidding as non-responsible.

(d) Small Business Enterprise (SBE) Participation. Recruitment and utilization of certified SBEs is in addition to all other equal opportunity requirements of the contract. There is no SBE goal.

2. DEFINITIONS

The following definitions apply for terms used in this specification:

(a) Disadvantaged Business Enterprise (DBE). A for-profit small business concern:

- 1. An entity certified by the Pennsylvania Unified Certification Program (PAUCP) as listed on www.paucp.com.
- 2. That meets the ownership and control requirements of the DBE certification program.
- 3. That meets the Personal Net Worth requirements of the DBE certification program.

(b) Small Business Enterprise (SBE). A for-profit small business concern:

1. An entity certified by the Pennsylvania Department of Transportation (PennDOT) as listed on www.dotsbe.pa.gov.
2. That meets the ownership and control requirements of the Small Business Element (SBE) certification program.
3. That meets the Personal Net Worth requirements of the SBE certification program.

(c) Commercially Useful Function. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (where applicable), and paying for the material itself.

(d) Supplier. A manufacturer, regular dealer, or transaction expeditor/broker.

1. **Manufacturer.** A DBE/SBE that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
2. **Regular Dealer.** A DBE/SBE that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided above if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Whether a DBE/SBE firm meets the criteria for being treated as a regular dealer is a contract-by-contract determination to be made by the Department.
3. **Transaction Expeditor/Broker.** A DBE/SBE packager, broker, manufacturers' representatives, or other persons who arrange or expedite transactions and who arrange for material drop-shipments.

3. COUNTING DBE PARTICIPATION

Although no DBE goal is established for this project, the grantee is still encouraged to involve DBEs in the required work and to submit documentation of any such involvement in the project. Recruitment and utilization of certified DBEs is in addition to all other equal opportunity requirements of the contract.

(a) Construction.

1. **Prime Contractor.** A DBE prime contractor will receive credit for all work performed with its own forces. The Department strongly encourages DBE prime contractors to make additional outreach efforts to solicit DBEs to perform subcontracting work on the project.

2. Subcontractor. When a DBE participates in a contract directly as a subcontractor or as a second-tier or lower-tier subcontractor, count only the value of the work actually performed by the DBE.

Count the entire amount of that portion of a construction contract that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the subcontract, including supplies purchased or equipment leased by the DBE.

When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count.

Count expenditures to a DBE contractor only if the DBE is performing a CUF on that contract.

(b) Materials and Supplies.

1. DBE Manufacturer. If the materials or supplies are obtained from a DBE manufacturer, count 100% of the cost of the materials or supplies.

2. DBE Regular Dealer. If the materials or supplies are purchased from a DBE regular dealer, count 60% of the cost of the materials or supplies. Note: There is no North American Industry Classification System (NAICS) code for regular dealer.

3. DBE Transaction Expeditor/Broker. If the materials or supplies are purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, provided the fees are determined to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves.

(c) Service Providers. Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance the contract, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.

(d) Trucking Firms. Count 100% of trucking costs using the following factors to determine what can be counted:

1. Count if the DBE is responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

2. Count if the DBE owns and operates at least one fully licensed, insured, and operational truck used on the contract.

3. Count the total value of the transportation services the DBE provides on the contract using trucks it owns, insures, and operates using drivers it employs.

4. The DBE may lease trucks from another DBE firm, including an owner-operator who is a certified DBE. If the DBE leases trucks from another DBE, count the total value of the transportation services the lessee DBE provides on the contract.

5. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. If the DBE leases trucks from a non-DBE firm and the DBE operates these leased trucks (with its own forces), count the total value of the transportation services. If the DBE leases trucks from a non-DBE owner-operator, count only the fee or commission it paid as a result of the lease arrangement. Do not count the total value of the transportation services provided by the lessee (non-DBE owner-operator), since these services are not provided by a DBE.

6. For purposes of this provision, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from being used for work for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE. A lease must explicitly state that the DBE leases trucks without operators when the counting of the total value of transportation services is desirable.

(e) Specialty Items. In cases where specialty items and DBE involvement overlap, follow the requirements specified in Section 108.01(c).

4. COUNTING SBE PARTICIPATION

Although no SBE goal is established for this project, the grantee is still encouraged to involve SBEs in the required work and to submit documentation of any such involvement in the project. Recruitment and utilization of certified SBEs is in addition to all other equal opportunity requirements of the contract. Count SBE participation the same as you would count DBE participation.

5. COMMERCIALLY USEFUL FUNCTION

A Commercially Useful Function (CUF) analysis is required under 49 CFR §26.55 to ensure DBE participation is credited appropriately on federally assisted transportation projects. A DBE performs a CUF when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.

(a) The grantee (or designee other than the prime contractor) will complete the Form EO-354, DBE Commercially Useful Function Report, for all DBEs performing work towards the grant.

The CUF form must be completed within five (5) days of the DBE performing work on the project. If all questions on the CUF form are answered 'Yes', then no further action is required. However, a copy of the form must be kept with the project's files for auditing purposes and submitted to the Department with the final close-out information for the grant.

(b) If any question on the CUF form is answered 'No' then the grantee (or designee other than the prime contractor) will immediately fax or e-mail the form to Department. The Department will fax or e-mail a copy of the form to the PennDOT's Bureau of Equal Opportunity (BEO) for further review and analysis. The analysis and subsequent determination of the CUF will be made by BEO. However, BEO may request additional information from DCNR to help with the investigation and analysis. BEO will also consult with Department staff prior to issuing its determinations on the CUF. The determination will be issued in writing and provided to all parties (the Department, the grantee, the prime contractor and the DBE firm being impacted). If the determination warrants a change in the DBE commitment the Department will be notified. The Department will work closely with PennDOT to make the necessary revisions.

6. RECORDS & REPORTING

The grantee is required to keep such records and submit such reports as are necessary to determine compliance with DBE Requirements.

(a) Records. The records must be designed to indicate the following:

1. The number of DBEs, SBEs, and non-DBE/SBE contractors, suppliers, truckers, and or/service providers and the type of work on services performed on or materials incorporated into the project;
2. The progress and efforts made in seeking out DBE and SBE contractor organizations and individual DBEs and SBEs for work on the grant;
3. Documentation of all communication to obtain the services of DBEs/SBEs on a project;
4. The dollar amounts paid to DBEs/SBEs each month.

(b) Reports. While no DBE or SBE goal has been established in connection with the grant, the grantee is required to submit documentation of DBE and SBE involvement should they perform work in support of the grant.

1. The grantee must submit the Monthly DBE/SBE Status Report, EO-402. This Form should be completed each month once the grantee has issued a notice to proceed to the prime contractor. The report is to be completed by the prime contractor within five (5) business days following the end of each month. The grantee, upon receipt, should immediately review for completeness and forward to the Department.
2. If no payments are made to DBE or SBE firms during a given month, the prime contractor must still submit a zero-activity report to the grantee. The grantee must inform the Department, in writing, of any situation in which payments are not made to DBE/SBE subcontractors, suppliers, service provider or consultant as required by the subcontract including reasons why.
3. While they need not be submitted to the Department monthly, the grantee must keep cancelled checks on file showing payment to DBE or SBE firms. This documentation must be provided for inspection and audit by the Department upon request.
4. Upon completion of a DBE's or SBE's work, the grantee must submit a certification of the total amount paid to the DBE or SBE. In the event the actual amount paid is less than the award amount, provide a complete explanation of the difference.

Maintain all such records and reports for a period of three (3) years following acceptance of final payment. Make these records available for inspection by the Department and FHWA.

WHAT IS THE DBE SUPPORTIVE SERVICES CENTER?

The Disadvantaged Business Enterprise (DBE) Supportive Services Center, a shared initiative of ProRank Business Solutions, LLC (ProRank) and the Pennsylvania Department of Transportation (PennDOT), is the administrator of the DBE Supportive Services Program for Pennsylvania.

Certified DBEs desiring to participate in PennDOT's federal highway construction program are eligible to receive services from the DBE Supportive Services Center at no charge.

These services are available via telephone, mail, facsimile, E-mail, Internet, classroom, and on-site visits.

WHAT IS A DBE?



A Disadvantaged Business Enterprise (DBE) is a for-profit small business that is:

1. At least 51% owned by one or more individuals who are both socially and economically disadvantaged, or in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; AND
2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. For information on becoming a certified DBE, contact PennDOT, Bureau of Equal Opportunity at 800-468-4201 or visit the UCP website at: WWW.PAUCP.COM



DBE SUPPORTIVE SERVICES

- Bidding & Estimating Assistance
- Bonding & Insurance Assistance
- Business Development
- Business Management
- Consultant Qualification Assistance
- Contractor Prequalification Assistance
- DBE Certification Renewal Assistance
- ECMS Training
- Marketing Materials
- Online Training Courses
- Opportunity Identification
- PennDBE Mapper
- PennDOT Marketing
- PennDOT Registration
- Strategic Planning
- Team Building
- Training Reimbursement

The DBE Supportive Services Center is a joint initiative between



WE ARE HERE TO HELP YOU.

📞 (833)PENN-DBE
🌐 penndbe.com
✉ penndbe@prorankllc.com
📍 1821 Fulton Street, ProRank Suite
Harrisburg, Pennsylvania 17102, USA
📱 @penndbe

PENND BE SUPPORTIVE SERVICES

The Pennsylvania DBE Supportive Services Center offers supportive services to eligible firms including business development, workshops, training reimbursement, technical support, and much more!

PENNSYLVANIA DISADVANTAGED BUSINESS ENTERPRISES (DBE) SUPPORTIVE SERVICES PROGRAM



DOING BUSINESS WITH PENNDOT?

We can help you navigate the full PennDOT process from Business Partner Registration, Contractor Prequalification & Consultant Qualification all the way through to bidding on and executing a contract.

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Contract Opportunities,
Solicitations, Events, and more!



CONTACT US FOR MORE INFO

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1821 Fulton Street, ProRank Suite
Harrisburg, Pennsylvania 17102, USA
[f](#) [i](#) [t](#) [l](#) [y](#) [v](#) [e](#) [@penndbe](#)



PENNSYLVANIA DISADVANTAGED BUSINESS ENTERPRISE (DBE) SUPPORTIVE SERVICES CENTER



The mission of the Center is to provide training and consulting services that will enable highway applicable DBEs to acquire the proficiency, expertise and experience necessary to compete, on an equal basis, with non-DBEs for federally assisted PennDOT contracts and subcontracts.

Visit us online at:
penndbe.com

Email us at:
mail@penndbe.com
penndbe@prorankllc.com

COMMONWEALTH OF PENNSYLVANIA
Tom Wolf, Governor



(833) PENN-DBE | penndbe.com

[Pennsylvania DBE Supportive Services](#)

For more information about the DBE Program, contact the DBE Supportive Services Center at ProRank Business Solutions, LLC by phone at 833.PENN.DB (833.736.6323) or by email at penndbe@prorankllc.com or PennDOT's Bureau of Equal Opportunity by phone 717.787.5891 or email at penndotucpinfo@pa.gov.

DCNR Administrative Policy/Grant Guidelines
For the PA Recreational Trails Federal Funding Program
Appendix D

Buy America Program Provisions (23 CFR 635.410)

§ 635.410 and the Infrastructure Investment and Jobs Act (IIJA, Bipartisan Infrastructure Law), Pub. L. No. 117-58, which includes Build America, Buy America Act (BABA). IIJA div. G §§ 70901-27.

EFFECTIVE DATE: 11/10/2022

The Buy America Program Provisions are applicable to projects with Federal financial assistance of \$500,000 or more. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

(1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(a) The provisions of this section shall prevail and be given precedence over any requirements of this subpart which are contrary to this section. However, nothing in this section shall be construed to be contrary to the requirements of § 635.409(a) of this subpart.

(b) No Federal-aid highway **construction** project is to be authorized for advertisement or otherwise authorized to proceed unless at least one of the following requirements is met:

(i) The project either: (a) Includes no permanently incorporated steel or iron materials, or (b) if steel or iron materials are to be used, all manufacturing processes, including application of a coating, for these **materials** must occur in the United States. Coating includes all processes which protect or enhance the value of the **material** to which the coating is applied.

(ii) The State has standard contract provisions that require the use of domestic **materials** and products, including steel and iron **materials**, to the same or greater extent as the provisions set forth in this section.

(iii) The State elects to include alternate bid provisions for foreign and domestic steel and iron **materials** which comply with the following requirements. Any procedure for obtaining alternate bids based on furnishing foreign steel and iron **materials** which is acceptable to the Division Administrator may be used. The contract provisions must (a) require all bidders to submit a bid based on furnishing domestic steel and iron **materials**, and (b) clearly state that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and iron **materials** unless such total bid exceeds the lowest total bid based on furnishing foreign steel and iron **materials** by more than 25 percent.

(vi) When steel and iron **materials** are used in a project, the requirements of this section do not prevent a minimal use of foreign steel and iron **materials**, if the cost of such **materials** used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.

(2) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project.

As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

“**Construction materials**” includes an article, material, or supply that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

Excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

To access Qualified Products for Construction visit: [Bulletin 15.pdf \(state.pa.us\)](https://www.state.pa.us/bulletin15.pdf)

(3) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

To provide clarity to item, product, and material manufacturers and processors, we note that items that consist of two or more of the listed materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials. For example, a plastic framed sliding window should be treated as a manufactured product while plate glass should be treated as a construction material.

Definitions

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

When determining if a program has infrastructure expenditures, Federal agencies should interpret the term “infrastructure” broadly and consider the definition provided above as illustrative and not exhaustive. When determining if a particular construction project of a type not listed in the definition above constitutes “infrastructure,” agencies should consider whether the project will serve a public function, including whether the project is publicly owned and operated, privately operated on behalf of the public, or is a place of public accommodation, as opposed to a project that is privately owned and not open to the public.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

To access the 2022 Guidance on Application of Buy America Preference visit:

[M-22-11 \(whitehouse.gov\)](https://www.whitehouse.gov/presidential-action/m-22-11/)

BUY AMERICA COMPLIANCE STATEMENT
PA DEPT. OF CONSERVATION AND NATURAL RESOURCES
BUREAU OF RECREATION AND CONSERVATION
RECREATIONAL TRAILS PROGRAM

Instructions

Bidder to complete the Buy America Compliance Statement below. This signed statement MUST BE submitted with the bidder's bid response.

EFFECTIVE DATE: 11/10/2022

Compliance Statement for procurement of steel, iron, manufactured products, and construction materials.

Compliance Statement for 23 CFR 635.410 and the Infrastructure Investment and Jobs Act (IIJA, Bipartisan Infrastructure Law), Pub. L. No. 117-58, which includes Build America, Buy America Act (BABA). IIJA div. G §§ 70901-27.

The bidder or offeror hereby certifies that it has read and **will meet** the requirements referenced above and any amendments thereto. Bidder **will provide** proof of compliance prior to completion of the project.

Company Name: _____

Signature: _____

Title: _____

Date: _____

DCNR Administrative Policy/Grant Guidelines
For the PA Recreational Trails Federal Funding Program

Appendix E

Public Works Employment Verification Form
and language which must be included in all bids

PUBLIC WORKS EMPLOYMENT VERIFICATION ACT

The Public Works Employment Verification Act, 43 P.S. §§167.1-167.11, became effective on January 1, 2013. As a bidder on a public works contract, you are required to comply with Section 4 of the Act by submitting the Public Works Employment Verification Form as a condition to being awarded the contract. By completing the Form, you affirm that you have utilized the Federal E-Verify program to verify the employment eligibility of all new employees hired post January 1, 2013, and that you will continue to comply with the provisions of the Act for all new hires throughout the duration of the Contract. Links have been provided for the [Public Works Employment Verification Form](#) and the [U.S. Department of Homeland Security's Employment Verification](#).

During construction, the prime contractor is required to collect Verification Forms from subcontractors of every level. The completed Verification Forms from subcontractors will be forwarded to the agency that awarded the construction contract. A subcontractor is defined as: (i) A person, other than a natural person, including a staffing agency, that performs work for a public works contractor under a contract for public works; (ii) The term includes subcontractors of every level, that is, sub-subcontractors, sub-sub-subcontractors, and the like; (iii) The term does **not** include persons that supply materials for a project.



COMMONWEALTH OF PENNSYLVANIA

PUBLIC WORKS EMPLOYMENT VERIFICATION FORM

Business or Organization Name (Employer) _____

Address _____

City _____ State _____ Zip Code _____

Check One:

- ☐ Contractor
☐ Subcontractor

Contracting Public Body _____

Contract/Project No _____

Project Description _____

Project Location _____

Date Enrolled in E-Verify: _____

As a contractor/subcontractor for the above referenced public works contract, I hereby affirm that as of the above date, our company is in compliance with the Public Works Employment Verification Act ('the Act') through utilization of the federal E-Verify Program (EVP) operated by the United States Department of Homeland Security. To the best of my/our knowledge, all employees hired post January 1, 2013 are authorized to work in the United States.

It is also agreed to that all public works contractors/subcontractors will utilize the federal EVP to verify the employment eligibility of each new hire within five (5) business days of the employee start date throughout the duration of the public works contract. Documentation confirming the use of the federal EVP upon each new hire shall be maintained in the event of an investigation or audit.

I, _____, authorized representative of the company above, attest that the information contained in this verification form is true and correct and understand that the submission of false or misleading information in connection with the above verification shall be subject to sanctions provided by law.

Authorized Representative Signature

Date of Signature