



**United States Iron and Steel  
(U.S. I&S) Guidance for  
Projects Funded through  
State Programs**

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## Overview

United States Iron and Steel (U.S. I&S) provisions are outlined in Texas Water Code § 17.183 and Texas Government Code (TGC), Chapter 2252, Subchapter G, as amended by Senate Bill (SB) 1289, 85<sup>th</sup> Legislative Session, and Texas Administrative Code (TAC) § 363.41. These provisions require recipients of financial assistance from the programs identified below, to use iron and steel products that are produced in the United States for projects for the construction, remodel, or alteration of a building, a structure, or infrastructure. These projects could include public water systems, treatment works, and flood control measures. This requirement applies to all bid documents submitted to the TWDB and contracts entered into on or after September 1, 2017, except for projects funded through the State Water Implementation Revenue Fund for Texas where the Board has adopted a resolution approving an application for financial assistance before May 1, 2019 for any portion of the project.<sup>1</sup>

It is the intent of the Texas Water Development Board (TWDB) to ensure that applicants, consultants, and contractors are provided with procedures and recommendations for implementation of the U.S. I&S provisions for construction projects receiving financial assistance from the following accounts:

- ✓ Agricultural Water Conservation Fund (AWCF)<sup>2</sup>
- ✓ Economically Distressed Areas Program (EDAP)
- ✓ Flood Infrastructure Fund (FIF)
- ✓ Rural Water Assistance Fund (RWAFF)
- ✓ State Participation (SP)
- ✓ Texas Water Development Fund II (WDF)

## Definitions

**Construction Contract:** A contract between the political subdivision and a construction contractor.

**Construction Material<sup>3</sup>:** For the purpose of U.S. I&S requirements, construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”. This includes, but is not limited to, the following products: wire rod, bar, angles, concrete reinforcing bar, wire, wire cloth, wire rope and cables, tubing, framing, joists, trusses, fasteners (i.e., nuts and bolts), welding rods, decking, grating, railings, stairs, access ramps, fire escapes, ladders, wall panels,

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<sup>1</sup> Texas Water Code §17.183 and Texas Government Code §2252 and Texas Water Code §15.432 or §15.472.

<sup>2</sup> Texas Water Code § 17.183 does not apply to the Agricultural Water Conservation Fund; however, the U.S. I&S provisions in Texas Government Code, Chapter 2252, Subchapter G may apply to certain conservation projects funded through the Agricultural Water Conservation Fund. See **Attachment 1** for supplemental guidance regarding Agricultural Water Conservation Fund projects.

<sup>3</sup> Adopted from EPA's AIS Guidance

dome structures, roofing, ductwork, surface drains, cable hanging systems, manhole steps, fencing and fence tubing, guardrails, doors, and stationary screens.

EPA's AIS Guidance:: As used in this document, the term refers to the Environmental Protection Agency's State Revolving Fund American Iron and Steel (AIS) Requirement Guidance found at: <https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-guidance-and-questions-and-answers>.

Manufacturing process: The application of a process to alter the form or function of materials or elements of a product in a manner that adds value and transforms the materials or elements into a new finished product functionally different from a finished product produced merely from assembling the materials into a product or elements into a product. Manufacturing process includes processes such as melting, refining, forming, rolling, drawing, finishing, fabricating and coating. Further, if a domestic iron and steel product is taken out of the U.S. for any part of the manufacturing process, it becomes foreign source material. However raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-U.S. sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin.<sup>4</sup>

Mechanical and electrical components, equipment, systems, and appurtenances<sup>5</sup>--Include, but are not limited to, pumps, motors, gear reducers, drives (including variable frequency drives), electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators), mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, HVAC (excluding ductwork), water heaters, heat exchangers, generators, cabinetry and housings (such as electrical boxes/enclosures), lighting fixtures, electrical conduit, emergency life systems, metal office furniture, shelving, laboratory equipment, analytical instrumentation, dewatering equipment, electrical supports/covers/shielding, and other appurtenances related to an electrical system necessary for operation or concealment. An electrical system includes all equipment, facilities, and assets owned by an electric utility, as that term is defined in Section 31.002 Utilities Code.

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<sup>4</sup> Adopted from EPA's AIS Guidance

<sup>5</sup> See **Attachment 1** for additional exceptions pertaining to the Agricultural Water Conservation Fund

Municipal castings<sup>6</sup>: Municipal castings are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples of municipal castings are:

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

Political subdivision: Includes a county, municipality, municipal utility district, water control and improvement district, special utility district, and other types of water districts created under Texas Constitution Article III, Section 52 or Article XVI, Section 59, and nonprofit water supply corporations created and operating under Texas Water Code, Chapter 67.<sup>7</sup>

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<sup>6</sup> Adopted from EPA's AIS Guidance

<sup>7</sup> Political subdivision is defined differently in Texas Water Code §17.871, which pertains to the Agricultural Water

Produced in the United States: With respect to iron or steel products, a product for which all manufacturing processes, from initial melting through application of coatings, occur in the United States, other than metallurgical processes to refine steel additives.

Project: A contract between the TWDB and a person or political subdivision.

Structural steel<sup>8</sup>: structural steel is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees and zees. Other shapes include H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

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Conservation Fund. See **Attachment 1** for supplemental guidance.

<sup>8</sup> Adopted from EPA's AIS Guidance

## Covered Iron and Steel Products

If a construction contract for which the TWDB provides funds must comply with the U.S. I&S requirements, then all covered iron and steel products must be made in the United States, no matter whether the TWDB-provided-funds was the source to purchase a particular covered iron and steel product. The entity may not use other funding sources, including the entity's own funds, to pay for a non-compliant iron or steel product used in a TWDB funded construction contract.

U.S. I&S requirements apply to products made primarily of iron or steel that are permanently incorporated into the public water system, treatment works, or agricultural water conservation project, such as

- lined or unlined pipes or fittings;
- manhole covers;
- municipal castings;
- hydrants;
- tanks;
- flanges;
- pipe clamps and restraints;
- valves;
- structural steel;
- reinforced precast concrete; and
- construction materials.

For one of the listed products to be considered subject to the U.S. I&S requirements, it must be made of greater than 50% iron or steel, measured by cost. The cost should be based on the material costs.

The following components are exempt from complying with U.S. I&S requirements:

- Iron or steel products that are not permanently incorporated into a Project.
- Mechanical and electrical components, equipment, systems, and appurtenances.<sup>9</sup>

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<sup>9</sup> See **Attachment 1** for additional exemptions pertaining to the Agricultural Water Conservation Fund.

## Projects exempt from U.S. Iron and Steel

U.S. I&S requirements do not apply to a SWIFT-funded project that:

- (As detailed in SB 1289) is subject of a resolution approving an application for financial assistance from any TWDB funding program adopted by the TWDB before May 1, 2019, for any portion of the financing of the project, including the planning phase.

## Compliance

To ensure compliance with the U.S. I&S requirements, specific U.S. I&S contract language must be included in each contract, including the construction material purchase agreements and bid documents.

It is the applicant's responsibility to assure that all construction and purchase contracts and associated bid documents are executed in compliance with U.S. I&S, and a record of all forms and certifications necessary to demonstrate compliance with U.S. I&S is maintained. To demonstrate compliance with U.S. I&S requirements either the final manufacturer, supplier or vendor that delivers the iron or steel product to the worksite, vendor, or contractor, may provide a certification asserting that all manufacturing processes occurred in the United States, or the applicant may use a step certification process similar to the Federal Highway Administration process.

TWDB relies on self-certification by the applicant to document compliance with U.S. I&S. The programs affected by U.S. I&S requirements were identified earlier in this guidance. For projects which require an Outlay Report to release funds, as it is the case for EDAP projects and for some FIF projects, a certification of compliance will be required with each outlay report. For projects funded through programs which are not subject to submittal of Outlay Requests, the applicant is required to maintain compliance certification records. In all cases, compliance records should be available for TWDB staff inspection or request. TWDB staff may also request that the applicant submit interim Certificates of Compliance (TWDB-1105A) throughout the project construction. For each construction contract a final Certificate of Compliance with U.S. I&S Requirements is required prior to the approval of final release of retainage and issuance of a Certificate of Approval by the TWDB Executive Administrator. Certificate of Compliance with U.S. I&S requirements is attached as **Attachment 2**.



## TWDB Compliance Procedures

In order to comply with the requirements for implementation of U.S. I&S, entities will need to do the following:

1. The applicant should submit any waiver request to the TWDB project engineer as soon as possible. Until a waiver is granted, U.S. I&S requirements stand. A checklist detailing the types of information required for a waiver to be processed, and TWDB's waiver determination checklist is attached as **Attachment 3**.
2. Applicants shall include the following language in the advertisement for bids for all construction contracts funded by the TWDB's WDF, RWA, EDAP, and SP programs. For appropriate language regarding projects funded through the AWCF, see Attachment 1.

*Any contract(s) awarded under this Invitation for Bids is/are subject to the United States Iron and Steel (U.S. I&S) requirements of Texas Water Code § 17.183 and/or Texas Government Code, Chapter 2252, Subchapter G, as amended by SB 1289, 85<sup>th</sup> Legislative Session, as applicable.*

3. Applicants shall include the following U.S. I&S requirements in all construction contracts:

*The Contractor acknowledges to and for the benefit of the **Applicant** ("Purchaser") and the Texas Water Development Board ("TWDB") that it understands the goods and services under this Agreement are being funded with monies made available by the Water Development Fund, Rural Water Assistance Fund, Economically Distressed Areas, State Participation Fund and/or Agricultural Water Conservation Fund. That these funds have statutory requirements commonly known as "United States Iron and Steel" that requires all of the iron and steel products used in the project to be produced in the United States ("United States Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the TWDB that (a) the Contractor has reviewed and understands the United States Iron and Steel Requirement, (b) all of the iron and steel products used in the project will be and/or have been produced in the United States in a manner that complies with the United States Iron and Steel Requirement, unless a waiver of the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the United States Iron and Steel Requirement, as may be requested by the Purchaser or the TWDB. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser to enforce this*

*Agreement and recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Purchaser resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the TWDB or any damages owed to the TWDB by the Purchaser). Neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the TWDB.*

*In the execution of the Contract, the Contractor shall be familiar with and at all times shall observe and comply with all applicable federal, state, and local laws, ordinances and regulations concerned with the use of iron and steel made in the United States which in any manner affect the conduct of the work, and shall indemnify and save harmless the Texas Water Development Board against any claim arising from violation of any such law, ordinance or regulation by the Contractor or by their Subcontractor or their employees*

4. The applicant shall include the following language on the General Notes Plan Sheet(s).  
*This project is subject to the U.S. Iron and Steel (U.S. I&S) requirements of Texas Water Code § 17.183 and/or Texas Government Code, Chapter 2252, Subchapter G, as amended by SB 1289, 85<sup>th</sup> Legislative Session, as applicable. All iron and steel products used in project construction must be produced in the United States.*
5. The applicant and prime construction contractor must obtain certifications from the final manufacturer that delivers the iron and steel product to the worksite, vendor, or contractor asserting that all manufacturing processes occurred in the United States.
6. The prime construction contractor and applicant will be required to maintain a file that contains the certifications from the final manufacturers and any TWDB approved waivers. This file must be available for review by TWDB representatives and/or State Auditors. Sample Certification letters and step certification log are included as **Attachment 4**.
7. The applicant may be requested to submit interim certificates of compliance with U.S. I&S requirements (TWDB-1105A) **Attachment 2**.
8. The applicant will provide a final Certificate of Compliance with U.S. I&S requirements (TWDB-1105A), after the completion of the construction contract and prior to issuance of a Certificate of Approval by the TWDB, stating that the project was completed in compliance with the U.S. I&S requirements.

## Recommendations and Best Management Practices

The following recommendations are not required but should be considered by the applicant in implementation of the U.S. I&S requirements:

1. To any practical extent, the applicant and its consulting engineer should consider the applicability and availability of U.S. I&S products during all phases of the projects. Whenever is clear that a waiver may be necessary, the entity should request that waiver as soon as possible.
2. While a waiver application may be submitted at any time during the project, the applicant should consider TWDB's review schedule (10 days public comment period plus. review time) when scheduling projects. It is not recommended to request a waiver after the advertisement for bids or start of construction unless absolutely necessary.
3. Develop procedures for maintaining a record of U.S. I&S documentation. TWDB recommends the entity maintain a record of either Step Certification or Final Vendor Certification documents.
4. Distinguish separate bid items that must comply with U.S. I&S requirements on the Bid Form.
5. Consideration of U.S. I&S compliance documentation when developing the contractor submittal procedures for shop drawings, material lists, and manufacturer certifications, etc.
6. Discuss U.S. I&S requirements during pre-bid conference and pre-construction meetings, to address contractor's responsibilities, and availability of iron and steel products needed to complete the project.

## Waivers

TGC § 2252.203, as added by SB 1289, 85<sup>th</sup> Legislative Session, permits TWDB to issue waivers for a case or category where it is demonstrated that:

1. Iron and steel products produced in the United States are not:
  - a. produced in sufficient quantities,
  - b. reasonably available, or
  - c. of satisfactory quality.
2. Use of iron and steel products produced in the United States will increase the cost of the overall project by more than 20 percent, or
3. Complying with the U.S. I&S requirements is inconsistent with the public interest.

## Waivers Process

Waiver requests must be submitted by the applicant. It is not recommended to request a waiver after the advertisement for bids or start of construction unless absolutely necessary. If a waiver is requested after bid advertisement or start of construction, the U.S. I&S requirements stand until TWDB grants a waiver.

To apply for a project waiver, the assistance recipient should email the request in the form of a Word document (.doc) or PDF to the TWDB project engineer (or the TWDB contract manager, in the case of an AWCF grant project). Proper and sufficient documentation must be provided by the assistance recipient.

After receiving an application for waiver of the U.S. I&S requirements, TWDB will publish the request on its website for 10 days and receive informal comment. TWDB will then determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver and will determine whether to grant the waiver.

TWDB will notify the applicant that a waiver request has been approved or denied as soon as such a decision has been made. Approved waivers will be posted on the TWDB's website. The applicant should keep a copy of the signed waiver in their U.S. I&S Certification File.

## **Attachment 1: Supplemental Guidance for the Agricultural Water Conservation Fund**

### **Overview:**

The following information is provided as supplemental guidance for projects funded through the Agricultural Water Conservation Fund, in accordance with the United States Iron and Steel (U.S. I&S) provisions outlined in Texas Government Code (TGC), Chapter 2252, Subchapter G, as amended by Senate Bill (SB) 1289, 85<sup>th</sup> Legislative Session, and Texas Water Code §§ 17.871–17.912.

### **Definitions:**

**Political subdivision:** Includes a district or authority created under Section 52, Article III, or Section 59, Article XVI, of the Texas Constitution, a municipality, a county, an institution of higher education as defined by Section 61.003, Education Code, any interstate compact commission to which the state is a party, and any nonprofit water supply corporation created and operating under Chapter 67.

**Person:** An individual, corporation, partnership, association, or other legal entity that is not a political subdivision.

### **Applicability:**

As applied to TWDB programs, the U.S. I&S requirements of TGC, Chapter 2252, Subchapter G only pertain to contracts between the TWDB and a political subdivision to finance, refinance, or provide money to construct, remodel, or alter a building, a structure, or infrastructure. For the Agricultural Water Conservation Fund, these requirements would not apply to projects undertaken by “persons” (commonly referred to as “participants”) receiving money from the political subdivision funded by the TWDB.

### **Project Examples, Exemptions, and Construction Requirements:**

U.S. I&S requirements only apply to projects to construct, remodel, or alter a building, a structure, or infrastructure. Explicit exemptions detailed in TGC § 2252.203 are discussed in the “Waivers” section on page 11 of this document. Furthermore, “mechanical and electrical components, equipment, systems, and appurtenances” such as those listed on page 3 of this document are not subject to U.S. I&S requirements.

### **U.S. Iron and Steel Required:**

Examples of the types of projects and project components funded through the Agricultural Water Conservation Fund that would be required to follow U.S. I&S guidance include, but are not limited to: Rebar and structural steel used in canal lining projects, Pipes for canal-to-pipeline and pipeline replacement projects, and Well casing for projects involving well drilling activities.

**Exempt Components:**

In addition to the “mechanical and electrical components, equipment, systems, and appurtenances” listed on page 4, the following types of projects and project components would also be considered exempt from the U.S. I&S provisions (this is not an exhaustive list):

Equipment cost share projects to purchase and install meters, surge-flow valves, soil-moisture probes, center pivots (including the pad/slab construction), center pivot and pumping plant efficiency improvements, pivot control, telemetry, remote monitoring, supervisory control and data acquisition (SCADA), automated gates (including fabrication and construction), and weather stations (including footings, foundations, pads or slabs)

**Provisions for Bid Documents:**

In addition to the Construction Requirements contained within Texas Administrative Code § 367.12, applicants shall include the following language in the advertisement for bids for all construction contracts funded through the AWCF:

*Any contract(s) awarded under this Invitation for Bids is/are subject to the United States Iron and Steel (U.S. I&S) requirements of Texas Government Code, Chapter 2252, Subchapter G, as amended by SB 1289, 85th Legislative Session, as applicable.*

## Attachment 2:1105-A Certificate of Compliance with U.S. Iron and Steel Requirements

### Compliance Submittal by Owner

TWDB Project: \_\_\_\_\_

Contract Name and ID: \_\_\_\_\_

TWDB Commitment Number: \_\_\_\_\_

This executed certificate must be submitted after the completion of construction and prior to the issuance of a Certificate of Approval.

I, \_\_\_\_\_ (Full Name Printed) swear or affirm under penalty of law that I am \_\_\_\_\_ (Title) of the \_\_\_\_\_ (Name of Entity)

and to the best of my knowledge and in reliance of the certifications provided by manufacturers, vendors, contractors and consultants, hereby certify that the above-mentioned entity is in full compliance with the U.S. Iron and Steel requirements of Texas Water Code Section 17.183 and/or Texas Government Code Chapter 2252, Subchapter G, as applicable and subject to any waivers granted by the Texas Water Development Board (TWDB).

I understand that a false statement herein may subject me and/or the Entity to any and all civil and criminal penalties available pursuant to applicable federal and state laws.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

Sworn to and subscribed before me by \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Notary Public in and for the State of Texas)

(SEAL)

## Attachment 3: Waiver Request

### **Information Checklist for Waiver Request**

The purpose of this checklist is to help ensure that all appropriate and necessary information is submitted to TWDB. This checklist is for informational purposes only and does not need to be included as part of a waiver application

Items	☑	Notes
<p><b>General</b></p> <ul style="list-style-type: none"> <li>• Waiver request includes the following information:               <ul style="list-style-type: none"> <li>○ Description of the foreign and domestic construction materials</li> <li>○ Unit of measure</li> <li>○ Quantity</li> <li>○ Price</li> <li>○ Time of delivery or availability</li> <li>○ Location of the construction project</li> <li>○ Name and address of the proposed supplier(s)</li> <li>○ Name of contact person(s) for the proposed supplier(s)</li> <li>○ A detailed justification for the use of foreign construction materials</li> </ul> </li> <li>• Assistance recipient made a good faith effort to solicit bids for domestic iron and steel products, as demonstrated by language in requests for proposals, contracts, and communications with the prime contractor.</li> </ul>		
<p><b>Cost Waiver Requests</b></p> <ul style="list-style-type: none"> <li>• Waiver request includes the following information:               <ul style="list-style-type: none"> <li>○ Comparison of overall cost of project with domestic iron and steel products to overall cost of project with foreign iron and steel products</li> <li>○ Relevant excerpts from the bid documents used by the contractors to complete the comparison</li> <li>○ Supporting documentation indicating that the contractor made a reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers.</li> <li>○ Signed and sealed statement from the consulting engineer, indicating that he/she has reviewed the conditions for the waiver request and certify to their veracity.</li> </ul> </li> </ul>		
<p><b>Availability Waiver Requests</b></p> <ul style="list-style-type: none"> <li>• Waiver request includes the following supporting documentation necessary to demonstrate the availability, quantity, and/or quality of the materials for which the waiver is requested:               <ul style="list-style-type: none"> <li>○ Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials</li> <li>○ Documentation of the assistance recipient's efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers.</li> <li>○ Documentation of contacted suppliers' responses</li> <li>○ Project schedule</li> <li>○ Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials</li> </ul> </li> <li>• Waiver request includes a statement from the applicant, engineer and/or prime contractor and/or supplier, with supporting documentation, confirming the non-availability of the domestic construction materials for which the waiver is sought</li> </ul> <p>To the best of your knowledge, has the State received other waiver requests for the materials described in this waiver request, for comparable projects?</p>		



## ***TWDB Checklist for Waiver Request***

Instructions: To be completed by TWDB. Review all waiver requests using the questions in the checklist, and mark the appropriate box as Yes, No or N/A. Marks that fall inside the shaded boxes may be grounds for denying the waiver. If none of your review markings fall into a shaded box, the waiver is eligible for approval if it indicates that one or more of the following conditions applies to the domestic product for which the waiver is sought:

1. The iron and/or steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.
2. The inclusion of iron and/or steel products produced in the United States will increase the cost of the overall project by more than 20 percent ("cost of the project" means the total amount of the Board's funding commitment for the construction portion of the project)

<b>Review Items</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Notes</b>
<b>Cost of Waiver Request</b> <ul style="list-style-type: none"> <li>• Does the waiver request include the following information? <ul style="list-style-type: none"> <li>o Comparison of overall cost of project with domestic iron and steel products to overall cost of project with foreign iron and steel products</li> </ul> </li> </ul>				
<ul style="list-style-type: none"> <li>o Relevant excerpts from the bid documents used by the contractors to complete the comparison</li> </ul>				
<ul style="list-style-type: none"> <li>o A sufficient number of bid documents or pricing information from domestic sources to constitute a reasonable survey of the market</li> </ul>				
<ul style="list-style-type: none"> <li>• Does the Total Domestic Project exceed the Total Foreign Project Cost by more than 20%?</li> </ul>				
<b>Availability Waiver Requests</b> <ul style="list-style-type: none"> <li>• Does the waiver request include supporting documentation sufficient to show the availability, quantity, and/or quality of the iron and/or steel product for which the waiver is requested? <ul style="list-style-type: none"> <li>o Supplier information or other documentation indicating availability/delivery date for materials</li> <li>o Project schedule</li> <li>o Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of materials</li> </ul> </li> </ul>				
<ul style="list-style-type: none"> <li>• Contractors made a reasonable effort to locate domestic suppliers of materials, such as a description of the process for identifying suppliers and a list of contacted suppliers?</li> </ul>				
<ul style="list-style-type: none"> <li>• Based on the materials delivery/availability date indicated in the supporting documentation, will the materials be unavailable when they are needed according to the project schedule? (By item, list schedule date and domestic delivery quote date or other relevant information)</li> </ul>				
<ul style="list-style-type: none"> <li>• Is TWDB aware of any other evidence indicating the non-availability of the materials for which the waiver is requested? Examples include: <ul style="list-style-type: none"> <li>o Multiple waiver requests for the materials described in this waiver request, for comparable projects in Texas</li> <li>o Multiple waiver requests for the materials described in this waiver request, for comparable projects in other States</li> <li>o Correspondence with construction trade associations indicating the non-availability of the materials</li> </ul> </li> <li>• Are the available domestic materials indicated in the bid documents of inadequate quality compared those required by the project plans, specifications, and/or permits?</li> </ul>				

## **Attachment 4: Sample Certifications**

U.S. I&S Certification must document the location of the manufacturing process involved with the production of iron and steel materials. Each handler (supplier, fabricator, manufacturer, processor, etc.) of the iron and steel products and their step in the process must be recorded and certified as domestically performed.

The applicant may utilize either:

1. a Final Manufacturer Certification process, in which the final manufacturer that delivers the iron or steel product to the worksite, vendor, or contractor, may provide a certification identifying all handlers of the iron or steel product, and asserting that all manufacturing processes occurred in the U.S.; or
2. a Step Certification process in which each handler of the iron or steel product provides a separate certification letter certifying that their step in the process was domestically performed.

## Final Manufacturer Certification

The following information is provided as a sample letter of certification for U.S. I&S compliance. Documentation must be provided on company letterhead. The Final Manufacturer's Certification should list everyone who has handled the product, starting with the processor of the raw iron or steel through the contractor who installs the final product.

*Date*

*Company Name*

*Company Address*

*City, State Zip*

*Subject: United States Iron and Steel Certification for Project (XXXXX)*

*I, (company representative), certify that the following products and/or materials shipped/provided to the subject project are in full compliance with the United States Iron and Steel requirement as required in Texas Water Code § 17.183 and/or Texas Government Code, Chapter 2252, Subchapter G, as amended by SB 1289, 85<sup>TH</sup> Legislative Session, as applicable.*

*Item, Products and/or Materials:*

*1. Xxxx*

*2. Xxxx*

*3. Xxxx*

*Such process took place at the following location:*

*Contractor: \_\_\_\_\_  
(Name) (Item) (Process)*

*Supplier: \_\_\_\_\_  
(Name) (Item) (Process)*

*Manufacturer: \_\_\_\_\_  
(Name) (Item) (Process)*

*Processor: \_\_\_\_\_  
(Name) (Item) (Process)*

*If any of the above compliance statements change while providing material to this project, we will immediately notify the prime contractor and the engineer.*

*Signed by company representative*

## Step Certification

A step certification is a process under which each handler (supplier, fabricator, manufacturer, processor, etc.) of the iron and steel products certifies that their step in the process was domestically performed. The step certification process requires receipt of a separate letter from everyone who handles the product, starting with the processor of the raw iron or steel through the contractor that installs the final product.

## Step Certification Letter

The following information is provided as a sample letter of step certification for U.S. I&S compliance. Documentation must be provided on company letterhead of each handler responsible for that process of the iron or steel product.

*Date*

*Company Name*

*Company Address*

*City, State Zip*

*Subject: United States Iron and Steel Step Certification for Project (XXXXXXXXXX)*

*I, (company representative), certify that the (melting, bending, coating, galvanizing, cutting, etc.) process for (manufacturing or fabricating) the following products and/or materials shipped or provided for the subject project is in full compliance with the United States Iron and Steel requirement required in Texas Water Code § 17.183 and/or Texas Government Code, Chapter 2252, Subchapter G, as amended by SB 1289, 85<sup>TH</sup> Legislative Session, as applicable.*

*Item, Products and/or Materials:*

*1. Xxx*

*2. Xxx*

*3. Xxx*

*Such process took place at the following location:*

*Handler: \_\_\_\_\_*  
*(Name) (Item) (Process)*

*If any of the above compliance statements change while providing material to this project, we will immediately notify the prime contractor and the engineer.*

*Signed by company representative*

## Step Certification Log

The following information is provided as a sample log to keep track of step certification for U.S. I&S compliance. The TWDB makes no claims regarding the legality of the step certification log with respect to U.S. I&S compliance.

# United States Iron and Steel Step Certification Log for

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(Iron or Steel Product)

<b>CONTRACTOR:</b>		
(NAME)	(ITEM)	(PROCESS)
<b>SUPPLIER:</b>		
(NAME)	(ITEM)	(PROCESS)
<b>MANUFACTURER:</b>		
(NAME)	(ITEM)	(PROCESS)
<b>PROCESSOR:</b>		
(NAME)	(ITEM)	(PROCESS)