

KEY COMPLIANCE GUIDELINES

It is suggested that a copy of this complete document be given to your Project, Construction Manager, and/or Architect so that they are fully aware of the RACP requirements related to each. This document should be included in your bid packages, and should be made an addendum to any and all construction contracts, plans and specifications related to the RACP project.

Compliance with all RACP requirements, including the key items in these guidelines will be monitored frequently throughout the construction phase of your project and will be reviewed once more during the legislatively mandated close-out audit.

COMPETITIVE BIDDING REQUIREMENTS

The sole and exclusive bidding requirement for RACP projects is in the Capital Facilities Debt Enabling Act (Act 67 of 2004), which states "Notwithstanding any other provision of law, the solicitation of a minimum of three written bids for all contracted construction work on redevelopment assistance capital projects shall be the sole requirement for the composition, solicitation, opening and award of bids on such projects." Unless the terms of the law change, the Office of the Budget cannot grant waivers for bidding requirements to Grantees.

RACP projects are not subject to separation of trades. You are REQUIRED to solicit a minimum of three (3) bids for "all generally contracted work" being performed within the RACP defined scope of work. You are not required to receive three (3) bid responses. However, you should provide documentation to prove that at least three bids were solicited by providing copies of the solicitation letters (preferably on letterhead of the bidding entity) used in the bidding process. You are not required to select the lowest bidder, but if you do not, you will have to provide a brief written justification for your selection. Note: there is NO threshold level under the RACP program regardless of the size or dollar amount associated with the work to be performed. You need to show that you solicited a minimum of three (3) bids for any contract to be eligible for RACP.

Bidding is acceptable at either the general contractor level (described in option a. below) or at the sub-contractor level (described in option b. below):

- **General Contractor (GC) Level** - If you chose to bid at the GC level, please note that the bid should encompass the entire RACP scope of work to be performed including all associated construction work. The dollar amount bid on the project must include 100% of the work to be performed by the GC and the sub-contractors. Bidding at the GC level will require submission of bidding and construction related documents at the GC level only (see Sub-Contractor level below for a distinction)
- **Sub-Contractor Level** - If you choose not to solicit three bids for a General Contractor, then you are required to solicit a minimum of three bids for EACH Sub-Contractor covering all trades involved in the project. Note that any self-performed work by a non-bid GC is NOT an eligible cost for reimbursement OR match purposes. Bidding at the Sub-Contractor level will require submission of bidding and construction related documents at the sub level...meaning proof of

bidding, construction contracts, payment and performance bonds, insurance etc. will need to be provided for every sub-contractor in the RACP scope.

Professional Services: Professional services associated with the project are not required to be bid as these associated costs are only eligible as match.

Change Orders: Grantees and/or Sub-Grantees are not required to competitively bid out change orders as long as the work was within the RACP scope of the original bid and is less than 20% of the total contract. If a change order is for work beyond the RACP scope of work originally bid, the Grantee will be required to competitively bid out the new scope of work in order to be considered RACP eligible.

PENNSYLVANIA STEEL PRODUCTS PROCUREMENT ACT

The Office of the Budget (OB) cannot grant waivers to the Pennsylvania Steel Products Procurement Act (SPPA) unless the terms of the law change. All RACP Grantees must comply with the SPPA. If a Grantee/RACP project fails to abide by the SPPA, it does so at its own risk.

[A full explanation on the RACP steel requirements is available as a PDF download.](#)

Up to 2011, OB only accepted the ST-4 Form (justification for the use of foreign steel) that the Department of General Services (DGS) had exclusively devised to address exceptions linked to the requirements of the SPPA, when it was necessary. Since 2011, OB has approved the acceptability of two more DGS ST Forms (ST-2, ST-3) with some caveats, providing that the forms are properly filled out. The ST-1 Form will not be accepted by OB. It is not necessary for the ST-2, ST-3, and ST-4 Forms to be notarized.

Effective January 1, 2013, OB began utilizing the DGS Exempt Machinery and Equipment Steel Products listings ([2022](#), [2021](#), [2020](#)) as part of our steel policy. DGS published a Statement of Policy- Steel products procurement in the Pennsylvania Bulletin Volume 43, Number 6 dated February 9, 2013 (See PA Bulletin #43, pages 85-86) that discussed the exemption of certain steel products, based on their analysis of ST-4 forms submitted that list products not produced domestically in sufficient quantity. DGS publishes an updated "Exemption List" annually.

Please be aware that ST forms are acceptable only in cases where nonstructural steel needs to be addressed. The DGS ST forms do not replace the steel certification forms associated with structural steel. OB will continue to require the submission of steel mill certifications to demonstrate compliance with the steel requirements for structural steel.

The PDF copies of the three acceptable ST Forms for RACP listed below can be obtained from the RACP website:

- [ST-2 Steel Origin Certification: Non-Identifiable, Non-Structural Steel](#)
- [ST-3 75% U.S. Manufacture Certification](#)
- [ST-4 Not Domestically Manufactured: Prime Contractor](#) (only to be used when requesting items to be exempted that are not found on the current year's List of Exempt Machinery and Equipment Steel Products)

It is suggested that the certifications be collected at the time any steel for the project is purchased and delivered to ease the collection process.

Be advised that OB DOES NOT need to approve the ST forms prior to the start of the construction period. The ST forms need to be submitted to demonstrate that compliance, when and where necessary, has been met.

We shall deem as ineligible all contracts that are unable to demonstrate compliance via the submission of steel certifications for Structural Steel and for Non-structural Steel the submission of steel certifications and/or ST forms and/or DGS Exempt Machinery and Equipment Steel Products List. Therefore, the value of construction contracts associated with non-compliant steel will be removed (both materials and labor costs) from the scope of the project, which may in turn affect the project's ability to leverage their full grant amount (project may not receive its full grant).

Recycled products, melted from previously used steel, are acceptable, providing that adequate documentation from the supplier has been furnished. The supplier shall certify that the recycled steel product was produced in the USA.

TRADE PRACTICES ACT

In accordance with the Trade Practices Act of July 23, 1968, P.L. 686 (71 P.S. § 773.101 et seq.), the Grantee cannot and shall not use or permit to be used in the work any aluminum or steel products made in a foreign country which is listed below as a foreign country which discriminates against aluminum or steel products manufactured in Pennsylvania. The countries of Argentina, Brazil, South Korea, and Spain have been found to discriminate against certain products manufactured in Pennsylvania. Therefore, the purchase or use of those countries' products, as listed below, is not permitted:

- **Argentina:** carbon steel wire rod and cold-rolled carbon steel sheet.
- **Brazil:** welded carbon steel pipes and tubes; carbon steel wire rod; tool steel; certain stainless steel products, including hot-rolled stainless steel bar; stainless steel wire rod and cold-formed stainless steel bar; pre-stressed concrete steel wire strand; hot-rolled carbon steel plate in coil; hot-rolled carbon steel sheet; and cold-rolled carbon steel sheet.
- **South Korea:** welded carbon steel pipes and tubes; hot-rolled carbon steel plate; hot-rolled carbon steel sheet; and galvanized steel sheet.
- **Spain:** certain stainless steel products, including stainless steel wire rod, hot-rolled stainless steel bars; and cold-formed stainless steel bars; pre-stressed concrete steel wire strand; and certain steel products, including hot-rolled steel plate, cold-rolled carbon steel plate, carbon steel structural shapes; galvanized carbon steel sheet, hot-rolled carbon steel bars, and cold-formed carbon steel bars.

Penalties for violation of the above paragraphs may be found in the Trade Practices Act, which penalties include becoming ineligible for public works contracts for a period of three years.

This provision in no way relieves the Grantee of responsibility to comply with those provisions which prohibit the use of foreign-made steel and cast iron products.

PUBLIC WORKS CONTRACTORS' BOND LAW (PAYMENT & PERFORMANCE BONDS)

The requirement for 100% payment and performance (P&P) bonds is a state law; the Office of the Budget cannot waive this requirement.

A performance bond must be obtained at 100% of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications, and conditions of the contract. Such bond shall be solely for the protection of the contracting body which awarded said contract.

A payment bond must be obtained at 100% of the contract amount. Such bond shall be solely for the protection of claimants supplying labor or materials to the Grantee, its contractor or to any of its subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the work. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

PA PREVAILING WAGE ACT (PWA)

The Office of the Budget cannot grant waivers for the PA Prevailing Wage Act. All Grantees must comply with the act. Grantees that fail to abide by the Prevailing Wage Act do so at their own risk. Please do not assume that PA Prevailing Wage is always consistent with your local union wages.

All projects should apply for a wage determination letter prior to the start of construction by registering the project with the PA Department of Labor and Industry to obtain the prevailing wage rates relevant to your project. This determination sheet will provide the necessary trade classifications for the project, along with their corresponding hourly wage and hourly fringe rates that are required for the certified payrolls required as part of RACP. The wage determination should be obtained within 120 days of the award of construction contracts. If necessary, the Department of Labor and Industry can issue determinations letters after construction has begun.

The prevailing wage information and forms can be found on the [PA Department of Labor & Industry website](#).

AMERICANS WITH DISABILITIES ACT (ADA)

Typically your architect should provide a letter stating the plans and specs are in compliance with ADA regulations. Additionally, the Grantee agrees to comply with the General Prohibitions Against Discrimination, 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans with Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the commonwealth through contracts.

FIDELITY BONDS

The Grantee shall procure and furnish evidence to OB of fidelity bonds with coverage to be maintained under the administrative title of the position in amounts and for such positions as are reasonably

determined by OB. Fidelity Bonding is also commonly known as "Employee Dishonesty Insurance." The minimum level of coverage should equal the average monthly RACP reimbursement amount based on the total grant amount.

INSURANCE REQUIREMENTS

- Worker's Compensation Insurance - The Grantee shall provide Worker's Compensation Insurance where required, and shall accept full responsibility for the payment of premiums for Worker's Compensation Insurance and Social Security, as well as income tax withholding and any other taxes or payroll deductions required by law for its employees who are performing services related to the project.
- General Liability & Property Damage Insurance - The Grantee will provide and maintain comprehensive general liability and property damage insurance in the minimum amount of \$250,000.00 per person for injury and death in a single occurrence; \$1,000,000.00 per occurrence for injury or death of more than one (1) person in a single occurrence; and \$500,000.00 for a single occurrence of property damage, and which shall be endorsed to protect the commonwealth.
- Flood Insurance – If the project is wholly or partially within a floodplain, proof of sufficient flood insurance coverage must be provided. In any case, a project is required to provide a copy of a floodplain map of the project area, with the project site being delineated thereon.

Identify Commonwealth as Additional Insured: The commonwealth shall be listed on the above insurance policies as an additional insured. Upon request, the Grantee shall furnish proof of insurance as required by this section to OB.

RESTRICTIONS ON GOVERNMENTAL ENTITIES SELLING RACP PROJECTS

Article 8 of the RACP Grant Agreement spells out sale price restrictions for a governmental entity that sells property that was acquired and/or improved with RACP funds. The restrictions are required to insure that the Grantees CANNOT sell the property for a net gain or even recoup the value of the grant in the sale price. [A PDF download is available that contains more information on Article 8.](#)

ATTACHMENT 2

GUIDANCE ON STEEL CERTIFICATION RELATIVE TO THE REDEVELOPMENT ASSISTANCE CAPITAL PROGRAM (RACP)

Updated June 2022

The following guidance is a clarification from the Office of the Budget (OB) regarding the requirements associated with the Pennsylvania Steel Products Procurement Act (SPPA) relative to the RACP program whose statutes are regulated under Act 1 of 1999, as amended. In the past, many a grantee has inquired about specific cases, and we were able to provide each individual project with specific directions. Additionally, we had only accepted the ST-4 form that the Department of General Services (DGS) had exclusively devised to address exceptions linked to the requirements of the SPPA in the handling of special cases or exceptions. Please note that cost consideration (or convenience) is not an acceptable justification that the ST-4 form can address. Filled out ST-4 forms premised on cost consideration will not be accepted by OB.

Effective immediately, OB will accept two more DGS ST forms (ST-2, ST-3) with some caveats, providing that the forms are properly filled out. The ST-1 form is NOT a valid option and shall NOT be accepted by OB. It is not necessary for the ST-2, ST-3, and ST-4 forms to be notarized. Please, be advised that this guidance is specifically tailored to suit the published and programmatic needs of OB as the overseer of RACP program. This is not a commonwealth-wide policy. Any attempt to impose this guidance on other state agencies is strongly discouraged.

Please, be aware that the aforementioned ST forms are acceptable only in cases where non-structural steel needs to be addressed. The DGS ST forms do not replace the steel certification forms associated with structural steel. It remains the responsibility of the project representatives to provide documented evidence that a non-structural steel product is not domestically produced in sufficient quantities.

OB shall continue to require that steel mill certifications be submitted to demonstrate compliance with the steel requirements. Please, be further advised that OB DOES NOT need to approve the ST forms prior to the start of the construction period. The ST forms need to be submitted to demonstrate that compliance, when and where necessary, has been met. The ST forms exceptions are displayed below. Please, contact us if you have any questions.

It is suggested that the certifications be collected at the time any steel for the project is purchased and delivered to ease the collection process.

Effective January 1, 2013, OB began utilizing the DGS Exempt Machinery and Equipment Steel Products listings as part of the RACP steel policy. DGS published a Statement of Policy - Steel Products Procurement in the Pennsylvania Bulletin Volume 43, Number 6 dated February 9, 2013 (See PA Bulletin #43, pages 85-86) that discussed their production of an annual list, based on their analysis of submitted ST-4 forms, which exempts certain steel products not produced domestically in sufficient quantity.

No other changes in RACP steel policy resulted from this new adjustment; consequently, the use of steel certificates for structural steel will still be required. Please note that the use of ST 2,

3, and 4, as requested for other steel products, will still be utilized unless an exemption based on the list has been formulated and forwarded to OB.

RACP Policy for Compliance with the Steel Products Procurement Act:

Two distinct approaches are presented below:

Structural Steel Products

Pursuant to the SPPA, OB will require a mill certificate containing the statement "milled, melted, and manufactured in the USA" for all structural steel products used on RACP projects. We shall deem as ineligible all contracts that are unable to demonstrate compliance via the submission of steel certifications. Therefore, the value of construction contracts associated with non-compliant steel will be removed (both materials and labor costs) from the scope of the project.

Non-Structural Steel Products

Pursuant to the SPPA, OB will require, either a mill certificate containing the statement "milled, melted, and manufactured in the USA" or the appropriate ST form or an **Exemption Request** to utilize the DGS current years' Final List of Exempt Machinery and Equipment Steel Products to demonstrate compliance associated with the non-structural steel products used on RACP projects. OB shall deem as ineligible all contracts that are unable to demonstrate compliance via the submission of steel certifications/ST **forms/Exemption Request** based on the DGS Exempt Machinery and Equipment Steel Products listing. Therefore, the value of construction contracts associated with non-compliant steel will be removed (both materials and labor costs) from the scope of the project.

Recycled products, melted from previously used steel, are acceptable, providing that adequate documentation from the supplier has been furnished. The supplier shall certify that the recycled steel product was produced in the USA.

Furthermore, the burden of proof for all non-structural steel products not produced domestically in sufficient quantities is still the project's responsibility to provide.

Please be aware that the acceptance of ST forms is contingent upon the form being fully filled-in and compliant with the submission guidelines for steel certifications for DGS projects (see attached) with the following exceptions:

- A. It is not necessary for the forms to be notarized. All ST forms must contain original signatures (i.e. not electronic or stamped).
- B. Any questions regarding steel certification submissions and/or compliance with the Act shall be submitted to OB (Scott Bowman - scotbowman@pa.gov).
- C. The Steel certification forms do NOT need to be submitted and approved by OB before the steel product arrives on site so as not to interfere with the project construction schedule.
- D. OB assumes responsibility for acceptance of the DGS ST forms in accordance

with this policy.

Completion of the ST-2, ST-3, and ST-4 forms shall follow the DGS directions attached to the form with the following exceptions:

- o ST forms do NOT need to be submitted and approved by OB before the steel product arrives on site so as not to interfere with the construction schedule.
- o RACP ME# assigned to the project shall be inserted in all areas requiring the DGS contract number (Line#5).
- o RACP official project name shall be inserted in all areas requiring the contract title (Line #6).

Note:

Acceptance of each ST form shall be determined by OB at its sole discretion. All documents and other information to be delivered in order to demonstrate compliance with the steel requirements shall be and are, in form, content and substance, subject to the approval of OB, which approval may be withheld or delayed at OB's discretion. OB reserves the right to reject all improperly filled out or unsupported ST forms.

Below are links to PDF copies of the three acceptable ST Forms that can be obtained from the RACP website:

- [ST-2 Steel Origin Certification: Non-Identifiable, Non-Structural Steel](#)
- [ST-3 75% U.S. Manufacture Certification](#)
- [ST-4 Not Domestically Manufactured: Prime Contractor](#) (only to be used when the items requested to be exempted are not found on the appropriate year's List of Exempt Machinery and Equipment Steel Products [see section below entitled "Year of DGS Exemption Listing to Use"])

To implement the RACP policy on Non-structural Steel Exemption Request utilizing the DGS's current years' Final List of Exempt Machinery and Equipment Steel Products, referred to as the "Exemption List", please follow the below requirements:

1. The Project must be under "active" construction (workers on site) on or AFTER 1/01/2013 (RACP effective date) to use the "Exemption List".
2. "Active" construction does not include performance of just "punch list" items.
3. Effective date is based on the "active" construction date and not the date the machinery and equipment were purchased.
4. There is no retroactive application of utilization of the "Exemption List".
5. No ST-4 form is required for a RACP Exemption Request based on the "Exemption List".
6. RACP Exemption Request (to utilize the "Exemption List") must come from a contractor involved in the construction of the project and be:
 - On Construction Company Letterhead.
 - Dated and Signed by appropriate company official (does not need to be notarized).
 - Should be addressed to Office of the Budget
 - Should contain RACP project name and/or ME #
 - Lists any/all machinery and equipment that the Company is requesting to have exempted from ST-4 documentation.

- All items listed on RACP Exemption Request letter must clearly match-up to an item on the appropriate year's "Exemption List" and the Exemption List year should be notated for each item.
- There can/may be multiple construction company RACP Exemption Request letters utilized for various machinery and equipment, as applicable, per project.
- Exemption Request can be submitted directly by the project to OB or through the State Assigned Consultant for their project.
- Any questions regarding the exemption request submission and/or compliance with the SPPA shall also be submitted to OB, to the attention of Scott Bowman, Scotbowman@pa.gov

Year of DGS Exemption Listing to Use:

A project should be using the exemption listing for when they are in active construction. For example, if construction was active (and complete) in 2019 they would use the 2019 listing. If a project overlaps a calendar year, they should use the latest listing in which construction is active. For example, if construction is active in 2019 and 2020, they would use the 2020 listing.

If a project is phased, they should use the listing for the year they are in active construction for each phase. For example, if the first phase starts and ends in 2020 whereas the second phase starts and ends in 2021, the first phase would use the 2020 listing while the second phase would use the 2021 listing. If a phase overlaps a calendar year, follow the 1st paragraph above.

Among other items, the DGS web page for Steel Products Procurement Act information includes links for a copy of the Act; the current year's Final List of Exempt Machinery and Equipment Steel Products; the PA Bulletin's Steel Products Procurement Act Statement of Policy; and Frequently Asked Questions. Certain prior years DGS Exemption Lists are downloadable from the RACP website.

Please be aware that all other steel items not specifically exempted or that may require any type of interpretation would be discretionary to OB's policy. Be reminded that this exemption listing is not effective for structural steel.

Note:


Acceptance of each Exemption Request shall be determined by OB at its sole discretion. All documents and other information to demonstrate compliance with the steel requirements shall be in form, content, and substance, subject to the approval of OB, which approval may be withheld or delayed at OB's discretion. OB reserves the right to reject all improperly filled out or unsupported Exemption Request.

ATTACHMENT 3

WEEKLY PAYROLL CERTIFICATION FOR PUBLIC WORKS PROJECTS

Contractor or Subcontractor (Please check one)

ALL INFORMATION MUST BE COMPLETED

CONTRACTOR ADDRESS	SUBCONTRACTOR ADDRESS	 <small>DEPARTMENT OF LABOR & INDUSTRY COMMONWEALTH OF PENNSYLVANIA</small> BUREAU OF LABOR LAW COMPLIANCE PREVAILING WAGE DIVISION 7TH & FORSTER STREETS HARRISBURG, PA 17120 1-800-932-0665
PAYROLL NUMBER	WEEK ENDING DATE	PROJECT AND LOCATION
		PROJECT SERIAL # PROJECT #

EMPLOYEE NAME	APPR. RATE (%)	WORK CLASSIFICATION	DAY AND DATE							S-TIME 0-TIME	BASE HOURLY RATE	TOTAL FRINGE BENEFITS (C=Cash) (FB=Contributions)*	TOTAL DEDUCTIONS	GROSS PAY FOR PREVAILING RATE JOB(S)	CHECK #
			HOURS WORKED EACH DAY												

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PAGE NUMBER _____ OF _____