

# Tracking the De Minimis Waiver

- The de minimis waiver was granted by EPA for incidental components up to 5% of total materials cost

[http://www.epa.gov/water/eparecovery/docs/2009\\_08\\_10\\_FR\\_Revise\\_De\\_Minimis.pdf](http://www.epa.gov/water/eparecovery/docs/2009_08_10_FR_Revise_De_Minimis.pdf)

# What are Incidental Components?

- Incidental components are small, low cost components incorporated into construction
- Items purchased **in bulk** will generally fall under the de minimis waiver

# Important Distinction

- The de minimis waiver can **NOT** be used for a single item making up 5% of the total materials cost
  - ie., cannot use the de minimis waiver to purchase a \$15,000 foreign-made pump

# Appropriate Documentation

- Assistance recipients or contractors must keep two lists:
  - List #1 includes the costs of all the items exempted from Buy American under de minimis
  - List #2 includes total materials costs
- Must then show that the total value of list #1 is equal or less than 5% of the total value of list #2

# Exceeding the 5% Maximum Value

- Projects that require more than 5% of materials costs to be spent on incidental costs have two options:
  1. Collect documentation showing the additional items are American-made
  2. Apply for a project-specific waiver

# Oversight of Buy American Compliance

- Section 7 of the State ARRA inspection checklist includes compliance criteria for the de minimis waiver

7. Confirm that the de minimis waiver is applied correctly

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N/A - Project qualifies for the National Bid or Refinance Waiver     
  N/A - No incidental components have yet been ordered for this project     
  N/A - Project does not require any incidental components

Documentation Review		Onsite Review	
a. Assistance recipient and/or contractor maintains a de minimis utilization certificate	Y N	c. Assistance recipient and/or contractor maintains receipts or invoices showing total value of exempted items	Y N
b. Assistance recipient and/or contractor maintains an itemized list of incidental manufactured goods	Y N	d. The de minimis waiver is only applied to incidental project components that are generally miscellaneous, small, and low-cost	Y N

*The de minimis waiver allows up to 5% of materials costs to be exempted from Buy American requirements. For most inspections, compare the value of incidental manufactured goods exempted from Buy American to the estimated materials costs from the plans and specs. On the final or close-out inspection, compare the value of items exempted from de minimis to the actual final materials cost. This value of items exempted should not exceed 5% of total materials costs.*

Value of incidental manufactured goods exempted from Buy American: \_\_\_\_\_

Estimate/final cost of materials (to be) procured for project: \_\_\_\_\_

Percentage of material costs exempted: \_\_\_\_\_

e. Items exempted under the de minimis waiver make up 5% or less of total materials cost Y N

f. Notes:

# Oversight of De Minimis Compliance

- States should check that assistance recipients:
  - Maintain lists of incidental components and material costs
  - Maintain copies of invoices with materials costs on them
  - Are not in danger of exceeding the 5% maximum value of exempted components
- States should spot check that list of incidental components does not include mischaracterized components

# Common De Minimis Issues

- Incidental items are often procured all at once at the beginning of the project, so may look like more than 5% of total procured materials cost
  - Track planned costs and actual costs
- Some contractors reluctant to share total materials cost
  - Contractor can track de minimis utilization percentage (may have to share information with the IG)
- Total materials cost may come in lower than anticipated
  - Build in a buffer

# Tracking De Minimis Waiver: EXAMPLE

# New Mexico Underground Contractors, Inc.

MUNICIPAL & UTILITY CONSTRUCTION

Telephone (505)877-2300 • 6201 Industry Way SE • Albuquerque, NM 87105

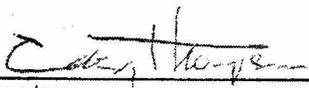
## De Minimus Waiver

City of Socorro

Wastewater System Expansion - Phase IB

1	Total material cost to date		\$38,393.20
2	5% of total material cost to date		\$1,919.66
3	Invoices for material installed to date		
	10" 45 Deg. Bends, HD Supply	\$387.28	
	Hex Nut and Bolt Kit, HD Supply	\$187.20	
4	Subtotal for invoices for material installed to date (cannot exceed line 2)		\$574.48

Attached are the material cost to date invoices as well as invoices for material installed to date.

  
\_\_\_\_\_  
Signature

May 13, 2010  
\_\_\_\_\_  
Date

Current as of May 12, 2010



Local Service, Nationwide  
 P.O. Box 1419  
 Thomasville, GA 31799-1419

# INVOICE

BRANCH ADDRESS  
 HDSWW - ALBUQUERQUE NM -N  
 Branch - 117  
 6135 Second Street NW  
 Albuquerque NM 87107 0000  
 505/344-0223

INVOICE #	1147800
INVOICE DATE	4/08/10
ACCOUNT #	136310
SALESPERSON	CHRIS GUTIERREZ
BRANCH #	117
<b>Total Amount Due</b>	<b>\$4,239.51</b>

Remit To:  
 HD SUPPLY WATERWORKS, LTD.  
 PO BOX 840700  
 DALLAS, TX 75284 0700

893 1 MB 0.382 E0420X 10642 0200948070 P518448 0001:0003



NEW MEXICO UNDERGROUND  
 CONTRACTORS, INC.  
 6201 INDUSTRY WAY SE  
 ALBUQUERQUE NM 87105-7476

Shipped to:  
 CUSTOMER PICK-UP -

CUSTOMER JOB- SOCORRO WW SYS EXP PH1B

Return Top Portion With Payment For Faster Credit

Thank You For The Opportunity To Serve You.  
 We appreciate your prompt payment.

Date Ordered	Date Shipped	Customer PO No.	Job Name	Job No.	Bill of Lading	Shipped Via	Order Number
3/24/10	4/06/10	1001.01	WW SYS EXP PH1B	SOCORRO		WILL CALL	1147800
Product Code	Description	Quantity Ordered	Quantity Shipped	Back-Ordered	Price	Per	Amount
75RCD32524SAN	325-24 DOM RING & CVR SANITARY SEWER BID SEQ# 420	8	8		177.66000	EA	1,421.28
944GVP	4" GALV. VENT PIPE W/SS SCREEN	2		2	52.06000	EA	.00
2504FF1700PR	4 FLG X FLG DI PIPE 17" PRIMED	4		4	427.00000	EA	.00
24049F	4 FLG 90 BEND C/L DI C110	4		4	80.44000	EA	.00
2504FF0800PR	4 FLG X FLG DI PIPE 8" PRIMED W/ TNEMEC PRIME	4		4	232.58000	EA	.00
2504FP0600PR	4 FLG X PE DI PIPE 6" PRIMED W/TNEMEC PRIME	4	4		194.78000	EA	779.12
24AFBNKB04D	4 BLK HEX BOLT & NUT KIT DOMESTIC <i>DE MENEMUS CLAIM</i>	24	7	17	7.80000	EA	54.60 <i>197.20</i>
24AFGFR04ADOM	4X1/8 FLG FF RR GSKT DOMESTIC	24	7	17	1.13000	EA	7.92
21049M	4 MJ 90 BEND C/L CP DI C153	2	2		62.64000	EA	125.28
2104T040M	4X4 MJ TEE C/L CP DI C153	2	2		83.52000	EA	167.04
0104350T	4 TJ PR350 DI PIPE C/L	18	18		10.50000	FT	189.00
2508FP0600PR	8 FLG X PE DI PIPE 6" PRIMED W/TNEMEC PRIME	2	2		369.90000	EA	739.80
24089F	8 FLG 90 BEND C/L DI C110			2	285.16000	EA	.00
24AFBNKB08D	8 BLK HEX BOLT & NUT KIT DOMESTIC <i>DE MENEMUS CLAIM</i>				24.40000	EA	48.80
24AFGFR08ADOM	8X1/8 FLG FF RR GSKT DOMESTIC	2	2		3.88000	EA	7.76
2108S175T	8 MJ S/P SLEEVE CP DI C153	2	2		107.80000	EA	215.60

Not used on this project. Sending back for credit.

*24 x 7.80 = 187.20*



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 P.O. Box 1419  
 Thomasville, GA 31799-1419

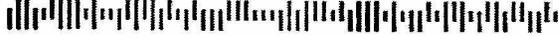
# INVOICE

BRANCH ADDRESS  
 HDSWW - ALBUQUERQUE NM -N  
 Branch - 117  
 6135 Second Street NW  
 Albuquerque NM 87107 0000  
 505/344-0223

INVOICE #	1197716
INVOICE DATE	4/07/10
ACCOUNT #	136310
SALESPERSON	CHRIS GUTIERREZ
BRANCH #	117
<b>Total Amount Due</b>	<b>\$387.28</b>

Remit To:  
 HD SUPPLY WATERWORKS, LTD.  
 PO BOX 840700  
 DALLAS, TX 75284 0700

931 1 MB 0.382 E0002X 1002 D200629222 P517961 0001:0002



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Thank You For The Opportunity To Serve You.  
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Date Ordered	Date Shipped	Customer PO No.	Job Name	Job No.	Bill of Lading	Shipped Via	Order Number
4/06/10	4/06/10	1001.01	WW SYS EXP PH1B	SOCORRO		WILL CALL	1197716
Product Code	Description	Quantity Ordered	Quantity Shipped	Back-Ordered	Price	Per	Amount
211104M	10 MJ 45 BEND(I) CP DI C153	4	4		96.82000	EA	387.28
	* IMPACT MATERIAL DE MINIMUS CLAIM						

This transaction is governed by and subject to HD Supply Waterworks standard terms and conditions, which are incorporated herein by this reference and accepted. To review these terms and conditions, please point your web browser to <http://waterworks.hdsupply.com/TandC/>.

Terms	SubTotal
NET 30	387.28

Freight	Delivery	Handling	Restock	Misc.	Tax	INVOICE TOTAL	\$387.28
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HDSWW - ALBUQUERQUE NM -N  
 Branch - 117  
 6135 Second Street NW  
 Albuquerque NM 87107 0000

THANK YOU FOR YOUR ORDER  
 VISIT  
 WATERWORKS.HDSUPPLY.COM  
 FOR OTHER SERVICES OFFERED

INVOICE: 1197716