

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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

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

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

APPENDIX A-SPECIAL PROVISIONS
SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY
RESPONSIBILITIES

APPENDIX A--SPECIAL PROVISIONS

SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES

1. **General**

- a. Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract Provisions (Form FHWA -1273 or 1316, as appropriate) and these Special Provisions which are imposed pursuant to Section 140 of Title 23, U.S.C., as established by Section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.
- b. The contractor will work with the State highway agencies and the Federal Government in carrying out equal employment opportunity obligations and in the review of his/her activities under the contract.
- c. The contractor and all his/her subcontractors holding subcontracts not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of \$10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

2. **Equal Employment Opportunity Policy.** The contractor will accept as his/her operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or

other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training.

3. **Equal Employment Opportunity Officer.** The contractor will designate and make known to the State highway agency contracting officers and equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. **Dissemination of Policy**

a. All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's equal employment opportunity policy and contractual responsibilities to provide equal employment in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

(1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

(2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official, covering all major aspects of the contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the contractor.

(3) All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official in the contractor's procedures for locating and hiring minority group employees.

b. In order to make the contractor's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor will take the following actions:

(1) Notices and posters setting forth the contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

- (2) The contractor's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, other appropriate means.

5. **Recruitment**

- a. When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
- b. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor will, through his EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractors to do the same, such implementation violates Executive Order 11246, as amended.)

- c. The contractor will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.
6. **Personnel Actions.** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, or national origin. The following procedures shall be followed:
- a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
 - b. The contractor will periodically evaluate the spread of wages paid within each

classification to determine any evidence of discriminatory wage practices.

- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

7. Training and Promotion.

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event the Training Special Provision is provided under this contract, this subparagraph will be superseded as indicated in Attachment 2.
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. Unions. If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

- a. The contractor will use best efforts to develop, in cooperation with the unions,

joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

- b. The contractor will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.
- c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the State highway department and shall set forth what efforts have been made to obtain such information.
- d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, or national origin; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the State highway agency.

9. Subcontracting

- a. The contractor will use his best efforts to solicit bids from and to utilize minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from State highway agency personnel.
- b. The contractor will use his best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. Records and receipts

- a. The contractor will keep such records as are necessary to determine compliance with the contractor's equal employment opportunity obligations. The records kept by the contractor will be designed to indicate:

- (1) The number of minority and non-minority group members and women employed in each work classification on the project.
 - (2) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force).
 - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and
 - (4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.
- b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State highway agency and the Federal Highway Administration.
- c. The contractors will submit an annual report to the State highway agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form PR 1391. If on-the-job training is being required by "Training Special Provision", the contractor will be required to furnish Form FHWA 1409.

(40 FR 28053, July 3, 1975, as amended at 43 FR 19386, May 5, 1978. Correctly redesignated at 46 FR 21156, April 9, 1981.)

Revised 8/88

APPENDIX B-TRAINING SPECIAL PROVISIONS

APPENDIX B--TRAINING SPECIAL PROVISIONS

This Training Special Provision supersedes subparagraph 7b of the Special Provision entitled Specific Equal Employment Opportunity Responsibilities, (Appendix A), and is in implementation of 23 U.S.C. 140(a).

As part of the contractors equal employment opportunity affirmative action program training shall be provided as follows:

The contractor shall provide on-the-job training aimed at developing full journeyworkers in the type of trade or job classification involved.

The number of trainees to be trained under the special provision will be 0.

In the event that a contractor subcontracts a portion of the contract work, he/she shall determine how many, if any, of the trainees are to be trained by the subcontractor, provided, however, that the contractor shall retain the primary responsibility for meeting the training requirements imposed by this special provision. The contractor shall also ensure that this training special provision is made applicable to such subcontract. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training.

The number of trainees shall be distributed among the work classifications on the basis of the contractors needs and the availability of journeyworkers in the various classifications with a reasonable area of recruitment. Prior to commencing construction, the contractor shall submit to the State highway agency for approval the number of trainees to be trained in each selected classification and training program to be used. Furthermore, the contractor shall specify the starting time for training in each of the classifications. The contractor will be credited for each trainee employed by him/her on the contract work who is currently enrolled or becomes enrolled in an approved program and will be reimbursed for such trainees as provided hereinafter.

Training and upgrading of minorities and women toward journeyworker status is a primary objective of this Training Special Provision. Accordingly, the contractor shall make every effort to enroll minority trainees and women (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment. The contractor will be responsible for demonstrating the steps that he/she has taken in pursuance thereof, prior to a determination as to whether the contractor is in compliance with this Training Special Provision. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not.

No employee shall be employed as a trainee in any classification in which he/she has successfully completed a training course leading to journeyworker status or in which he/she has been employed as a journeyworker. The contractors should satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used, the contractors records should document the findings in each case.

The minimum length and type of training for each classification will be as established in the training program selected by the contractor and approved by the State highway agency and the Federal Highway Administration. The State highway agency and the Federal Highway Administration shall approve a program if it is reasonably calculated to meet the equal employment opportunity obligations of the contractor and to qualify the average trainee for journeyworker status in the classification concerned by the end of the training period. Furthermore, apprenticeship programs registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by The Bureau and Training programs approved but not necessarily sponsored by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training shall also be considered acceptable provided they are being administered in a manner consistent with the equal employment obligations of Federal-aid highway construction contracts. Approval or acceptance of a training program shall be obtained from the State prior to commencing work on the classification covered by the program. It is the intention of these provisions that training is to be provided in the construction crafts rather than clerk-typists or secretarial-type positions. Training is permissible in lower level management positions such as office engineers, estimators, timekeepers, etc., where the training is oriented toward construction applications. Training in the laborer classification may be permitted provided that significant and meaningful training is provided and approved by the division office. Some off-site training is permissible as long as the training is an integral part of an approved training program and does not comprise a significant part of the overall training.

The Contractor will be reimbursed in the amount indicated in the unit price column of the Pay Item Schedule in the Bid Form and Proposals for each hour of training given an employee on this contract in accordance with an approved training program. As verified by the engineer, reimbursement will be made for training persons in excess of the number specified herein. This reimbursement will be made even though the contractor receives additional training program funds from other sources, provided such other does not specifically prohibit the contractor from receiving other reimbursement. Reimbursement for off-site training indicated above may only be made to the contractor where he/she does one or more of the following and the trainees are concurrently employed on a Federal-aid project; contributes to the cost of the training, provides the instruction to the trainee or pays the trainees wages during the off-site training period.

No payment shall be made to the contractor if either the failure to provide the required training, or the failure to hire the trainee as a journeyworker, is caused by the contractor and evidences a lack of good faith on the part of the contractor in meeting the requirements of this Training Special Provision. It is normally expected that a trainee will begin his/her training on the project as soon as feasible after start of work utilizing the skill involved and remain on the project as long as training opportunities exist in his/her work classification or until he/she has completed his training program.

It is not required that all trainees be on board for the entire length of the contract. A contractor will have fulfilled his/her responsibilities under this Training Special Provision if he/she has provided acceptable training to the number of trainees specified. The number trained shall be determined on the basis of the total number enrolled on the contract for a significant period.

Trainees will be paid at least 60 percent of the appropriate minimum journeyworkers rate specified in the contract for the first half of the training period, 75 percent for the third quarter of the training period, and 90 percent for the last quarter of the training period, unless apprentices or trainees in an approved existing program are enrolled as trainees on this project. In that case, the appropriate rates approved by the Departments of Labor or Transportation in connection with the existing program shall apply to all trainees being trained for the same classification who are covered by this Training Special Provision.

The contractor shall furnish the trainee a copy of the program he/she will follow in providing the training. The contractor shall provide each trainee with a certification showing the type and length of training satisfactorily completed.

The contractor will provide for the maintenance of records and furnish periodic reports documenting his/her performance under this Training Special Provision.

(40 FR 28053, July 3, 1975. Correctly redesignated at 46 FR 21156, April 9, 1981)

Revised 8/88

**PARTICIPATION BY DISADVANTAGED BUSINESS
ENTERPRISE AND
NON-DISADVANTAGED BUSINESS ENTERPRISE
FIRMS**



Policy Statement

Section 26.1, 26.23 Objectives/Policy Statements

The District Department of Transportation (DDOT) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The District Department of Transportation (DDOT) has received federal financial assistance from the U.S. Department of Transportation, and as a condition of receiving this assistance, DDOT has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the District Department of Transportation (DDOT) to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

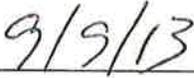
- To ensure nondiscrimination in the award and administration of DOT - assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT assisted contracts;
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Lisa Gregory, Esq., Chief, Office of Civil Rights has been delegated as the DBE Liaison Officer. In that capacity, the Chief Office of Civil Rights is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the District Department of Transportation (DDOT) in its financial assistance agreements with the U.S. Department of Transportation.

The District Department of Transportation (DDOT) has disseminated this policy statement to the DDOT's Executive Team and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts on DDOT's website and on the agency bidders' document.



Terry Bellamy
Director, District Department of Transportation



Date

Definitions -The following definitions apply to this contract:

- A. **“Disadvantaged business”** means a small business concern, (a) which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- B. **“Small business concern means”**, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in § 26.65(b).
- C. Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is—
- Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
 - Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;
 - “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - Women;

- Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

The Contracting Officer shall make a rebuttable prerogative that individuals in the above groups are socially and economically disadvantaged. This prerogative shall be based on criteria set forth in 49 CFR Part 26. The Contracting Officer also may determine, on a case-by-case basis, that individuals who are not members of one of the above groups are socially and economically disadvantaged.

Prompt Payment: The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than **no later than 7 days** from the receipt of each payment the prime contract receives from The District Department of Transportation (DDOT). The prime contractor agrees further to return retainage payments to each subcontractor within **no later than 7 days** after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the DDOT. This clause applies to both "DBE and non-DBE subcontracts." **Failure to do so shall be a ground for appropriate action against the party involved (e.g.: findings of non-responsibility for future contracts and/or suspension and debarment).**

To obtain additional information on DBE Compliance, please contact the Office of Civil Rights

Mohammed Kabir, PHR/Sr. EO Local and Federal Compliance Officer

Office of Civil Rights
District Department of Transportation
55 M Street, SE, 3rd floor
Washington, DC 20003
(202) 299-2190
Mohammed.Kabir@dc.gov

CONTRACT ASSURANCE / CONTRACT GOALS:

CONTRACT ASSURANCE

The Contractor, Sub-recipient, Sub-consultant or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out all the applicable requirements of 49 C.F.R. Part 26 in the award and administration of USDOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as DDOT deems appropriate.

Furthermore, Title VI of the Civil Rights Act of 1964 assures that no person or group of persons may, on the grounds of race, color, national origin, sex, age, handicap or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs or activities administered by DDOT. For further information regarding Title VI, please contact the Office of Civil

Rights, 55 M Street S.E. 3rd Floor. Washington, DC 20003. Our telephone number is:
(202) 299-2190

The above information is applicable to every Contractor including every tier of sub-consultants, subcontractors, supplier or service providers on this project. It is the responsibility of the prime Contractor, and all sub-consultants, subcontractors, suppliers and service providers to ensure equal opportunity for all firms to participate on this project.

RACE/GENDER NEUTRAL GOAL

There is no specific numerical DBE goal assigned to this project. While no numeric DBE goal is assigned to this contract, the Contractor, sub-recipient, sub-consultant or subcontractor should make every reasonable effort to solicit DBE firms to participate as sub-consultants, subcontractors, service providers and suppliers on this project.

The Contractor may find DBE firms certified by the DDOT Unified Certification Program in DDOT's Disadvantaged Business Enterprise (DBE) Directory. The DBE Directory can be found at the following website:

DBE Directory:

Our DBE Directory is a great resource for our Prime Contractors to identify partners that are DBE Certificated with District Department of Transportation and Washington Metropolitan Area Transit Authority. Our DBE Directory is updated daily.

<http://ddotfiles.com/db/DBE/dbe.php>

If a proposed partner from the Prime Contractors is not in the DDOT DBE Directory. Please contact our office.

Luisa Portillo, Equal Opportunity/DBE Program Specialist

DDOT Office of Civil Rights
55 M Street, S.E., 3rd Floor
Washington, D.C. 20003
(202) 671-0630
Luisa.Portillo@dc.gov

Glenda Payne, Equal Opportunity/DBE Program Specialist

DDOT Office of Civil Rights
55 M Street, S.E., 3rd Floor
Washington, D.C. 20003
(202) 671-0479
Glenda.Payne@dc.gov

**EQUAL EMPLOYMENT
OPPORTUNITY/AFFIRMATIVE ACTION
REQUIREMENTS**

EMPLOYEE TRAINING REQUIREMENTS

23 CFR, Part 230, Subpart A, Appendix B applies to this contract, except as modified below. Prior to commencing, the contractor shall submit to the DC Department of Transportation Contracting Officer for approval, the number of trainees to be trained in each selected and classification and providing the prospective trainee's home address(es) and social security number(s). The number of trainees to be trained under this contract is **NONE** and shall be in the following classifications:

<u>CRAFT</u>	<u>NUMBER</u>
NOT APPLICABLE	

The minimum length and type of training for each classification will be as established in the training program selected by the contractor and approved by the Contracting Officer, DC Department of Transportation and the Division Engineer, Federal Highway Administration.

For purposes of this requirement, a trainee is defined as a person who is registered and receiving on-the-job training in a construction or construction management occupation under a program which has been approved and certified in advance by the U.S. Department of Labor, Employment and Training Administration or by the Division Engineer, Federal Highway Administration.

A trainee differs from an apprentice in that an apprentice means (1) a person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or (2) a person in the first 90 days of probationary employment in an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where applicable) to be eligible for probationary employment as an apprentice.

Contractors are encouraged to utilize the resources of the District of Columbia, Department of Employment Services, Employer Services Center and the District of Columbia, Department of Transportation to recruit and hire prospective trainees. Prospective trainees who are not enrolled in any approved program may be selected from among the contractor's construction workforce, subject to the approval of the Contracting Officer.

The District Department of Transportation- will monitor your training program closely during the life of the project to ensure that the training program is being administered in compliance with the applicable Federal regulations and that the assigned number of trainees are enrolled and receiving training. Contractors are reimbursed only for training actually given and carefully documented by the Project Engineer and verified by the District Department of Transportation.

APPRENTICESHIP PROGRAM:

All prime Contractors and subcontractors who contract with the District of Columbia Government to perform construction or renovation work with a single contract or cumulative contracts of at least \$500,000.00, let within a twelve (12) month period, shall be required to register and apprenticeship program with the District of Columbia Apprenticeship Council. (D.C. Code 36-409((1981))).

APPRENTICES AND TRAINEES:

This S.P. supplements APPRENTICES AND TRAINEES, ARTICLE 3 of STANDARD CONTRACT PROVISIONS FOR USE WITH SPECIFICATIONS FOR DISTRICT GOVERNMENT CONSTRUCTION PROJECTS, DATED 1973; as amended by the Transmittal Sheet No. 5.

- (1) In Items A, B and C, except for subparagraph C5, wherever the words "Apprenticeship Council, D.C. Department of Labor" appear, add immediately after: "and/or U.S. Department of Labor."
- (2) In Item B. Trainees, add the following: "Training programs approved under the requirements of Article IV; Section 4 and 5 of Required Contract Provisions, Federal Aid Construction Contracts (Form FHWA-1273) will satisfy the requirements of this item.

The contractor and all subcontractors shall furnish to the Contracting Officer written evidence of the registration of his/her program and apprentices as well as the appropriate ratios and wage rates for the areas of construction, prior to using any apprentice on the contract.

MONTHLY EQUAL EMPLOYMENT
OPPORTUNITY REPORT

CONTRACT NO.

**DISTRICT DEPARTMENT OF TRANSPORTATION
MONTHLY EQUAL EMPLOYMENT OPPORTUNITY REPORT**

1. REPORTING PERIOD
FROM / / TO: / /

This report is required by the District Department of Transportation pursuant to Equal Employment Opportunity requirements of the referenced contract. Failure to report may result in suspension of payments under this contract.

2. PROJECT NAME, LOCATION AND % COMPLETED
WARD _____ % _____

3. CONTRACTOR'S NAME:
MINORITY SUB
NON-MIN PRIME

4. CONTRACT AMOUNT
\$ _____

5. CONSTRUCTION TRADE	Classifications	6. WORK-HOUR OF EMPLOYMENT						7. MINORITY PERCENTAGE	8. FEMALE PERCENTAGE	9. TOTAL NUMBER OF EMPLOYEES		10. TOTAL NUMBER OF MINORITY EMPLOYEES	
		6a. TOTAL ALL EMPLOYEE BY TRADE	6b. BLACK (No. of Hispanic Origin)	6c. HISPANIC		6d. ASIAN OR PACIFIC ISLANDERS				6e. AMERICAN INDIAN OR ALASKAN NATIVE		M	F
	Journey Worker												
	APPRENTICE												
	Helper/Laborer												
	SUB-TOTAL												
	Journey Worker												
	APPRENTICE												
	Helper/Laborer												
	SUB-TOTAL												
	Journey Worker												
	APPRENTICE												
	Helper/Laborer												
	SUB-TOTAL												
	Journey Worker												
	APPRENTICE												
	Helper/Laborer												
	SUB-TOTAL												
	TOTAL JOURNEY WORKERS												
	TOTAL APPRENTICES												
	TOTAL HELPERS/LABORERS												
	GRAND TOTAL												
	11. COMPANY OFFICIAL'S SIGNATURE AND TITLE							12. TELEPHONE NUMBER (include area code)			13. DATE SIGNED		
	14. PAGE												

INSTRUCTIONS FOR FILING MONTHLY EQUAL EMPLOYMENT OPPORTUNITY REPORT (AARU-102)

The Monthly Equal Employment Opportunity Report is to be completed by each subject contractor (both prime and sub) and signed by a responsible official of the company. The reports are filed by the 5th day of each month during the term of the contract, and they shall include the total work-hours for each employee classification in each trade in the covered area for the monthly reporting period. The prime contractor shall submit this report for each project work force and collect and submit reports for each subcontractor's project work force to the Contracting Officer, Department of Transportation. Additional copies of this form may be obtained from the Department of Transportation, Telephone No. 202/671-2270.

Compliance Agency	D. C. Government agency assigned responsibility for equal opportunity. (Secure this information from the contracting agency responsible for the construction project.)
Contracting Agency	D. C. Government agency funding project (in whole or in part). If more than one agency, list all.
Contractor	Any contractor who has a construction contract with D. C. Government or a contract funded in whole or in part with D. C. Government funds.
Minority	Includes Blacks, Hispanics, American Indians, Alaskan Natives, and Asian and Pacific Islanders--both men and women.
1. Reporting	Monthly, or as directed by the compliance agency, beginning with the effective date of the contract.
2. Project	Project name, location(s), contract number and percent completed. List ward in which project is located.
3. Contractor	Contractor's name and address. Check appropriate boxes--minority or non-minority, prime or sub.
4. Contracting Agency	Name(s) of contracting agency(s) funding or supervising project. List contract amount for each contract.
5. Construction Trade	Only those construction trades which contractor employs on this project.
6. Work-Hours of Employment(a-e)	a: The total number of male hours and the total number of female hours worked by employees in each classification. b-e: The total number of male hours and the total number of female hours worked by each specified group of minority employees in each classification.
Classification	The level of accomplishment or status of the worker in the trade (Journey Worker, Apprentice, Helper/Laborer).
7. Minority Percentage	The percentage of total minority work-hours of all work-hours (the sum of columns 6b, 6c, 6d, and 6e divided by column 6a; just one figure for each construction trade).
8. Female Percentage	For each trade the number reported in 6a, (F divided by the sum of the number of reported in 6a M and F).
9. Total Number of Employees	Total number of male and total number of female employees working in each classification of each trade in the contractor's project work force during reporting period.
10. Total Number of Minority Employees	Total number of male minority employees and total number of female minority employees working in each classification in each trade in contractor's project work force during reporting period.

GENERAL WAGE DECISION

General Decision Number: DC130001 08/23/2013 DC1

Superseded General Decision Number: DC20120001

State: District of Columbia

Construction Types: Heavy (Heavy and Sewer and Water Line)
and Highway

County: District of Columbia Statewide.

HEAVY CONSTRUCTION PROJECTS (Including Sewer and Water Lines);
HIGHWAY CONSTRUCTION PROJECTS

Modification Number	Publication Date
0	01/04/2013
1	01/18/2013
2	01/25/2013
3	02/22/2013
4	05/10/2013
5	06/07/2013
6	06/21/2013
7	06/28/2013
8	07/05/2013
9	07/12/2013
10	08/02/2013
11	08/09/2013
12	08/23/2013

ASBE0024-001 10/01/2012

Rates Fringes

Asbestos Worker/Heat and
Frost Insulator

Includes the application
of all insulating
materials, protective
coverings, coatings and
finishes to all types of
mechanical systems.....\$ 33.13

13.60

ASBE0024-002 10/01/2012

	Rates	Fringes
HAZARDOUS MATERIAL HANDLER		
Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials, whether they contain asbestos or not, from mechanical systems.....	\$ 20.86	5.61

ASBE0024-005 10/01/2012

	Rates	Fringes
Fire Stop Technician.....	\$ 26.06	6.05

Includes the application of materials or devices within or around penetrations and openings in all rated wall or floor assemblies, in order to prevent the passage of fire, smoke of other gases. The application includes all components involved in creating the rated barrier at perimeter slab edges and exterior cavities, the head of gypsum board or concrete walls, joints between rated wall or floor components, sealing of penetrating items and blank openings.

BOIL0193-001 10/01/2009

	Rates	Fringes
Boilermakers:.....	\$ 37.66	16.36

BRDC0001-001 04/30/2013

	Rates	Fringes
Bricklayer.....	\$ 28.17	8.03

BRMD0001-004 04/29/2013

	Rates	Fringes
BRICKLAYER		

Refractory (Firebrick).....\$ 35.52 8.24

CARP0132-001 05/01/2013

	Rates	Fringes
Carpenter/Lather.....	\$ 26.81	8.13
Piledriver.....	\$ 26.62	8.15

CARP1831-001 04/01/2012

	Rates	Fringes
MILLWRIGHT.....	\$ 27.96	12.20

CARP2311-002 05/01/2013

	Rates	Fringes
DIVER TENDER.....	\$ 29.00	8.15
DIVER.....	\$ 37.74	8.15

ELEC0026-001 06/03/2013

	Rates	Fringes
Electricians.....	\$ 40.65	14.42

ELEC0026-008 07/01/2003

	Rates	Fringes
Motor Repairmen Removal and reinstallation of electrical motors.....	\$ 23.69	7.73+3%+a

a. PAID HOLIDAYS:

New Year's Day, Martin Luther King Jr.'s Birthday,
Inauguration Day, Memorial Day, Fourth of July, Labor Day,
Veterans Day, Thanksgiving Day, the day after Thanksgiving
and Christmas Day or days designated as legal holidays by
the Federal Government.

ELEC0070-001 05/06/2013

	Rates	Fringes
Line Construction:		
Cable Splicers.....	\$ 33.00	19%+5.00
Equipment Operators.....	\$ 33.00	19%+5.00
Groundman.....	\$ 15.35	19%+5.00
Linemen.....	\$ 33.00	19%+5.00
Truck Driver.....	\$ 17.45	19%+5.00

ENGI0077-001 05/01/2013

	Rates	Fringes
Power equipment operators: (HEAVY AND HIGHWAY CONSTRUCTION)		
GROUP 1.....	\$ 33.96	8.45+a+b
GROUP 2.....	\$ 32.89	8.45+a+b
GROUP 3.....	\$ 32.40	8.45+a+b
GROUP 4.....	\$ 31.65	8.45+a+b
GROUP 5.....	\$ 29.50	8.45+a+b
GROUP 6.....	\$ 24.68	8.45+a+b
GROUP 7.....	\$ 34.34	8.45+a+b

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Tower Cranes and Cranes 100 ton and over.

GROUP 2: 35 ton cranes & above, tower & climbing cranes, derricks, concrete boom pump, drill rigs (equivalent to L & Double L), mole.

GROUP 3: Backhoes, cableways, cranes, cherry pickers, elevating graders, hoists, paving mixers, power shovels, tunnel shovels. batch plants, shields, tunnel mining machines, gradalls, front end loaders, 3 1/2 cu. yds. and above, power driven wheel scoops and scrapers (50 cu. yds. struck capacity or above), rail tamper, draglines, boomcat, mucking machines, graders in tunnels, pile driving engines.

GROUP 4: Front end loaders below 3 1/2 cu. yds, boom trucks, hydraulic backhoes 1/2 yds. capacity or below rubber or track mounted, tug boats, power driven wheel scoops & scrapers, blade graders, motor graders, bulldozers, trenching machines, concrete mixer, speed swing pettibone,

ballast regulator, concrete pump, mechanic, welder, mechanic welder, shotcrete machines, Hoeram, locomotive (standard, narrow gauge), tuggers.

GROUP 5: High lifts above 10 feet, boilers (skelton), asphalt spreaders, bullfloat finishing machines, concrete finishing machines, concrete spreaders, fine graders, air compressors, welding machines, pumps, generators, well points, deep wells, hydraulic pumps, elevators, freeze uniits, tunnel motorman or dinky operator, roller, conveyors, well drilling machines, grout pump, fireman.

GROUP 6: Fork lifts, ditch witch, bobcat 1/3 cu. yd. and below, space heaters, sweepers, assistant engineers, oilers.

GROUP 7: Master mechanic.

a. PAID HOLIDAYS: New Years Day, Inaugural Day, Decoration Day, Independence Day, Labor Day, Martin Luther King's Birthday, Veterans' Day, Thanksgiving Day, Friday after Thanksgiving and Christmas Day.

b. PREMIUM PAY:

Tower crane and cranes 100-ton and over to receive \$1.00 per hour premium over Group One.

 ENGI0077-002 06/01/2013

	Rates	Fringes
Power equipment operators: (PAVING AND INCIDENTAL GRADING)		
GROUP 1.....	\$ 27.49	7.00
GROUP 2.....	\$ 24.50	7.00
GROUP 3.....	\$ 21.04	7.00
GROUP 4.....	\$ 18.95	7.00
GROUP 5.....	\$ 28.15	6.80

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Gradall operator, Crane.

GROUP 2: Boom Truck, Milling Machine, Excavator, Rubber Tire Backhoe, Asphalt Paver, Asphalt Plant Engineer, Motor Grader, Track Loader, Rubber Tire Loader, Track Dozer, Concrete Paver.

GROUP 3: Broom Truck, Asphalt Roller.
 GROUP 4: Air Compressor, Grade Rollers.
 GROUP 5: Mechanic.

ENGI0077-003 07/01/2013

	Rates	Fringes
Power equipment operators: (SEWER, GAS AND WATER LINE CONSTRUCTION)		
GROUP 1.....	\$ 24.30	7.15+a
GROUP 2.....	\$ 23.90	7.15+a
GROUP 3.....	\$ 23.39	7.15+a
GROUP 4.....	\$ 23.07	7.15+a
GROUP 5.....	\$ 22.25	7.15+a

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Excavators, Cranes, Gradalls.

GROUP 2: Backhoes, Front-end Loaders, Fork alift/Lull, Bulldozers, Motor Graders. Qualified Mechanics, Hydraulic Tamper and Hoe Pack, Paving Mixers, Pile Driving Engines, Batch Plant, Concrete Pumps, Low-Boy Driver, Lube Truck.

GROUP 3: Trenching Machine, Well Drilling Machines, Concrete Mixers, Motor Graders, Truck Driver.

GROUP 4. Roller, Air Compressors, Pumps, Welding Machines, Well Points, Firemen.

GROUP 5: Oiler

a. PAID HOLIDAYS: New Year's Day, Inaugural Day, Washington's Birthday, Decoration Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day and Martin Luther King's Birthday.

IRON0005-001 06/01/2013

	Rates	Fringes
Ironworkers:		

tool operator (gas, electric or pneumatic), sandblast or gunnite tailhose man, scaffold erector, (steel or wood), vibrator operator (up to 4 feet), asphalt cutter, mortar men, shorer and lagger, creosote material handler, corrosive enamel or equl, paver breaker and jackhammer operators.

GROUP 3: Multi-section pipe layer, non-metallic clay and concrete pipe layer (including caulker, collarman, jointer, rigger and jacker, thermal welder and corrugated metal culvert pipe layer.

GROUP 4: Asphalt block pneumatic cutter, asphalt roller, walker, chainsaw operator with attachment, concrete saw (walking), high scalers, jackhammer operator (using over 6 feet of steel), vibrator operator (4 feet and over), well point installer, air trac operator.

GROUP 5: Asphalt screeder, big drills, cut of the hole drills (1 1/2 " piston or larger), down the hole drills (3 1/2" piston or larger) gunnite or sandblaster nozzleman, asphalt raker, asphalt tamper, form setter, demolition torch operator, shotcrete nozzlelemen and potman.

GROUP 6: Powderman, master form setters.

GROUP 7: Brick paver (asphalt block paver, asphalt block sawman, asphalt block grinder, hastings block or similar type)

GROUP 8: Licensed powdermen.

LABO0657-004 06/01/2012

Rates Fringes

Laborers: (HAZARDOUS WASTE REMOVAL, EXCEPT ON MECHANICAL SYSTEMS:

Preparation for, removing and encapsulation of hazardous materials from non-mechanical systems)

Skilled Asbestos Abatement Laborers.....	\$ 18.21	6.83
Skilled Toxic and Hazardous Waste Removal Laborers.....	\$ 21.53	6.83

LABO0657-005 06/01/2012

	Rates	Fringes
Laborers: (TUNNEL, RAISE & SHAFT (FREE AIR) FOR HEAVY AND SEWER & WATER LINES CONSTRUCTION)		
GROUP 1.....	\$ 23.04	6.83
GROUP 2.....	\$ 23.77	6.83
GROUP 3.....	\$ 25.61	6.83
GROUP 4.....	\$ 26.40	6.83

LABORERS CLASSIFICATIONS:

GROUP 1: Brakeman, Bull Gang, Dumper, Trackmen, Concrete Man.

GROUP 2: Chuck Tender, Powdermen in Prime House, Form Setters and Movers, Nippers, Cableman, Houseman, Groutman, Bell or Signalman, Top or Bottom Vibrator Operator.

GROUP 3: Miners, Re-Bar Underground, Concrete or Gunnite Nozzlemen, Powdermen, Timbermen and Re-Timbermen, Wood Steel Including Liner plate or Other Support, Material Motorman, Caulkers, Diamond Drill Operators, Riggers, Cement Finishers-Underground, Welders and Burners, Shield Driver, Air Trac Operator, Shotcrete Nozzlemen and Potman.

GROUP 4: Mucking Machine Operator (Air).

LABO0657-006 06/01/2012

	Rates	Fringes
Laborers: (TUNNEL, RAISE AND SHAFT (COMPRESSED AIR) FOR HEAVY CONSTRUCTION ONLY		
Gauge Pressure Work Period		
(Pounds)	(Hours)	
1-14	7.....	\$ 30.32
14-18	6.....	\$ 35.66

FOOTNOTE: On any requirement for air pressure in excess of 18 PSI, work periods and rates should be negotiated at a pre-bid conference.

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION