06/24/08

Supercedes: 9/11/06, 12/5/90

WAGE RATES

FEDERAL AID PROJECTS

This proposal contains minimum wage determinations as specified by the U.S. Secretary of Labor. Copies of the attached wage determination(s) shall be posted on the bulletin board at the work site and furnished to employees upon request. Furthermore, the wage determination(s) shall be incorporated into all subcontract agreements.

If the Contractor, any subcontractor or lower-tier contractor intends to employ a classification of labor not listed in the attached determination(s), it shall submit a Request for Additional Work Classification(s) to the New Hampshire Department of Transportation, Labor Compliance Office at (603) 271-2467. The Contractor is responsible for ensuring that a Request is submitted for any additional classification of work to be employed by itself, any subcontractor or lower-tier contractor 3-4 weeks before the classification is utilized.

This contract is subject to the Work Hours Act of 1962, P.L. 87-581 and implementing regulations.

NOTICE TO ALL BIDDERS

In accordance with the section "NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)", the New Hampshire Department of Transportation has the authority and responsibility to notify the Office of Federal Contract Compliance Programs of the United States Department of Labor if they become aware of any possible violations of Executive Order 11246 and 41 Code of Federal Regulation Chapter 60.

The Office of Federal Contract Compliance Programs is the sole authority for determining compliance with Executive Order 11246 and 41 Code of Federal Regulation Chapter 60 and the Contractor should contact them regarding related compliance issues.

Source 41 CFR 60-4 Affirmative Action Requirements

Source: 41 CFR 60-4.2 Solicitations

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.

The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

	Goals for minority participation for each trade	Goals for female participation in each trade
STANDARD METROPOLITAN STATISTICAL AREAS (SMSA)		
SALEM-PLAISTOW:	4.0	6.9
MANCHESTER-NASHUA	0.7	6.9
NON-SMSA COUNTIES		
COOS, GRAFTON, SULLIVAN:	0.8	6.9
BELKNAP, MERRIMACK, CARROLL, STRAFFORD:	3.6	6.9
CHESHIRE:	5.9	6.9
ROCKINGHAM:	4.0	6.9
HILLSBOROUGH:	0.7	6.9

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation addressed as follows:

Director
Federal Contract Compliance Program
US Department of Labor
JFK Building, Room 1612-C
Boston, MA 02203

The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed **as noted within the Contract Special Provisions** for Affirmative Action to ensure Equal Employment Opportunity..

Source 41 CFR 60-4 Affirmative Action Requirements

Source 41 CFR 60-4.3 Equal Opportunity Clauses

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

[1]. As used in these specifications:

a. ``Covered area'' means the geographical area described in the solicitation from which this contract resulted;

b. ``Director'' means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. ``Employer identification number'' means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. ``Minority'' includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

[2]. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

[3]. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

[4]. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

[5] Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

[6]. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

[7]. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have

employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsi-bility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals
and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take

affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR Part 60-4 become effective.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45
FR 65978, Oct. 3, 1980]

U.S. Department of Transportation
Federal Highway Administration

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Infrastructure **Program Administration**

FHWA-1273

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

Table of Contents

Section	Page
I. General	1
II. Nondiscrimination	1
III. Nonsegregated Facilities	3
IV. Payment of Predetermined Minimum Wage	3
V. Statements and Payrolls	6
VI. Record of Materials, Supplies, and Labor	6
VII. Subletting or Assigning the Contract	7
VIII. Safety: Accident Prevention	7
IX. False Statements Concerning Highway Projects	7
X. Implementation of Clean Air Act and Federal Water Pollution Control Act	8
XI. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion	8
XII. Certification Regarding Use of Contract Funds for Lobbying	9

ATTACHMENTS

A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient

grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

   Section I, paragraph 2;

   Section IV, paragraphs 1, 2, 3, 4, and 7;

   Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 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 DOL, or the contractor's employees or their representatives.

6. **Selection of Labor:** During the performance of this contract, the contractor shall not:

   a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or

   b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

Back to Table of Contents

II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of $10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

   a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

   b. The contractor will accept as his operating policy the following statement:

      "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, national origin, age or disability. 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."

2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** 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 EEO policy and contractual responsibilities to provide EEO 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:

    a. 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 EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

    b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

    c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.

    d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

    e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

    a. 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. To meet this requirement, the contractor will 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.

    b. 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 EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor 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. Information and procedures with regard to referring minority group applicants will be discussed with employees.

5. **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, national origin, age or disability. The following procedures shall be followed:

    a. The contractor will conduct periodic inspections of project sites to insure 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.

6. **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 a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

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.

7. **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 EEO 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, national origin, age or disability.

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 SHA 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, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL 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 SHA.

8. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

    a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

    b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

    c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

9. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall 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 SHA and the FHWA.

    a. The records kept by the contractor shall document the following:

        i. The number of minority and non-minority group members and women employed in each work classification on the project;

        ii. The progress and efforts being made in cooperation with unions, when applicable, to employment opportunities for minorities and women;

        iii. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

        iv. The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

    b. The contractors will submit an annual report to the SHA 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 FHWA-1391. If on-the job training is being required by special provision, the contractor will be required to collect and report training data.

Back to Table of Contents

III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of $10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction

contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of $10,000 or more and that it will retain such certifications in its files.

Back to Table of Contents

IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding $2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. **General:**

a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and

5 are herein incorporated by reference in this contract.

2. **Classification:**

   a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

   b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

      i. the work to be performed by the additional classification requested is not performed by a classification in the wage determination;

      ii. the additional classification is utilized in the area by the construction industry;

      iii. the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

      iv. with respect to helpers, when such a classification prevails in the area in which the work is performed.

   c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

   d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary

   e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. **Payment of Fringe Benefits:**

   a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

   b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require

the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

4. **Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:**

a. Apprentices:

i. 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 DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/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 Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

ii. The allowable ratio of apprentices to journeyman-level employees 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 employee 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 listed in 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 or subcontractor 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-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

iii. 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 journeyman-level 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 for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

iv. In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

i. 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 DOL, Employment and Training Administration.

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

iii. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level 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-level rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

iv. In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor 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. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under a approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. **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.

6. **Withholding:**

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

7. **Overtime Requirements:**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such

workweek.

8. **Violation:**

   Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her 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, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. **Withholding for Unpaid Wages and Liquidated Damages:**

   The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies 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 8 above.

Back to Table of Contents

V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding $2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. **Compliance with Copeland Regulations (29 CFR 3):**

   The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. **Payrolls and Payroll Records:**

   a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, guards working at the site of the work.

   b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in

providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

    i. that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

    ii. that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;

    iii. that each laborer or mechanic has been paid not less that the applicable wage rate and fringe benefits or cash equivalent for the classification of worked performed, as specified in the applicable wage determination incorporated into the contract.

e. 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 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, 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 SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions 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.

Back to Table of Contents

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than $1,000,000 (23 CFR 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

Back to Table of Contents

VII. SUBLETTING OR ASSIGNING THE CONTRACT

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 State. 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).

   a. "Its own organization" shall be construed to include only workers employed and paid directly 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, assignee, or agent of the prime contractor.

   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 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 VII 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 SHA 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 SHA 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 SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

Back to Table of Contents

VIII. SAFETY: ACCIDENT PREVENTION

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 SHA 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. 333).

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. 333).

Back to Table of Contents

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

- 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, the following notice 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:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

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 not more that $10,000 or imprisoned not more than 5 years or both."*

Back to Table of Contents

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

(Applicable to all Federal-aid construction contracts and to all related subcontracts of $100,000 or more.)

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

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

Back to Table of Contents

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

1. **Instructions for Certification - Primary Covered Transactions:**

   (Applicable to all Federal-aid contracts - 49 CFR 29)

   a. By signing and submitting this proposal, the prospective primary 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 participant shall submit an explanation 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 primary 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 department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

   d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary 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," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and

Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.

f. The prospective primary 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 primary 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 Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. 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.

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.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

   a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

   b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement 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;

   c. 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 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary 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 Covered Transactions:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions of $25,000 or more - 49 CFR 29)

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," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

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.

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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

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.

* * * * *

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

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 participation in this transaction 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.

* * * * *

Back to Table of Contents

XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

(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, 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 his or her bid or proposal that he or she 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.

Back to Table of Contents

ATTACHMENT A - EMPLOYMENT PREFERENCE FOR APPALACHIAN CONTRACTS

(Applicable to Appalachian contracts only.)

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 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 he 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, he 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 1 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 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.

Back to Table of Contents

This page last modified on June 4, 2001

Approved by OMB No. 0348-0046

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See Reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** ☐ a. bid/offer/application b. initial award c. post-award	**3. Report Type:** ☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____ , *if known:* **Congressional District,** *If known:*	**5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:** **Congressional District,** *If known:*	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*:	
8. Federal Action Number, *If known:*	**9. Award Amount,** *If known:* $	
10. a. Name and Address of Lobbying Registrant *(If individual, last name, first name, MI):*	**b. Individuals Performing Services** *(Including address if different from No. 10a)* *(last name, first name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred, Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward receipt. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks :Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Invitation for bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g. "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in Item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).

11. Certifying official shall sign and date the form, print his/her name, title and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

OMB NO. 2125-0033

U.S. Department of Transportation
Federal Highway Administration

STATEMENT OF MATERIALS AND LABOR USED BY CONTRACTORS ON HIGHWAY CONSTRUCTION INVOLVING FEDERAL FUNDS

PART A *To be completed by FHWA or State Highway Personnel (See instructions on reverse)*

STATE*	COUNTY	FEDERAL PROJECT NO.*	URBAN ( ) RURAL ( )*

ITEM	DESCRIPTION		ROADWAY	BRIDGE *(Over 20 ft)*	DATE STARTED*
CONSTRUCTION TYPE CODES					
1	LENGTH OF PROJECT	MILES			DATE COMPLETED*
2	FINAL* CONSTRUCTION COST	DOL			TOTAL NO. BRIDGES

PART B *To be completed by; contractor - see instructions on reverse (REMARKS Attach a plain sheet of paper)*

3	**LABOR*** TOTAL PROJECT	TOTAL LABOR-HOURS	GROSS EARNINGS

ITEM	DESCRIPTION	UNIT	PROJECT QUANTITY
4	TOTAL COST OF ALL MATERIALS AND SUPPLIES*	DOL.	
5	PETROLEUM PRODUCTS*	GAL.	
6	CEMENT	BBL.	
7		LB.	
8		TON.	
9	AGGREGATES PURCHASED	TON.	
10		CU. YD.	
11	BITUMINOUS MATERIAL	GAL.	
12	LUMBER	THSD . BD. FT.	
13	REINFORCING STEEL	LB.	
14	STRUCTURAL STEEL	LB.	
15	READY-MIXED CONCRETE	CU. YD.	
16	PREMIXED BITUMINOUS PAVING MATERIALS	TON.	
17	AGGREGATES PRODUCED	TON	
18		CU. YD.	
19	MISCELLANEOUS STEEL	LB.	
20	NOISE BARRIERS	LIN. FT.	
21	GUARDRAIL	LIN. FT.	
22	BRIDGE RAIL	LIN. FT.	
23	FINAL CONTRACT AMOUNT FOR SIGNS	DOL.	
24	FINAL CONTRACT AMT. FOR LIGHTING	DOL.	
25	FINAL CONTRACT AMT. FOR TRAFFIC SIGNALS	DOL.	

CULVERT ITEMS

SIZE *(In.)*	LGTH *(Lin ft)*
26 CORR. STEEL CULVERT	

INSTRUCTIONS FOR PREPARING AND TRANSMITTING FORM FHWA-47

"THIS FORM REQUIRED BY SECTION VI OF THE REQUIRED CONTRACT PROVISIONS FEDERAL AID CONSTRUCTION CONTRACTS"

GENERAL REQUIREMENTS

Form FHWA-47 should be transmitted for each Federal-aid project involving construction performed under contract awarded by competitive bidding that is located on the National Highway System (NHS), except projects for which the total final construction cost of the roadway and bridge is less than $1,000,000 or projects consisting primarily of (1) the installation of protective devices at railroad grade crossings, or (2) highway beautification.

Form FHWA-47 should be transmitted with or, if data is already available, in advance of the Final Report required by Federal-aid Policy Guide Chapter 6 G 6011.11

A separate form should be transmitted for each contract except that data for two or more contracts on the same project may be combined when such contracts are completed at approximately the same time. In case of a combination, the earliest starting date and the latest completion date should be reported. Where a single contract covers more than one project, one form may be prepared for each project or for the entire contract, provided none of the data are duplicated. A Form FHWA-47 should not be prepared for a contract covering only the purchase of material but the quantity of material should be reported when subsequently included in a construction project. In all cases, only the original of Form FHWA-47, typed or clearly lettered, and no carbon or photocopies, should be transmitted to the Washington Office.

If nonparticipating work is included in the contract, all data should be combined with the Federal-aid data in preparing the form. Data for any subcontract must be combined by the State or the division office with the prime contract if not so combined by the prime contractor. It will be the State's responsibility to see that all prime contract and subcontract costs, material, and labor-hours have been reported for each contract, and no duplication of data are involved. Quantities of State-furnished materials should be included with contract quantities, and costs of STATE-furnished materials should be added to Item 2 "Final Construction Cost" and also to Item 4 "Total Cost of All Materials and Supplies." All quantities should be reported to the nearest whole unit and only in the units specified. All costs should be reported to the nearest dollar.

Check urban or rural to indicate whether the major cost is for work within an urban area or in a rural location.

All figures should be verified for reasonableness by State highway department and Federal Highway Administration division office engineers. The total material cost and the total labor-hours and gross earnings should bear reasonable relationships to the final construction cost. Also the quantity of each material reported should be reasonable with respect to the quantities of other materials. For example, if a large quantity of reinforcing steel is reported with no cement or ready-mixed concrete, an error of omission in reporting would be indicated.

Generally, the total cost of materials, supplies, and labor should be substantially less than the final construction cost, as the latter also includes costs of equipment ownership, overhead, and profit which are not required to be reported. If the final construction cost is less or only a few percent more than the total cost of materials, supplies and labor, the indication is that the contractor suffered a loss on the project or that there is an error in reporting. In such case, if it is determined that the figures reported are correct, a statement should be made on a plain sheet of paper marked "Remarks" to the effect that the contractor actually did suffer a loss, (verify with contractor).

Part A- INFORMATION TO BE SUPPLIED BY FEDERAL HIGHWAY ADMINISTRATION OR STATE HIGHWAY PERSONNEL (FEDERAL-AID POLICY GUIDE CH. 6 G 6011.11)

Item 1- "Length of Project." - Report official roadway mileage and official bridge mileage.

Item 2 - "Final Construction Cost" - Show best estimate of Federal and State costs incurred to date for contract items, extra work performed by contractor, and State-furnished materials.

PART B - INFORMATION TO BE SUPPLIED BY CONTRACTOR IMMEDIATELY UPON COMPLETION OF CONTRACT OR PROJECT

Specific Instructions for the Following Numbered Items:

Item 3 - Report total labor-hours worked and earnings of all contractor's employees on the project, including those on operation and maintenance of equipment.

Item 4 - This should be the total cost, at the jobsite of all construction materials and supplies purchased for and used on the project, including the cost of materials for signing and lighting and the cost of any materials and supplies not specifically listed hereon. Costs of equipment or equipment rental and the cost of operating the equipment, except the costs of fuel and lubricants, should not be included in this item. Small items of equipment such as jackhammers, handtools, repair parts, tires, etc., are not considered to be supplies. Costs of such items and also overhead costs should not be included. The amount included here for aggregates produced should be only the cost paid by the contractor for the aggregates and should not include the costs of excavating, processing, loading and hauling. Wages and labor-hours for aggregates produced should, of course, be included with Item 3.

Item 5 - Report total number of gallons of all gasoline, diesel oil, lubricating oil, and grease for equipment and trucks. For conversion purposes use factor of 8 pounds of grease per gallon.

Items 6, 7, and 8 - Report quantity of cement used on project. Do not report here the cement included in Item 15.

Items 9 and 10 - Report quantity of aggregates purchased from commercial producers, such as sand, gravel, crushed stone, etc. Do not report here aggregates included in Items 15 and 16. Aggregates produced by the contractor shall be reported as Items 17 and 18.

Item 11 - Report number of gallons of bitumens such as asphalt and tar. Do not report here bituminous materials included in Item 16.

Item 12 - Report all lumber products purchased for and use on the project, including plywood and pressed wood, but excluding timber piling, lumber in fencing, guardrail, and signs, and lumber purchased for or used on previous projects and previously reported. The quantity of lumber should be reported as the number of thousand board feet and not as the number of board feet.

Item 13 - Report total number of pounds of reinforcement (plain or coated) for both structures and pavement. Include estimated quantities of reinforcing and prestressing steel in purchased precast units, except concrete pipe reinforcement.

Item 14 - Report total number of pounds of structural steel, steel H-piling, and sheet piling.

Item 15 - Report total number of cubic yards of ready-mixed concrete plus estimated quantity of concrete in purchased precast units, excluding Item 26.

Item 16 - Report total number of tons of bituminous paving mixtures that are purchased in a prepared condition ready for placement as they reach the job.

Items 17 and 18 - Report total quantity of aggregates such as sand, gravel, crushed stone, etc., produced by the contractor.

Item 19 - Report estimated total weight of steel products not appropriate for Items 13, 14 and 26, such as joint devices, tubular piling, etc.

Items 20, 21, and 22 - Report total lengths, in linear feet, of all types of noise barriers, guardrail and bridge rail.*

Item 23 - Report final contract amount for all types of signs including foundations, posts, structural supports, etc. Do not include traffic signals.*

Item 24 - Report final contract amount for highway and bridge lighting including foundations, conduits, standards, wiring, switches, luminaires, etc. Do not include traffic signals.*

Item 25 - Report final contract amount for traffic signals.*

Item 26 - Report, by size, regardless of class, type, gauge or coating, total number of linear feet of corrugated steel pipe, structural plate pipe, pipe-arches and arches.

Item 27 - Report, by size, regardless of class, type, gauge or coating, total number of linear feet of plain and reinforced concrete drain and culvert pipe.

Item 28 - Report, by size, total number of linear feet of clay pipe.

Item 29 - Report, by size, total number of linear feet of corrugated aluminum culvert.

Item 30 - Report, by size, total number of linear feet of plastic pipe.

*Quantities of steel, concrete and lumber used in connection with Items 20, 21, 22, 23, 24, and 25 should not be reported unless difficulties are encountered in segregating such quantities from total quantities.

FORM FHWA-47 (Rev. 7-98)

3/9/2004

ALL FA PROJECTS

Continues Policy 5/5/83 and
Supersedes Spec. Attn. Dated 4/16/84 & 12/5/90

S P E C I A L A T T E N T I O N

DISADVANTAGED BUSINESS ENTERPRISE POLICY

It shall be the policy of the New Hampshire Department of Transportation (NHDOT) to ensure nondiscriminatory opportunity for Disadvantaged Business Enterprises (DBE's) to participate in the performance of all contracts and subcontracts financed with Federal funds as specified by the regulations of the United States Department of Transportation (USDOT), Federal Highway Administration and as set forth below.

1. Policy. It is the policy of the United States Department of Transportation to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 Code of Federal Regulation (CFR) Part 26, to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 apply to this contract.

2. Disadvantaged Business Enterprise (DBE) Obligation. The State and its Contractors agree to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 CFR Part 26, to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. Each subcontract the prime contractor signs with a subcontractor must include this assurance: *The contractor, subrecipient 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 applicable requirements of 49 CFR 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 the NHDOT deems appropriate.*

3. Sanctions of Non-Compliance. The Contractor is hereby advised that failure of the Contractor, or any Subcontractor performing work under this contract, to carry out the requirements set forth in paragraphs 1 and 2 above shall constitute a breach of contract and, after notification of the United States Department of Transportation, may result in termination of this contract or such remedy as the State deems appropriate.

S P E C I A L A T T E N T I O N

06/28/04

ALL FA PROJECTS

DISADVANTAGED BUSINESS DIRECTORY

The current Disadvantaged Business Directory is available on-line in the Business Center at NHDOT.COM. If you have questions or do not have access to the Internet, the DBE Directory may be obtained from Jay Ankenbrock, EEO Coordinator, located at 7 Hazen Drive, Concord, NH 03302, Tel: (603) 271-6612.

6/5/98

ALL FA PROJECTS (STEEL & IRON PRODUCTS)

Supersedes Spec. Attn. dated 3/9/90, 12/5/90, 4/4/92, 2/22/93 & 4/24/95

SPECIAL ATTENTION

BUY AMERICA

In accordance with the **BUY AMERICA** requirements of the Federal regulations, all manufacturing processes for steel and iron materials furnished for permanent incorporation into the work on this project shall occur in the United States. The only exception to this requirement is the production of pig iron and the processing, pelletizing and reduction of iron ore which may occur in another country. Other than these exceptions, all melting, rolling, extruding, machining, bending, grinding, drilling, coating, etc. must occur in the United States.

Products of steel include, but are not limited to, such products as structural steel, piles, reinforcing steel, structural plate, steel culverts, guardrail and steel supports for signs, signals and luminaires. Products of iron include, but are not limited to, such products as cast iron grates. Coatings include, but are not limited to, the applications of epoxy, galvanizing and paint. The coating material is not subject to this clause, only the application process.

A Certificate of Compliance, conforming to the requirements of Section 106.04, shall be furnished for steel and iron materials. The certificates, in addition to certifying that the materials comply with the specifications, shall also specifically certify that all manufacturing process for the materials, except as allowed by this Special Attention, occurred in the United States.

The requirements of said law and regulations do not prevent a minimal use of foreign steel and iron materials if the cost of such materials used does not exceed one-tenth of one percent (0.1%) of the total contract price or $2,500.00, whichever is greater. The Contractor shall furnish the Engineer acceptable documentation of the quantity and value of any foreign steel and iron prior to incorporating such materials into the work.

11/30/00

ALL FA PROJECTS

SPECIAL ATTENTION

BUY AMERICA

Section 327 (b)(1) of the Department of Transportation Appropriations Act for FY 2001 requires that to the greatest extent practical only American-made equipment and products be purchased for this project.

Section 327 (b)(1) reads as follows: Purchase of American-made equipment and products. – In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

December 24, 1998
Supersedes Spec. Attn. dated 3/29/88 & 12/5/90

FHWA Projects

SPECIAL ATTENTION

CONTRACT AFFIDAVIT - CERTIFICATION REGARDING DEBARMENT SUSPENSION

The separate form entitled, CONTRACT AFFIDAVIT (As Required by Section 112(c) of Title 23 USC) has been deleted from this proposal.

Bidders are advised that the last page of the bidding proposal has been revised to include the same reference, **IN BOLD PRINT**, relative to the non-collusion statement included on the discontinued form.

X X X X X X X X X X X X X X

The Contractor is advised that 49 CFR 29.510, Appendix A, requires that the Contractor, including all principals, certify that they are not currently under debarment or suspension or have not been under debarment or suspension within the past three years. (For certification instructions see next page).

The certification has been added, **IN BOLD PRINT,** onto the next to the last page of the bidding proposal.

The Contractor is further advised that Appendix B of 49 CFR 29.510 regarding certification of lower tier transactions has been added to Form FHWA-1273.

Appendix A - Certification regarding Debarment, Suspension, and other Responsibility Matters - Primary Covered Transactions.

Instruction for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective 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 primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

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

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

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary 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.

7. The prospective primary 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 Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. 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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. 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 a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 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.

1/2001
Supersedes 3/90
ALL FA PROJECTS

SPECIAL ATTENTION

LOBBYING

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

SUBJECT: LIMITATION ON USE OF GRANT OR CONTRACT FUNDS FOR LOBBYING

The lobbying restrictions were established by Section 319 of Public Law 101-121 (Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990).

The law prohibits Federal funds from being expended by the recipient or any lower tier subrecipients of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence a Federal agency or Congress in connection with the awarding of any Federal contract, the making of any Federal grant or loan, or the entering into of any cooperative agreement. The extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement is also covered.

Federal-aid contractors, and consultants, as well as lower tier subcontractors and subconsultants are also subject to he lobbying prohibition. To assure compliance, a certification provision is included in all Federal-aid construction solicitations and contracts, and consultant agreements exceeding $100,000 in Federal funds.

The Contractor shall be aware that by signing and submitting this proposal, he or she is attesting to the requirements of the certification provisions.

During the period of performance of a grant or contract, recipients and subrecipients must file disclosure form (Standard Form LLL) at the end of each calendar year quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any previously filed disclosure form.

Lower tier certifications should be maintained by the next tier above (i.e., prime contractors will keep the subcontractors' certification on file, etc.). Copies of Standard Form LLL will be included in the subcontract package for distribution to successful bidders.

To be included in all Federal Aid Contract Bid Documents
Effective date 10/13/04

SPECIAL PROVISION

PROMPT PAYMENTS

It is a requirement of Federal Regulations, under the "Disadvantaged Business Enterprise Program" (49 CFR Part 26), that the following be complied with:

Within 21 days of the issuance of progress payments, the Contractor shall pay, in full, all subcontractors and suppliers for the value of satisfactorily completed work and materials placed under the contract and for materials in accordance with 109.07 or 109.08 paid for in the progress payments. If the Contractor withholds any portion of payment from a subcontractor, the Contractor shall, within the same timeframe, demonstrate to and obtain acknowledgement from the NHDOT Compliance Review Officer that the Contractor has reasonable cause that the subcontractor failed to satisfactorily complete work, or portions thereof; or that the supplier failed to provide materials as specified above. When the Contractor is found noncompliance with this specification, sanctions will be imposed as determined by the Department.

For purposes of this Section, satisfactorily completed means:

The subcontractor has fulfilled the contract requirements of the Prime Contractor including the submission of all documentation required by the Specifications and the subcontract.

TE/CMAQ Program
Construction Proposal

It is proposed:

To execute the Contract and begin work within 10 days from the date specified in the "Notice to Proceed" and to prosecute said work so as to complete the _____ and its appurtenances on or before _____.

To furnish a Contract Bond in the amount of 100 per cent of the Contract award, as security for the construction and completion of the _____and its appurtenances in accordance with the Plans, Specifications and Contract. The Contractor's attention is called to Section 103.05 of the NHDOT Standard Specifications for road and bridge construction which provides the following guidance: unless specifically waived in the Proposal, upon execution of the Contract, the successful Bidder shall furnish the Agency a surety bond or bonds equal to the sum of the Contract amount. The form of the bond(s) shall be acceptable to the Agency and the bonding Company issuing the bond(s) shall be licensed to transact business in the State of New Hampshire, and....

To certified that the Bidder, in accordance with the requirements of 103.06 and 108.01, intends to sublet, assign, sell, transfer or otherwise dispose of one or more portions of the work and (1) has contacted the appropriate listed disadvantaged businesses and afforded such disadvantaged businesses equal consideration with non-disadvantaged business for all work the Bidder currently proposes to sublet, assign, sell, transfer or otherwise dispose of, (2) may contact additional appropriate disadvantage businesses and will afford such businesses equal consideration with non-disadvantaged businesses for all work the Bidder in the future proposes to sublet, assign, sell, transfer or otherwise dispose of, and (3) will complete enclosed "DISADVANTAGED BUSINESS ENTERPRISE COMMITMENT FORM" and Letters of Intent for each disadvantaged business. The name of the person in the Bidder's organization who has been designated as the liaison officer to administer the disadvantaged business enterprise program is:

_____
(To be completed by the Bidder)

To guarantee all of the work performed under this Contract to be done in accordance with the Specifications and in good and workmanlike manner, and to renew or repair any work which may be rejected, due to defective materials or workmanship, prior to final completion and acceptance of the project.

Enclosed herewith find certified check or bid bond in the amount of _____ _____dollars ($_____), made payable to the Agency as a proposal guarantee which it is understood will be forfeited in the event the Contract is not executed, if awarded by the Agency to the undersigned.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions.

(1). The prospective primary participant certifies to the best of its knowledge and belief, that it and all its principals: (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; (b) 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; (c) 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 (1) (b) of this certification and (d) Have not within a three-year period preceeding this application/proposal had one or more public transactions (Federal, State or Local) terminated for cause or default. (2). Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Contract Affidavit

I/We declare under penalty of perjury under the laws of the United States and the State of New Hampshire that, in accordance with the provisions of Title 23 USC, Section 112(c), have not either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this Proposal.

Dated: _____

(If a firm or individual)

Signature of Bidder_____

By_____

Address of Bidder_____

Names and Addresses of Members of the Firm:

_____

_____

_____

(If a Corporation)

Signature of Bidder_____

Title_____

By_____

Business Address_____

Incorporated under the laws of the State of _____

Names of Officers:

President_____
Name Address

Secretary_____
Name Address

Treasurer_____
Name Address