New Hampshire DOT
Department of Transportation

Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

William Cass, P.E.
Assistant Commissioner

December 8, 2016

Re: Certification of Compliance with USDOL Davis-Bacon Requirements

To Whom It May Concern:

As Chief of Labor Compliance for the New Hampshire Department of Transportation (NHDOT), I hereby certify that the NHDOT is in full compliance with all provisions of subchapter IV of 40 USC Chapter 31, detailing wage rate requirements on Federally-funded construction projects.

The Office of Federal Compliance (OFC) monitors Davis-Bacon wage rates on a weekly basis and ensures all appropriate offices within the NHDOT are informed anytime wage rates change in any construction category. In turn, the NHDOT Contracts Section ensures the appropriate rates, from the applicable category, are included in each Federally-funded contract before advertising. Whenever any project involves more than one type of construction, the NHDOT ensures strict compliance with U.S. Department of Labor (USDOL) All Agency Memorandum No. 131 and will include a second wage determination when a secondary type of construction comprises at least 20% of the total project cost or is at least $1 million.

The NHDOT has a very comprehensive system for monitoring and enforcing all provisions of the Davis-Bacon Act, USDOL regulations, applicable New Hampshire state laws, and NHDOT Standard Specifications on all Federally-funded construction projects. Subcontracting documents require contractors to provide evidence, on a by project basis, that Davis-Bacon wage rates, Form FHWA-1273, 41 CFR 60-4.2 and 41 CFR 60-4.3 (Solicitations and Equal Opportunity Clauses), Disadvantages Business Enterprise (DBE) Policy and DEB Program Requirements, and applicable Prompt Pay requirements are physically included in all subcontracts.

The NHDOT has a full-time, dedicated Federal Compliance Officer (FCO) and also one part-time Field Auditor whose responsibility is to ensure contractors are in compliance with Davis-Bacon and USDOL requirements. Our goal is to visit each project on a monthly basis. Ultimately, every certified payroll report is reviewed for compliance. Each time a review is performed, an OFC Field Audit Report is accomplished to document the review and any compliance issues noted. Prime Contractors deemed in noncompliance are afforded seven (7) calendar days to correct deficiencies. Sanctions are imposed anytime contractors fail to meet their obligations. To validate information provided by contractors on certified payroll documents, the FCO conducts labor rates and fringe benefits interviews with contractor employees, within all classifications, at each project.

The FCO also manages the Department's Contractor Compliance Training and Annual Assurances Programs to ensure contractors, city and town officials, engineering firms, and other state agencies participating on Federal-aid construction contracts are educated/trained on the Federal provisions, other regulatory obligations and reporting requirements, NHDOT Standard Specifications for Road and Bridge Construction, and applicable State laws. The Department also performs comprehensive Desk Audits and/or Home Office Reviews annually to ensure contractor compliance with specific Equal Employment Opportunity responsibilities as stated in 23 CFR 230 – External Programs, Appendix A, Subpart A – Special Provisions (FHWA Form 1273 contained in each contract); collects data required to complete related reports, monitors the implementation of corrective action plans submitted by contractors.

Each year the NHDOT is independently evaluated on compliance with Davis-Bacon and FHWA requirements by KPMG. Audits have shown the OFC has conducted error-free compliance oversight for many years.

Please contact me at your convenience should you have any questions or comments concerning this certification of compliance.

Sincerely,

Jay Ankenbrock

Jay Ankenbrock
Chief of Labor Compliance