

2/20/2023

Human Resources Compliance Tasks

Local EIT Tax

W-4's

I-9 Verification

Workers Comp Panel and Employee Rights

Self ID for EEO, Veterans and Disability

EEO-1 Data Reporting

EEO Compliance for Sexual Harassment, Minority & Female Referrals, ADA

FMLA

Drug and Alcohol DOT Regs

COBRA

SBC (summary of benefits & coverage)

Creditable Coverage Notice

Medicaid & CHIP Notice

CMS Reporting

Affirmative Action Plan

OSHA Log Reporting

ACA Reporting

PCORI Fees

Occupational Employment Report

Penn DOT 1391 Federal Aid Highway Report

VETS 4212 Reporting

## Finance Compliance Tasks

Update Payroll Rates

US Federal Contractor Renewal

401-k Audit

Contractor Labor & Insurance update ECMS - Insurance

PennDot Renewal

1099s

W2s

W9s

Local Municipal Business Licenses

US Dept of Commerce Census

Business Privilege Taxes

Contractor Labor & Insurance update ECMA – Unemployment

EEO-1 Data Reporting

Occupational Employment Report

Form 2290 for Heavy Vehicles

PA Contractors License

Delineation of Fringe Benefits

Davis Bacon Wage Survey

Collecting Certified Payroll Reports from Subs

Distributing Certified Payroll Reports to Prime

Quarterly Payroll Tax Reports

Annual Corporate Tax Summital

**The United States Department of Transportation (USDOT)**  
**Standard Title VI/Non-Discrimination Assurances**  
**DOT Order No. 1050.2A**

The Subrecipient (herein referred to as the "Recipient"), hereby agrees that, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through its various operating administrations and bureaus, which include but are not limited to, the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Aviation Administration (FAA), Office of the Secretary, National Highway Traffic Safety Administration, and Federal Motor Carrier Safety Administration (FMCSA), is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964); and
- 49 C.F.R. part 303 (FMCSA's Title VI/Nondiscrimination Regulation).

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

**General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including, but not limited to, the FHWA, FTA, FAA, Office of the Secretary, National Highway Traffic and Safety Administration, and the FMCSA.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

**Specific Assurances**

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Recipient also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the federal agencies' access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the federal agencies. You must keep records, reports, and submit the material for review upon request to the federal agencies, or their designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

Recipient gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the federally-assisted program. This ASSURANCE is binding on the Commonwealth of Pennsylvania, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the federally-assisted program. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the U.S. DOT, through its various operating administrations and bureaus, which include but are not limited to, the FHWA, FTA, FAA, Office of the Secretary, National Highway Traffic Safety Administration, and FMCSA may determine to be appropriate, including, but not limited to:
- a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the U.S. DOT, through its various operating administrations and bureaus, which include but are not limited to, the FHWA, FTA, FAA, Office of the Secretary, National Highway Traffic Safety Administration, and FMCSA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

## **APPENDIX D**

### **CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the Commonwealth of Pennsylvania, Department of Transportation pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the Commonwealth of Pennsylvania, Department of Transportation will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the Commonwealth of Pennsylvania, Department of Transportation will there upon revert to and vest in and become the absolute property of the Commonwealth of Pennsylvania, Department of Transportation and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

**FEDERAL NONDISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY CLAUSES  
(All Federal Aid Contracts)\* (1-76)**

1. **Selection of Labor:** During the performance of this contract, the contractor shall not discriminate against labor from any other State, possession or territory of the United States.
2. **Employment Practices:** During the performance of this contract, the contractor agrees as follows:
  - a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by the State highway department setting forth the provisions of this nondiscrimination clause.
  - b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
  - c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway department advising the said labor union or workers' representative of the contractor's commitments under section 2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.
  - e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
  - f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
  - g. The contractor will include the provisions of Section 2 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Federal Highway Administration, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
3. **Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment:** During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:



- a. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations) which are herein incorporated by reference and made a part of this contract.
- b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in the Regulations.
- c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontract or supplier shall be notified by the contract of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex or national origin.
- d. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State highway department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - (1) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (2) cancellation, termination or suspension of the contract, in whole or in part.
- f. Incorporation of Provisions: The contractor shall include the provisions of this paragraph 3 in every subcontract, including procurements of materials and leases of equipment, unless except by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State highway department or enter into such litigation to protect the interest of the State, and , in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Wherever hereinabove the word "contractor" is used, it shall also include the word engineer, consultant, researcher, or other entity (governmental, corporate, or otherwise), its successors and assigns as may be appropriate.

\*Not to be used if otherwise included in Construction or Appalachian Contract Provisions.

## REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

### ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

#### I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, 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.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

#### II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**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, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) 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 provisions of the Americans with 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 contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its 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, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program 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 minorities and women.

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 minorities and women 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 minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women 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, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such 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 its 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 their avenues of appeal.

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

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. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

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 employees who are minorities and women 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 good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 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 good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith 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 contracting agency 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 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 minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. 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 contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. 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. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor 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 DOT-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 contracting agency deems appropriate.

**11. 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 the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

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

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages

a. All laborers and mechanics 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 issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, 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 29 CFR 5.5(a)(4). 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. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) 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.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

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

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), 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 Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The 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.

(3) In the event the contractor, the laborers or mechanics to be employed in the 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. The Wage and Hour 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.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. 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 shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as 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.

## **2. Withholding**

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor 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, so 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 contracting agency 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.

## **3. Payrolls and basic records**

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of 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. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) 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 shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or 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 provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each 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 Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

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

#### 4. Apprentices and trainees

##### a. Apprentices (programs of the USDOL).

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

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

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

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

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

##### b. Trainees (programs of the USDOL).

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

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

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

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

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



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

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

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

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

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

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

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

**10. Certification of eligibility.**

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

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

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

**V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

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

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

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

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

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



## VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

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

## VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

##### **1. Instructions for Certification – First Tier Participants:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **2. Instructions for Certification - Lower Tier Participants:**

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

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

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

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

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

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

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

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

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

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

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

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

\*\*\*\*\*

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

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

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

\*\*\*\*\*

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## APPENDIX C DESIGNATED SPECIAL PROVISION 12 (DSP12)

### EXECUTIVE ORDER 11246 (WITH APPENDIX A AND B)

#### NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY

- (a) The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
- (b) 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:

Timetables	*Goals for minority participation in each trade	*Goals for female participation in each trade
	SEE ATTACHED APPENDIX B	SEE ATTACHED APPENDIX A

\* The hours of minority and female employment is to be reported monthly, by the Contractor, on Standard Form 257 (to be supplied by PENNDOT) and expressed in percentage terms of the Contractor's aggregate workhours for each trade (craft).

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 non-federally 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.

- (c) The Contractor shall provide written notification to PENNDOT 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. 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.
- (d) As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is indicated in the special provision entitled "E.E.O. Covered Area". Goals for females are listed in Appendix A, and for minorities includes the areas listed in Appendix B.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT  
SPECIFICATIONS (EXECUTIVE ORDER 11246)**

(a) As used in these Specifications:

1. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
2. "Director" means Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor (DOL), or any person to whom the Director delegates authority;
3. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941; and
4. "Minority" includes:
  - Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - 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
  - 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).

- (b) 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 solicitation from which this contract resulted.
- (c) If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. DOL 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 according to 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.
- (d) The Contractor shall implement the specific affirmative action standards provided in paragraphs (g)1 through (g)16 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 toward its goals in each craft during the period specified.

- (e) Neither the provisions of any collective bargaining agreement, nor the failures 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.
- (f) 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. DOL.
- (g) 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 efforts 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:
  - 1. Ensure and maintain a working environment free of harassment, intimidation, and coercion of 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.
  - 2. 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.
  - 3. 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.
  - 4. Provide immediate written notification to PENNDOT 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.
  - 5. 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 DOL. The Contractor shall provide notice of these programs to the sources compiled under (g)2 above.
  - 6. 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.
  - 7. Review, at least annually, the company's EEO policy and affirmative action obligations under these Specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory



personnel such as superintendents, general foreman, 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.

8. 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.
  9. 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 1 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.
  10. 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 the Contractor's workforce.
  11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  12. 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.
  13. 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.
  14. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to ensure privacy between the sexes.
  15. 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.
  16. Conduct a review, at least annually of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- (h) Contractors are encouraged to participate in voluntary associations that assist in fulfilling one or more of their affirmative action obligations ((g)1 through (g)16). 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 (g)1 through (g)16 or these Specifications provided that the Contractor actively participates in the group, makes every effort to ensure 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 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.

- (i) 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).
- (j) 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.
- (k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- (l) 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.
- (m) 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 (g) 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, regulations, or these Specifications, PENNDOT shall proceed according to 41 CFR 60-4.8.
- (n) 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.
- (o) 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 resident (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**APPENDIX A**

The following goals and timetables for female utilization shall be included in all Federal and federally assisted construction contracts and subcontracts in excess of \$10,000. The goals are applicable to the Contractor's aggregate on-site construction workforce (public and private) whether or not part of that workforce is performing work on a Federal or federally assisted construction contract or subcontract.

AREA COVERED: See special provision entitled "E.E.O. Covered Area".

**Goals and Timetables**

<b>Timetable</b>	<b>Goals (Percent)</b>
From April 1, 1980, until further notice	6.9
Goals are applicable in each construction craft employed by the Contractor in the covered area.	

## APPENDIX B

Until further notice, the following goals for minority utilization in each construction craft shall be included in Federal or federally assisted construction contracts and subcontracts in excess of \$10,000 to be performed in the respective covered areas in the State. The goals are applicable to the Contractor's aggregate on-site construction workforce regardless of whether that workforce is performing work on a Federal, federally assisted, or non-federally related construction contract or subcontract. This Appendix B shall be used jointly with Appendix A.

Economic Areas			
Area	Goal (Percent)	Area	Goal (Percent)
<u>Scranton – Wilkes Barre, PA</u>		<u>Pittsburgh, PA</u>	
SMSA Counties:		SMSA Counties	
Northeast Pennsylvania.....	0.6	Altoona, PA.....	1.0
PA Lackawanna;		PA Blair	
PA Luzerne; PA Monroe		Johnstown, PA.....	1.3
Non-SMSA Counties.....	0.5	PA Cambria; PA Somerset	
PA Columbia; PA Wayne;		Pittsburgh, PA.....	6.3
PA Wyoming		PA Beaver; PA Washington;	
		PA Westmoreland;	
		PA Allegheny	
<u>Williamsport, PA</u>		Non-SMSA Counties.....	4.8
SMSA Counties:		PA Armstrong; PA Bedford	
Williamsport, PA.....	1.0	PA Butler; PA Fayette; PA Greene;	
PA Lycoming		PA Indiana; MD Allegheny;	
Non-SMSA Counties.....	0.7	MD Garrett; WV Mineral	
PA Cameron; PA Centre;			
PA Clearfield; PA Clinton;		<u>Harrisburg – York – Lancaster, PA</u>	
PA Elk; PA Jefferson;		SMSA Counties:	
PA Montour; PA Northumberland;		Harrisburg, PA.....	6.2
PA Snyder; PA Sullivan;		PA Cumberland;	
PA Union		PA Dauphin; PA Perry	
		Lancaster, PA.....	2.0
<u>Erie, PA</u>		PA Lancaster	
SMSA Counties:		York, PA.....	2.2
Erie, PA.....	2.8	PA Adams; PA York	
PA Erie		Non-SMSA Counties.....	3.1
Non-SMSA Counties.....	1.8	PA Franklin; PA Fulton;	
PA Clarion; PA Crawford;		PA Huntingdon; PA Juniata;	
PA Forest; PA Venango;		PA Lebanon; PA Mifflin	
PA Warren			

Economic Areas			
Area	Goal (Percent)	Area	Goal (Percent)
<u>Philadelphia, PA</u>		<u>Ohio</u>	
SMSA Counties:		Non-SMSA Counties.....	6.7
Allentown-Bethlehem-		PA Lawrence; PA Mercer;	
Easton, PA-NJ.....	1.6	OH Columbiana; OH Cleveland	
PA Carbon; PA Lehigh;			
PA Northampton; NJ Warren			
Philadelphia, PA-NJ.....	17.3		
PA Bucks; PA Chester;			
PA Delaware;			
PA Montgomery;			
PA Philadelphia;			
NJ Burlington; NJ Camden;			
NJ Gloucester			
Reading, PA.....	2.5		
PA Berks			
Non-SMSA Counties.....	14.5		
PA Schuylkill; DE Kent;			
DE Sussex; NJ Cape May			
<u>Buffalo, NY</u>			
Non-SMSA Counties.....	6.3		
PA McKean; PA Potter;			
NY Allegany; NY Cattaraugus;			
NY Chautauqua; NY Wyoming			
<u>Binghamton-Elmira, NY</u>			
SMSA Counties:			
Binghamton, NY-PA.....	1.1		
PA Susquehanna; NY Broome;			
NY Tioga			
Non-SMSA Counties.....	1.2		
PA Bradford; PA Tioga;			
NY Chenango; NY Delaware;			
NY Otsego; NY Schuyler;			
NY Tompkins			
<u>New York, NY</u>			
Non-SMSA Counties.....	17.0		
PA Pike; NJ Hunterdon; NJ Ocean;			
NJ Sussex; NY Orange;			
NY Sullivan; NY Ulster			

# APPENDIX F

## FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The Subgrantee must complete Federal Funding Accountability and Transparency Act (FFATA) form attached here. This form is to be completed and incorporated as part of this agreement.

Failure to provide accurate information for the Subgrantee named as a party to this agreement or to complete the FFATA form will cause the inability of the Commonwealth to process this grant and resulting in delay or loss of funds to the Subgrantee. The Subgrantee's documentation will be considered incomplete until such time that Subgrantee provides accurate FFATA information.

- (a) Registration and Identification Information – The Subgrantee must maintain current registration in the Central Contractor Registration ([www.ccr.gov](http://www.ccr.gov)) at all times during which they have active federal awards funded pursuant to this agreement. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number ([www.dnb.com](http://www.dnb.com)) is one of the requirements for registration in the Central Contractor Registration. Subgrantee must provide its DUNS number, and DUNS + 4 number if applicable, to the Commonwealth along with the signed grant agreement.
- (b) Primary Location - Subgrantee must provide to the Commonwealth the primary location of performance under the award, including the city, State, and zip+4. If performance is to occur in multiple locations, then Subgrantee must list the location where the most amount of the grant award is to be expended pursuant to this grant agreement.
- (c) Compensation of Officers - Subgrantee must provide to the Commonwealth the names and total compensation of the five most highly compensated officers of the entity if-
  - 1. the entity in the preceding fiscal year received—
    - a. 80 percent or more of its annual gross revenues in Federal awards; and
    - b. \$25,000,000 or more in annual gross revenues from Federal awards; and
    - c. the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. If the Subgrantee does not meet the conditions listed above, then it must specifically affirm to the Commonwealth that the requirements of this clause are inapplicable to the Subgrantee. Subgrantee must provide information responding to this question along with Subgrantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Subgrantee provides such information responding to this question.

# Federal Funding Accountability and Transparency Act Sub-recipient Data Sheet

*Grantee must provide information along with Grantee's return of the signed grant agreement. The Commonwealth will not process the grant until such time that Grantee provides such information.*

## DUNS NUMBER

DUNS Number:

DUNS Number + 4 (if applicable):

[INSTRUCTIONS: Grantee must provide its assigned DUNS number, and DUNS + 4 number if applicable. Grantee must maintain current registration in the Central Contractor Registration ([www.ccr.gov](http://www.ccr.gov)) at all times during which they have active federal awards funded pursuant to their sub-grant agreement. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number ([www.dnb.com](http://www.dnb.com)) is one of the requirements for registration in the Central Contractor Registration.]

## PRIMARY LOCATION

City:

State:

Zip+4:

[INSTRUCTIONS: Grantee must provide to the Commonwealth the primary location of performance under the award, including the city, State, and zip code including 4-digit extension. If performance is to occur in multiple locations, then Grantee must list the location where the most amount of the grant award is to be expended pursuant to the grant agreement.]

## Compensation of Officers

Officer 1 Name:

Officer 1 Compensation:

Officer 2 Name:

Officer 2 Compensation:

Officer 3 Name:

Officer 3 Compensation:

Officer 4 Name:

Officer 4 Compensation:

Officer 5 Name:

Officer 5 Compensation:

By marking the following box  
Grantee affirms they do not meet  
the conditions for reporting highly  
compensated officials

☐

[INSTRUCTIONS: Grantee must provide to the Commonwealth the names and total compensation of the five most highly compensated officers of the entity if--

(i) the entity in the preceding fiscal year received--

(I) 80 percent or more of its annual gross revenues in Federal awards; and

(II) \$25,000,000 or more in annual gross revenues from Federal awards; and

(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

If the Grantee does not meet the conditions listed above, then it must specifically affirm to the Commonwealth that the requirements of this clause are inapplicable to the Grantee.

**APPENDIX G**

**DISADVANTAGED BUSINESS ENTERPRISE  
PLEDGE FORM**



### **DBE PLEDGE**

The following goal for participation by Disadvantaged Business Enterprises (DBE) is established for the Project.

**DBE**

6.09%

### **DBE Pledge**

By signing the Proposal, the Proposer certifies that it shall (1) exercise good faith efforts to obtain DBE commitments equal to the DBE participation goal set forth above with respect to work in the Project; (2) exercise good faith efforts to encourage DBE participation; and (3) in each case, substantiate and document such good faith efforts. In addition, the Proposer certifies that, if awarded the Contract, the DBC will submit a final DBE Performance Plan meeting the requirements set forth in the RFP.

Failure to submit the Preliminary DBE Performance Plan described in the RFP shall constitute a breach of the requirements of the RFP. As a result, the proposal will be considered non-responsive.

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[Signature]

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[Name]

---

[Title]

**APPENDIX U**

**STANDARD CONSTRUCTION PROVISIONS**

## **AMERICANS WITH DISABILITIES ACT**

During the term of the contract, Contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of The Americans with Disabilities Act, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract. As a condition of accepting and executing this contract, the contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans with Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth through contracts with outside contractors.

2. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the Contractor's failure to comply with the provisions of paragraph 1 above.

## **CHOICE OF LAW**

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

## **CONTRACTOR INTEGRITY PROVISIONS**

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth contracting and procurement process.

- A. Definitions: For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:
- i. "Affiliate" means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

- ii. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.
- iii. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.
- iv. "Contractor Related Parties" means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
- v. "Financial Interest" means either:
  - 1. Ownership of more than a five percent interest in any business; or
  - 2. Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- vi. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.
- vii. "Non-bid Basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

B. In furtherance of this policy, Contractor agrees to the following:

- i. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.
- ii. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
- iii. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence

or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

- iv. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.
- v. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
  - 1. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
  - 2. been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
  - 3. had any business license or professional license suspended or revoked;
  - 4. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
  - 5. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract it becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

- vi. Contractor shall comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.) regardless of the method of award. If this contract was

awarded on a Non-bid Basis, Contractor must also comply with the requirements of the Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a).

- vii. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.
- viii. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- ix. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.
- x. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative,

and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

### **CONTRACTOR RESPONSIBILITY PROVISIONS**

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

- A. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- B. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- C. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- D. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- E. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- F. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, PA 17125  
Telephone No: (717) 783-6472  
FAX No: (717) 787-9138

### **ENHANCED MINIMUM WAGE PROVISIONS**

1. **Enhanced Minimum Wage.** Contractor/Lessor agrees to pay no less than \$12.00 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.
2. **Adjustment.** Beginning July 1, 2019, and annually thereafter, the minimum wage rate shall be increased by \$0.50 until July 1, 2024, when the minimum wage reaches \$15.00. Thereafter, the minimum wage rate would be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
3. **Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
  - a. exempt from the minimum wage under the Minimum Wage Act of 1968;
  - b. covered by a collective bargaining agreement;
  - c. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
  - d. required to be paid a higher wage under any state or local policy or ordinance.
4. **Notice.** Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
5. **Records.** Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.



6. **Sanctions.** Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
7. **Subcontractors.** Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

## **ENVIRONMENTAL STATEMENT**

According to the Commonwealth Procurement Code, Act of May 15, 1998, P.L. 358, No. 57, 62 Pa. C.S. §§ 101-4509, all Requests for Proposals for construction projects issued by any government agency shall set forth any provision of Federal and State statutes, rules and regulations dealing with the prevention of environmental pollution and the preservation of public natural resources that affect the projects.

The Proposer is hereby notified that this Project is subject to those statutes, rules and regulations shown on the following list, and the Work must be carried out in compliance with these statutes, rules and regulations.

### **STATE LAW**

#### **I. Purdon's Statutes - Title 3 (Agriculture)**

Fertilizer Act, Act of Dec. 13, 2001, 3 Pa. C.S.A. § 6701, et seq.

Soil and Plant Amendment Act, Act of Dec. 13, 2001, 3 Pa. C.S.A. § 6901, et seq.

PA Pesticide Control Act of 1973, Act of March 1, 1974 as amended, 3 P.S. § 111.21, et seq.

Agricultural Liming Materials Act, Act of March 17, 1978, as amended, 3 P.S. § 132-1, et seq.

The PA Plant Pest Act of 1992, Act of December 16, 1992 as amended, 3 P.S. § 258.1, et seq.

Noxious Weed Control Law, Act of April 7, 1982 as amended, 3 P.S. § 255.1, et seq.

Conservation District Law, Act of May 15, 1945 as amended, 3 P.S. § 849, et seq.

(Relating to weather modification), Act of January 19, 1968, as amended, 3 P.S. § 1101, et seq.

#### **II. Purdon's Statutes - Title 16 (Counties)**

(Relating to land use), Act of January 13, 1966 as amended, 16 P.S. § 11941, et seq.

#### **III. Purdon's Statutes - Title 18 (Crimes and Offenses)**

The Crimes Code, Act of December 6, 1972, as amended, 18 Pa. C.S.A. § 101, et seq.

#### **IV. Purdon's Statutes - Title 24 (Education)**

Public School Code of 1949, Act of March 10, 1949, as amended, 24 P.S. § 7-731, et seq.

#### **V. Purdon's Statutes - Title 30 (Fish)**

The Fish and Boat Code, Act of October 16, 1980, as amended, 30 Pa. C.S.A. § 101, et seq.

#### **VI. Purdon's Statutes - Title 32 (Forests, Waters and State Parks)**

(Relating to water power and water supply permits), Act of June 14, 1923, as amended, 32 P.S. § 591, et seq.

Water Well Drillers License Act, Act of May 29, 1956, as amended, 32 P.S. § 645.1, et seq.

(Relating to Flood Control Districts), Act of August 7, 1936, as amended, 32 P.S. § 653, et seq.

Flood Plain Management Act, Act of October 4, 1978, as amended, 32 P.S. § 679.101, et seq.

Storm Water Management Act, Act of October 4, 1978, as amended, 32 P.S. § 680.1, et seq.

Dam Safety and Encroachments Act, Act of November 26, 1978, as amended, 32 P.S. § 693.1, et seq.

(Relating to Stream Clearance), Act of June 5, 1947, as amended, 32 P.S. § 701, et seq.

(Relating to Potomac River Pollution), Act of May 29, 1945 (P.L. 1134, § 1), as amended, 32 P.S. 741 et seq. *Repealed in Part.* Section 4 of Act 1981, May 1, P.L. 22 No. 9, repeals this section to "the extent it required one of the members of the Interstate Commission on the Potomac River Basin to be a member of the Pennsylvania Commission on Interstate Cooperation."

(Relating to Schuylkill River pollution), Act of June 4, 1945, as amend., 32 P.S. § 751.1, et seq.

(Relating to Delaware River pollution) Act of April 19, 1945 as amend. 32 P.S. § 815.31, et seq.

Delaware River Basin Compact, Act of July 7, 1961, as amended, 32 P.S. § 815.101, et seq.

Ohio River Valley Water Sanitation Compact, Act of April 2, 1945, as amended, 32 P.S. § 816.1, et seq.

Great Lakes Basin Compact, Act of March 22, 1956, as amended, 32 P.S. § 817.1, et seq.

Brandywine River Valley Compact, Act of September 9, 1959, as amend. 32 P.S. § 818, et seq.

Wheeling Creek Watershed Protection and Flood Prevention District Compact, Act of August 2, 1967, as amended, 32 P.S. § 819.1, et seq.

Susquehanna River Basin Compact, Act of July 17, 1968, as amended, 32 P.S. § 820.1, et seq.

Chesapeake Bay Commission Agreement, Act of June 25, 1985, as amended, 32 P.S. § 820.11, et seq.

(Relating to Preservation and Acquisition of Land for Open Space Uses), Act of January 19, 1968, as amended, 32 P.S. § 5001, et seq.

Land and Water Conservation and Reclamation Act, Act of January 19, 1968, § 2), as amended, 32 P.S. § 5101, et seq.

Bluff Recession and Setback Act, Act of May 13, 1980, as amended, 32 P.S. § 5201, et seq.

Wild Resource Conservation Act, Act of June 23, 1982, as amended, 32 P.S. § 5301, et seq.

## **VII. Purdon's Statutes - Title 34 (Game)**

The Game and Wildlife Code, Act of July 8, 1986, as amended, 34 Pa. C.S.A. § 101, et seq.

## **VIII. Purdon's Statutes - Title 35 (Health and Safety)**

(Related to public eating and drinking places), Act of May 23, 1945, as amended, 35 P.S. 655.1 et seq. *Repealed in Part.* Section 6(b) of Act 1994, repealed this section in so far as it is inconsistent with said act (3 Pa. C.S.A. § 6501, et seq.). §§ 655.1 to 655.11. §§ 655.12a to 655.13a repealed by 2010, Nov. 23, P.L. 1039, No.106, § 8(2)(ii), effective in 60 days [Jan.24, 2011]

The Public Bathing Law, Act of June 23, 1931, as amended, 35 P.S. § 672, et seq.

The Clean Streams Law (Related to the protection of public water supply), Act of June 22, 1937, as amended, 35 P.S. § 691.1, et seq.

PA Safe Drinking Water Act, Act of May 1, 1984, as amended, 35 P.S. § 721.1, et seq.

PA Sewage Facilities Act, Act of January 24, 1966 as amended, 35 P.S. § 750.1, et seq.  
Repealed in Part. Section 15 of Act 1990, July 1, repealed this section insofar as it relates to fee payments.

PA Solid Waste-Resource Recovery Development Act, Act of July 20, 1974, as amended, 35 P.S. § 755.1, et seq.

(Related to pollution from abandoned coal mines), Act of December 15, 1965 as amended, 35 P.S. § 760.1, et seq.

Low-Level Radioactive Waste Disposal Act, Act of February 9, 1988, as amended, 35 P.S. § 7130.101, et seq.

(Related to Camp Regulation), Act of November 10, 1959 as amended 35 P.S. § 3001, et seq.

Air Pollution Control Act, Act of January 8, 1960, as amended 35 P.S. § 4001, et seq.

Solid Waste Management Act, Act of July 7, 1980 as amended, 35 P.S. § 6018.101, et seq.  
*Repealed in Part.* Section 905(b) of Act 1988, Feb. 9, the Low-Level Radioactive Waste Disposal Act (35 P.S. § 7130.101, et seq.), repealed this section insofar as it is inconsistent with said act.

Radiation Protection Act, Act of July 10, 1984, as amended, 35 P.S. 7110.101, et seq. *Repealed in Part.* Section 17(b) of Act 1992, Dec. 18, provides that this section is repealed insofar as it is inconsistent with said act. Section 6(3) of 2007, July 13, P.L. 95, No. 31, imd. Effective, provides that “[a]ll other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Worker and Community Right-to-Know Act, Act of October 5, 1984 as amended, 35 P.S. § 7301, et seq.

#### **IX. Purdon's Statutes - Title 36 (Highways and Bridges)**

State Highway Law, Act of June 1, 1945, as amended, 36 P.S. § 670-101, et seq. *Repealed in Part.* Section 4 of Act 1985, July 3, repealed this act insofar as it's inconsistent with said act.

Junkyards and Automotive Recycler Screen Law, Act of July 28, 1966, as amended, 36 P.S. § 2719.1, et seq.

Highway Vegetation Control Act of December 20, 1983 as amended, 36 P.S. § 2720.1, et seq.

#### **X. Purdon's Statutes – Title 37 APPENDIX (Historical & Museums)**

History Code, Act of May 26, 1988, as amd, 37 Pa.C.S.A. § 101, et seq.

#### **XI. Purdon's Statutes - Title 43 (Labor)**

General Safety Law  
(Related to General Safety), Act of May 18, 1937, as amended, 43 P.S. § 25-1, et seq.

Seasonal Farm Labor Act, Act of June 23, 1978, as amended, 43 P.S. § 1301.101, et seq.

#### **XII. Purdon's Statutes - Title 52 (Mines and Mining)**

Coal Refuse Disposal Control Act of September 24, 1968, as amended, 52 P.S. § 30.51, et seq.

Surface Mine Land Acquisition & Reclamation Law  
(Related to Coal Land Improvement), Act of July 19, 1965, as amended, 52 P.S. § 30.101, et seq.

Mine Fire and Subsidence Remedial Project Indemnification Law

(Related to Mine Fires & Subsidence), Act of April 3, 1968, as amd. 52 P.S. § 30.201, et seq.

PA Anthracite Coal Mine Act, Act of November 10, 1965 as amended, 52 P.S. § 70-101, et seq.

(Related to discharge of coal into streams), Act of June 27, 1913 as amended, 52 P.S. § 631, et seq.

(Caving-in, Collapse, Subsidence), Act of May 27, 1921, as amended, 52 P.S. § 661, et seq.

Anthracite Coal Mining Regulation Law

(Related to Subsidence), Act of September 20, 1961 as amended, 52 P.S. § 672.1, et seq.

Anthracite Strip Mining and Conservation Act, Act of June 27, 1947 as amended, 52 P.S. § 681.1, et seq. *Repealed in Part.* Section 16 of Act 1971, Nov. 30, provided that this section repealed insofar as it is inconsistent with Act No. 147.

Anthracite Mine Drainage Law

(Related to control and drainage of water from coal formations), Act of July 7, 1955 as amended, 52 P.S. § 682, et seq.

Bituminous Coal Mine Safety Act, Act of July 7, 2008, 52 P.S. § 690-101, et seq.

(Related to Abandoned Mines – abandoned mines; sealing entries and air shafts), Act of May 7, 1935, as amended, 52 P.S. § 809, et seq.

(Related to maps and plans of mines), Act of June 15, 1911, as amended, 52 P.S. § 823.

Surface Mining Conservation and Reclamation Act, Act of May 31, 1945 as amended, 52 P.S. § 1396.1 et seq. *Repealed in Part.* Section 27 of Act 1984, Dec. 19, provides that, except as provided in § 3304 of this title, this section “is repealed to the extent that it applies to the surface mining of minerals other than bituminous and anthracite coal.”

The Bituminous Mine Subsidence and Land Conservation Act, Act of April 27, 1966, as amended, 52 P.S. § 1406.1, et seq.

Bituminous Mine Subsidence in Counties of the Second Class. (Related to cave-in or subsidence of surface above mines), Act of July 2, 1937, as amended, 52 P.S. § 1407, et seq.

(Related to Coal Stripping – Coal stripping Operation Defined), Act of June 18, 1941 as amended, 52 P.S. § 1471, et seq.

(Related to Coal under State Lands – Easements and Rights of Way), Act of June 1, 1933 as amended, 52 P.S. § 1501, et seq.

(Related to Mining Safety Zones – Establishment of Safety Zones), Act of Dec. 22, 1959 as amended, 52 P.S. § 3101, et seq. *Repealed in Part* – Act 1959, Dec. 22, P.L. 1994, No. 729 [52

P.S. §§3101 TO 3109], is repealed to the extent applicable to bituminous coal mines by 2008, July 7, P.L. 654, No. 55, §3101(b)(3), effective in 180 days [Jan. 5, 2009]

(Coal and Clay Mine Coal Subsidence Insurance Fund Law), Act of August 23, 1961 as amended, 52 P.S. § 3201, et seq.

Interstate Mining Compact, Act of May 5, 1966 as amended, 52 P.S. § 3251, et seq.

Noncoal Surface Mining Conservation and Reclamation Act, Act of December 19, 1984, as amended, 52 P.S. § 3301, et seq.

### **XIII. Purdon's Statutes - Title 58 (Oil and Gas)**

Oil and Gas Conservation Law, Act of July 25, 1961 as amended, 58 P.S. § 401, et seq.

PA Used Oil Recycling Act, Act of April 9, 1982, as amended, 58 P.S. § 471, et seq.

Coal & Gas Resource Coord. Act, Act of Dec. 18, 1984, as amended, 58 P.S. § 501, et seq.

(Relates to oil and gas), Act of February 14, 2012, 58 Pa. C.S.A. § 3201, et seq.

### **XIV. Purdon's Statutes Title 63 (Professions and Occupations)**

Water and Wastewater Systems Operators' Certification Act, Act of November 18, 1968 as amended, 63 P.S. § 1001, et seq.

### **XV. Purdon's Statutes - Title 64 (Public Lands)**

PA Appalachian Trail Act, Act of April 28, 1978, as amended, 64 P.S. § 801, et seq.

### **XVI. Purdon's Statutes - Title 71 (State Government)**

The Administrative Code of 1929, Act of April 9, 1929 as amended, 71 P.S. § 51, et seq.

### **XVII. Purdon's Statutes - Title 72 (Taxation and Fiscal Affairs)**

Project 70 Land Acquisition and Borrowing Act, Act of June 22, 1964 as amended, 72 P.S. § 3946.1, et seq.

(Related to pollution control services), Act of March 4, 1971 as amended, 72 P.S. § 7602.1, et seq. Deleted Section 7602.5 by the Act 2000, May 24. *Repealed in Part.* Section 7602.3 of the Act 2007, Dec. 18, was repealed to effectuate the enactment of 35 P.S. § 6021.4.

### **XVIII. Purdon's Statutes - Title 73 (Trade and Commerce)**

Infrastructure Development Act, Act of July 11, 1996, as amended, 73 P.S. § 393.21, et seq.

(Related to Explosives), Act of July 1, 1937 as amended, 73 P.S. § 151, et seq.; *Suspended in Part*. This section is suspended insofar as it is in conflict with the provisions of Reorganization Plan No. 8 of 1981. *See* 71 P.S. § 751-35.

(Related to Explosives), Act of July 10, 1957 as amended, 73 P.S. § 164, et seq. *Suspended in Part*. Section 164 is suspended insofar as it is in conflict with the provisions of Reorganization Plan No. 8 of 1981. *See* 71 P.S. § 751-35.

Purchase of Black Powder in Contiguous States

(Related to Black Powder), Act of May 31, 1974, 73 P.S. § 169 et seq.

(Related to excavation and demolition), Act of Dec. 10, 1974 as amended, 73 P.S. § 176, et seq.

#### **XIX. Purdon's Statutes - Title 75 (Vehicles)**

Vehicle Code, Act of June 17, 1976, as amended., 75 Pa. C.S.A. § 101, et seq.

Snowmobile and All-Terrain Vehicle Law, Act of June 17, 1976, as amended, 75 Pa. C.S.A. § 7701, et seq.

(Related to hazardous materials transportation), Act of June 30, 1984, 75 Pa. C.S.A. § 8301, et seq.

#### **XX. Purdon's Statutes - Title 77 (Workmen's Compensation)**

Workers' Compensation Act, Act of June 2, 1915 as amended, 77 P.S. § 1, et seq.

PA Occupational Disease Act, Act of June 21, 1939, as amended, 77 P.S. § 1201, et seq.

#### **XXI. Other Statutes**

Infectious and Chemotherapeutic Waste Disposal

(Relating to Medical Waste-Manifesting and Transporter Licensing), Act of July 13, 1988, 35 P.S. § 6019.1, et seq.

Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, 53 P.S. § 4000.1501.

Hazardous Sites Cleanup Act, Act of October 18, 1988, 35 P.S. § 6020.101. Repealed insofar as inconsistent with the Hazardous Sites Cleanup Fund Funding Act, 35 P.S. § 6021.1 ET SEQ., PURSUANT TO 2007, Dec. 18, P.L. 486, No. 77, § 18(b) imd. effective

#### **XXII. Pennsylvania Constitution - Article I, Section 27 (Adopted May 18, 1971)**

#### **FEDERAL LAW**

Acid Precipitation Act of 1980 (42 U.S.C. § 8901-8912).

Act to Prevent Pollution from Ships (33 U.S.C. § 1901-1915).

Americans with Disabilities Act of 1990, (42 U.S.C. § 12101-12213 and 47 U.S.C. § 225 and 611).

Asbestos Hazard Emergency Response Act of 1986 [see Toxic Substances Control Act secs. 201-214 (15 U.S.C. § 2641-2656)].  
 Atomic Energy Act of 1954 (42 U.S.C. § 2014, 2021, 2021a, 2022, 2111, 2113, 2114).  
 Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. § 47501-47510).  
 Clean Air Act (42 U.S.C. § 7401-7642).  
 Clean Water Act [see Federal Water Pollution Control Act].  
 Coastal Zone Management Act of 1972 (16 U.S.C. § 1451-1466).  
 Comp.Env.Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601-9675).  
 Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. § 11001-11050).  
 Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. § 791-798).  
 Environmental Quality Improvement Act of 1970 (42 U.S.C. § 4371-4375).  
 Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136-136y).  
 Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1701-1784).  
 Federal Water Pollution Control Act (33 U.S.C. § 1251-1387).  
 Geothermal Energy R& Development, Demonstration Act of 1974 (30 U.S.C. § 1101-1164).  
 Global Climate Protection Act of 1987 (15 U.S.C. § 2901 note).  
 Hazardous Substance Response Revenue Act 1980 (see 26 U.S.C. § 4611, 4612, 4661, 4662).  
 Low-Level Radioactive Waste Policy Act (42 U.S.C. § 2021b-2021d).  
 Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. § 1401-1445).  
 National Climate Program Act (15 U.S.C. § 2901-2908).  
 National Environmental Policy Act of 1969 (42 U.S.C. § 4321-4370h).  
 Noise Control Act of 1972 (42 U.S.C. § 4901-4918).  
 Nuclear Waste Policy Act of 1982 (42 U.S.C. § 10101-10270).  
 Outer Continental Shelf Land Act Amendments of 1978 (43 U.S.C. § 1801-1866).  
 Public Health Service Act (42 U.S.C. § 300f-300j-11).  
 Safe Drinking Water Act [ Public Health Service Act 1401-1451 (42 U.S.C. § 300f-300j-26)].  
 Soil and Water Resources Conservation Act of 1977 (16 U.S.C. § 2001-2009).  
 Solid Waste Disposal Act (42 U.S.C. § 6901-6991i).  
 Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201-1328).  
 Toxic Substances Control Act (15 U.S.C. § 2601-2695d).  
 Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. § 7901-7942).  
 Water Resources Research Act of 1984 (42 U.S.C. § 10301-10309).

## **PUBLIC WORKS EMPLOYMENT VERIFICATION ACT**

The Contractor is hereby notified that this contract is for a public work and the Contractor is therefore subject to the provisions, duties, obligations, remedies and penalties of the Public Works Employment Verification Act, 43 P.S. §§167.1-167.11, which is incorporated herein by reference as if fully set forth herein. Contractors subject to said Public Works Employment Verification Act are required to utilize the Federal E-Verify program to verify the employment eligibility of each new employee hired after January 1, 2013 and to submit to the Department a Commonwealth Public Works Employment Verification Form available on the Department's web site at [www.dgs.pa.gov](http://www.dgs.pa.gov).



## **RIGHT TO KNOW LAW**

- A. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.
- B. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- C. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:
  - i. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
  - ii. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- D. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- E. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
- F. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

- G. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- H. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

#### **SOVEREIGN IMMUNITY AND COMMONWEALTH HELD HARMLESS**

Nothing in this RFP or Agreement between the Commonwealth and the Contractor shall be deemed to waive or otherwise affect the sovereign immunity of the Commonwealth and its agencies, officers, and employees, or to subject the Commonwealth party to any liability not expressly authorized by law. The Contractor shall indemnify and hold harmless the Commonwealth from and against all claims, damages, losses and expenses, including attorneys' fees arising out of or resulting from the performance of the Work or services, provided that any such claim, damage, loss or expense is:

- A. Attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property, including the loss of use resulting therefrom; and
- B. Caused in whole or in part by any negligent act or omission of the Contractor or any subcontractor.

Pursuant to the Commonwealth Attorneys Act 71 P.S. § 732-101, et. seq., the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.

Notwithstanding the above, the Contractor shall not enter into any settlement without the Commonwealth's written consent, which shall not be unreasonably withheld. The

Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

In any and all claims against the Commonwealth by any employee of the Contractor or any subcontractor, the indemnification obligations under this Section shall not be limited on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under Worker's Compensation Acts, Disability Benefit Acts, or other employee benefit Acts.

### **STEEL PRODUCTS PROCUREMENT ACT - CERTIFICATIONS**

In accordance with the Steel Products Procurement Act of March 3, 1978, P.L. 6, as amended (73 P.S. Sections 1881 et seq.), only steel products as defined in the Act shall be used or supplied in the performance of the contract or any subcontracts thereunder.

In the performance of the Contract the JOC Contractor, subcontractors, materialmen or suppliers shall use only: 1) steel products, rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, bessemer or other steel making process; and 2) cast iron products made in the United States.

The JOC Contractor shall certify that all steel and cast iron products to be used or supplied in the performance of the Contract comply with this Act. No payment will be made to the Contractor for steel and cast iron products until such certification has been received.

This section shall not apply in any case where the Using Agency, in writing, determines that steel and/or cast iron products as herein described are not produced in the United States in sufficient quantities to meet the Contract or Job Order needs.

The Using Agency shall not provide for, or make any payments to any person who has not complied with the Act. Any such payments made by the Using Agency to anyone that should not have been made as a result of the Act, shall be recoverable directly from the JOC Contractor, subcontractor, manufacturer or supplier that did not comply with the Act.

In addition to the withholding of payments, any person who willfully violates any of the provisions of the Act shall be prohibited from submitting any bids to any public agency for a period of five (5) years from the date of the determination that a violation has occurred. In the event the person who violates the provisions of the Act is a subcontractor, manufacturer or supplier, such person shall be prohibited from performing any work or supplying any materials to a public agency for a period of five (5) years from the date of the determination that a violation has occurred.

The JOC Contractor shall include the provisions of the Steel Products Procurement Act in every subcontract and supply contract, so that the provisions of the Act shall be binding upon each subcontractor and supplier.

Where trade names, catalog numbers and manufacturers of material or equipment are specified, they are mentioned therein for the purpose of establishing a standard of quality,

performance and appearance, and for establishing a standard of competitive bidding. The use of this descriptive information will not relieve the contractor from compliance with all aspects of the Act.

### **TAX OFFSET PROVISION**

The Contractor, by execution of the DBC Contract:

- a. Certifies that the Contractor has no outstanding tax liability to the Commonwealth of Pennsylvania;
- b. Authorizes the Department of Revenue to release information related to it's tax liability to the Department of General Services; and
- c. Authorizes the Commonwealth to set off any state and local tax liabilities of the Contractor or any of its subsidiaries, as well as any other amount due to the Commonwealth from the Contractor, not being contested on appeal by the Contractor, against any payment due to the Contractor under a contract with the Commonwealth.

The certification of no outstanding tax liability is a material representation of fact upon which reliance is placed by the Department in entering into the contract. If it is later determined that the Contractor knowingly rendered an erroneous certification, the Department may find the Contractor in default and terminate the contract. Such erroneous certification may also be grounds for the initiation of civil or criminal proceedings.

## **APPENDIX Y**

### **Public Works Employment Verification Act**

This Form, and relevant information, can be obtained from the DGS web page at [www.dgs.state.pa.us](http://www.dgs.state.pa.us) and then:

- Using the Business drop down list, click “Design & Construction”; and
- Scroll to bottom of page and click on “Public Works Employment Verification”

# **APPENDIX Z**

## **SPECIAL CONDITIONS**

## Special Condition A

### FEDERAL PARTICIPATION

#### 1. The Davis-Bacon and Related Acts and The Copeland "Anti-Kickback" Act

Due to Federal financing of this project, all Contractors and Subcontractors are subject to the provisions of the Davis-Bacon and Related Acts (DBRA), 40 USCS §§ 3141 et seq. and The Copeland "Anti-Kickback" Act, 40 USC §276c and 18 USC § 874.

The Davis-Bacon Act, as amended, requires that each contract over \$2,000 to which the United States finances, in whole or in part, the construction, alteration, or repair of public works shall set forth the minimum wages to be paid to various classes of laborers and mechanics employed under the contract. Contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the prevailing wages and fringe benefits listed in the Wage Determination. The Contractors and Subcontractors are responsible for prevailing wage compliance by their subcontractors, pursuant to 29 C.F.R. § 5.5(a)(6), and have a general obligation to familiarize themselves with applicable wage standards contained in any wage determination incorporated into the project contract.

#### Required Contract Stipulations:

(A) the contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;

(B) the contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and

(C) there may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.

The Copeland "Anti-Kickback" Act has reporting requirements for contracts in excess of \$2,000. Each covered contractor and subcontractor must provide a weekly statement of wages paid to each of its laborers and mechanics during the preceding weekly payroll period. Each payroll submitted shall be accompanied by a "Statement of Compliance." This statement must be signed by the contractor, subcontractor or the authorized officer or employee of the contractor or subcontractor who supervises the payment of wages. Statements of Compliance are to be made on the Form WH-347 "Payroll (For Contractors Optional Use)" (<http://www.dol.gov/whd/forms/wh347instr.htm>) or on any form with identical wording. This must be submitted within seven days after the regular pay date for the pay period.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

The Contactors, Subcontractors, and lower tier participants in this project are required to submit completed Certifications, if attached, prior to award of contracts.



## **Special Condition B**

### **BUY AMERICA PROVISIONS**

1. **Buy America Provisions.** Furnish steel or iron materials, including coating for permanently incorporated work according to 23 CFR 635.410 and as follows:

- Pig iron and processed, pelletized, and reduced iron ore manufactured outside of the United States is acceptable for use in domestic manufacturing process for steel and/or iron materials.
- All manufacturing processes of steel or iron materials in a product, including coating; and any subsequent process that alters the steel or iron material's physical form or shape, or changes its chemical composition; are to occur within the United States. This includes rolling, extruding, machining, bending, grinding, drilling, and coating. Coating includes all processes that protect or enhance the value of the material, such as epoxy coatings, galvanizing or painting.
- Provide certification to the Department, that all manufacturing processes for steel and iron materials in a product, including coating, have occurred in the United States.

Products manufactured of foreign steel or iron materials may be used, provided the cost of such products as they are delivered to the project does not exceed 0.1% of the total contract amount, or \$2,500, whichever is greater and the product is a "Steel Product" as defined by the Steel Products Procurement Act.



Report No: \_\_\_\_\_ Final ☐  
Reporting Month: \_\_\_\_\_ Reporting Year: \_\_\_\_\_

Contract Number:		County:		Original Contract Amount:				
Project Number:		Federal Number:		Current Contract Amount:				
Prime Contractor:		DBE Goal:						
DBE/SBE Firm(s) Name	DBE or SBE	Whether Listed On DBE Commitment	Amount as Listed on DBE Commitment	Date of Executed Subcontract	Dollar Amount of Executed Subcontract	Dollar Amount Paid This Month	Check Number	Dollar Amount Paid to Date
I certify that contracts have been executed with the above firms, amounts listed are accurate and payments were made in accordance with contractual obligations. Cancelled checks and/or supporting information will be on file for inspection or audit.								
Company Official's Signature _____ Date _____ Telephone Number _____						Reviewed by _____		
						Date Received _____		