



Contract Number

24-901

SAP Number

Public Works

Department Contract Representative	<u>Andy Silao, P.E., Chief</u>
Telephone Number	<u>909 387-7920</u>
Contractor	<u>CT&T Concrete Paving, Inc.</u>
Project Name	<u>Newmark Elementary School Sidewalk Project</u>
CSLB No.	<u>875627</u>
DIR Registration No.	<u>1000025154</u>
Contractor Representative	<u>Jose Carvajal</u>
Telephone Number	<u>909 629-8000</u>
Contract Term	<u></u>
Original Contract Amount	<u>\$1,211,436.09</u>
Amendment Amount	<u></u>
Total Contract Amount	<u></u>
Cost Center	<u>6650002000/52002445/H15204</u>
Grant Number (if applicable)	<u></u>

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

ARTICLE I. That for and in consideration of payment and agreements hereinafter mentioned to be made and performed by San Bernardino County (County), and under the conditions expressed in the two bonds hereunto annexed, CT&T Concrete Paving, Inc. (Contractor) agrees with County, at Contractor's own proper cost and expense, to do all the work and to furnish all the materials necessary to construct and complete in a good, workmanlike and substantial manner, this project to the satisfaction of the Director of Public Works in accordance with the following documents, which are incorporated herein by this reference, and the articles set forth below:

Plans entitled: Plans for Construction on Newmark Elementary School Sidewalks Various Limits, Arrowhead Farms area, Work Order No.: H15204; Road No.: 342150 025, 361950 025, 812600 010.

California Department of Transportation (Caltrans) 2023 Standard Specifications and the 2023 Standard Plans, unless specified otherwise in the contract documents.

Special Provisions entitled: Special Provisions for Construction on Newmark Elementary School Sidewalks Various Limits; Length: 0.62 mi; Work Order No.: H15204; Area: Arrowhead Farms; Road No.: 342150 025, 361950 025, 812600 010, including Addendums 1 and 2.

ARTICLE II. Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this agreement; also for all loss or damage arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work, until its acceptance by the County, and for all risks of every description connected with the work; also for expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and according to this agreement, to wit:

Project: **Newmark Elementary School Sidewalks**W.O. #: **H15204**Limits: **Various Locations**

Item No.	Approx. Quant.	Meas. Unit	Item Description	Unit Price	Total
1	100,000.00	F.A.	Supplemental Work at Force Account (Unforeseen Differing Site Conditions and Utility Conflict)	\$ 1.00	\$ 100,000.00
2	1.00	L.S.	Prepare Storm Water Pollution Prevention Plan	\$ 16,740.00	\$ 16,740.00
3	1.00	L.S.	Mobilization	\$ 102,646.50	\$ 102,646.50
4	1.00	L.S.	Traffic Control System	\$ 42,620.00	\$ 42,620.00
5	1.00	L.S.	Clearing and Grubbing	\$ 87,483.50	\$ 87,483.50
6	1.00	L.S.	Develop Water Supply	\$ 5,720.00	\$ 5,720.00
7	4.00	EA.	Portable Changeable Message Signs	\$ 5,720.00	\$ 22,880.00
8	3.00	EA.	Channelizer (Surface Mounted - Flexible Base Type F)	\$ 78.65	\$ 235.95
9	6.00	EA.	Remove Roadside Sign	\$ 90.75	\$ 544.50
10	39.00	S.F.	Remove Pavement Marking	\$ 33.00	\$ 1,287.00
11	160.00	L.F.	Remove Chain Link Fence	\$ 52.80	\$ 8,448.00
12	120.00	S.Y.	Sawcut and Remove Concrete (Driveways and Ramp)	\$ 93.29	\$ 11,194.80
13	32.00	L.F.	Sawcut and Remove Concrete (Curb, Curb and Gutter)	\$ 52.98	\$ 1,695.36
14	1,300.00	S.Y.	Sawcut and Remove Asphalt Concrete	\$ 56.80	\$ 73,840.00
15	2,940.00	L.F.	Sawcut and Remove Asphalt Concrete Dike/Traversable Dike	\$ 30.40	\$ 89,376.00
16	3.00	EA.	Remove Tree or Stump	\$ 1,694.00	\$ 5,082.00
17	1,400.00	S.Y.	Cold Plane Asphalt Concrete Pavement	\$ 32.73	\$ 45,822.00
18	535.00	C.Y.	Minor Concrete (Curb and Gutter, Sidewalk, Ramp, Driveway, Traversable Curb & Gutter and Retaining Curb)	\$ 677.00	\$ 362,195.00
19	440.00	TON	Asphalt Concrete (Type A, 1/2" Maximum Grading, PG 64-10 HMA)	\$ 321.46	\$ 141,442.40
20	75.00	L.F.	Chain Link Fence	\$ 112.20	\$ 8,415.00
21	1.00	EA.	Chain Link Gate	\$ 1,694.00	\$ 1,694.00
22	35.00	S.F.	Detectable Warning Surface	\$ 136.89	\$ 4,791.15
23	31.00	EA.	Reset or Relocate Mailbox	\$ 680.53	\$ 21,096.43
24	10.00	EA.	Reset or Relocate Roadside Sign	\$ 211.75	\$ 2,117.50
25	20.00	EA.	Roadside Sign (Metal Post)	\$ 344.85	\$ 6,897.00
26	362.00	S.F.	Paint Pavement Marking (2-Coat)	\$ 5.75	\$ 2,081.50
27	4,800.00	L.F.	Paint Red Curb (2-Coat)	\$ 1.82	\$ 8,736.00
28	1.00	L.S.	Finishing Roadway	\$ 36,354.50	\$ 36,354.50

CONTRACT TOTAL:**\$ 1,211,436.09**

ARTICLE III. County hereby promises and agrees with Contractor to employ and does hereby employ Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and thereby contracts to pay the same at the time, in the manner and upon conditions above set forth, and said parties hereto for themselves, their heirs, executors, administrators, successors and assigns do hereby agree to the full performance of the covenants herein contained.

ARTICLE IV. Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other banking account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

ARTICLE V. Contractor may, upon written request and at their expense, deposit substitute securities found in Government Code Section 16430 as authorized by Public Contract Code Section 22300 in lieu of retention monies withheld to insure performance.

ARTICLE VI. It is further expressly agreed by and between the parties hereto that, should there be any conflict between the terms of this instrument and the bid or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

ARTICLE VII. During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VI and VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act, County Policy and other applicable federal, state and County laws, regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

ARTICLE VIII. Contractor shall comply with the provisions found in Exhibit "A," entitled, "Prevailing Wage Requirements, Required Contract Provisions [Federal Form 1273] Federal-Aid Construction Contracts, Female and Minority Goals, and Federal Trainee Program," attached to this Contract and incorporated herein by this reference.

ARTICLE IX. By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers Compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

ARTICLE X. By my signature hereunder, as Contractor, I certify that I am aware of the provisions and requirements of Sections 1777.5 and 1777.7 of the Labor Code relating to apprenticeship standards; and that I accept responsibility for compliance with the provisions of Section 1777.5 for all apprenticeable occupations pertaining to performance of work under this contract.

ARTICLE XI. By my signature hereunder, as Contractor, I agree that County has the right to review, obtain and copy all records pertaining to performance of the contract. I agree to provide County with any relevant information requested and shall permit County access to company's premises upon reasonable notice for purposes on interviewing employees and inspecting records. I shall maintain all project records for at least three (3) years after final payment under the contract.

ARTICLE XII. Contractor shall comply with the Prevailing Wage Laws described in this Agreement, including Exhibit A.

As required by Labor Code section 1771.1(a) "A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded."

ARTICLE XIII. Contractor agrees:

(1) To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carries, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

(2) To furnish within 20 days following the date of loading for shipments originating within the United State or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.


(3) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

By my signature hereunder, as Contractor, I certify that I am aware of the above provisions and requirements of the Cargo Preference Act and understand that the County may require Contractor to provide proof of the Contractor's/subcontractor's compliance with the Cargo Preference Act acceptable to County, the California Department of Transportation and the U.S. Department of Transportation Federal Highway Administration ("FHWA"). At the County Engineer's direction, Contractor shall certify in writing to County that Contractor and/or its subcontractors has/have complied with the Cargo Preference Act.

SAN BERNARDINO COUNTY

► Dawn Rowe
Dawn Rowe, Chair, Board of Supervisors

Dated: SEP 24 2024
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

By Lynna Monell
Lynna Monell
Clerk of the Board of Supervisors
of San Bernardino County
Deputy


CT&T CONCRETE PAVING, INC.

(Print or type name of corporation, company, contractor, etc.)

By ► [Signature]
(Authorized signature - sign in blue ink)

Name Jose Carvajal
(Print or type name of person signing contract)

Title President
(Print or Type)

Dated: 9-4-2024

Address 324 S. Diamond Bar Blvd., PMB 275
Diamond Bar, CA 91766

FOR COUNTY USE ONLY

Approved as to Legal Form
SEE ATTACHED
►
Aaron Gest, Deputy County Counsel
Date _____

Reviewed for Contract Compliance
► Andy Silao
Andy Silao, P.E., Chief
Date 9/11/2024

Reviewed/Approved by Department
► [Signature]
Noel Castillo, Director
Date 9/12/24

SAN BERNARDINO COUNTY



Dawn Rowe, Chair, Board of Supervisors

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
of San Bernardino County

By _____
Deputy

CT&T CONCRETE PAVING, INC.

(Print or type name of corporation, company, contractor, etc.)

By ► _____
(Authorized signature - sign in blue ink)

Name Jose Carvajal
(Print or type name of person signing contract)

Title President
(Print or Type)

Dated: _____

Address 324 S. Diamond Bar Blvd., PMB 275
Diamond Bar, CA 91766

FOR COUNTY USE ONLY

Approved as to Legal Form

► Aaron Gest
Aaron Gest, Deputy County Counsel

Date 9/4/24

Reviewed for Contract Compliance

► _____
Andy Silao, P.E., Chief

Date _____

Reviewed/Approved by Department

► _____
Noel Castillo, Director

Date _____

CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Los Angeles }

On September 4th, 2024 before me, Daniel A. Butler, A Notary Public,
(Here insert name and title of the officer)

personally appeared Jose Carvajal,
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) (s) are subscribed to the within instrument and acknowledged to me that
he she/they executed the same in his her/their authorized capacity(ies), and that by
his her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

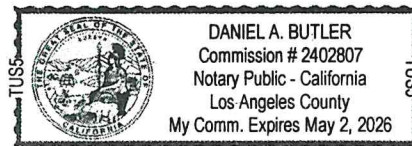
I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Daniel A. Butler

Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

**EXHIBIT A - PREVAILING WAGE REQUIREMENTS, REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS, FEMALE AND MINORITY GOALS, AND
FEDERAL TRAINEE PROGRAM**

A. All or a portion of the Scope of Work in the Contract requires the payment of prevailing wages and compliance with the following requirements:

1. Determination of Prevailing Rates:

Pursuant to Labor Code sections 1770, et seq., the County has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the California Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the County, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at www.dir.ca.gov. The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Contractor shall post, at appropriate and conspicuous locations on the job site, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.

2. Payment of Prevailing Rates

Each worker of the Contractor, or any subcontractor, engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor, and such worker.

3. Prevailing Rate Penalty

The Contractor shall, as a penalty, forfeit two hundred dollars (\$200.00) to the County for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Contractor or by any subcontractor in connection with the Scope of Work. Pursuant to California Labor Code section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

4. Ineligible Contractors:

Pursuant to the provisions of Labor Code section 1777.1, the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a contractor or subcontractor on a public works project. This list of debarred contractors is available from the DIR website at <http://www.dir.ca.gov/Public-Works/PublicWorks.html>. Any contract entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the County. The Contractor shall be responsible for the payment of wages to workers as a debarred subcontractor who has been allowed to work on the Scope of Work.

5. Payroll Records:

- a. Pursuant to California Labor Code section 1776, the Contractor and each subcontractor, shall keep accurate certified payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by them in connection with the Scope of Work. The payroll records enumerated herein shall be verified by a written declaration made under penalty of perjury that the information contained in the payroll record is true and correct and that the Contractor or subcontractor has complied with the requirements of the California Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

- i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;

- ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the County, the Division of Labor Standards Enforcement of the DIR;
 - iii. A certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the County or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the County or the Division of Labor Standards Enforcement, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, subcontractor and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor;
 - iv. The Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and
 - v. Copies provided to the public, by the County or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any subcontractor, performing a part of the Scope of Work shall not be marked or obliterated. The Contractor shall inform the County of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address.
- b. The Contractor shall have ten (10) days from receipt of the written notice specifying in what respects the Contractor must comply with the above requirements. In the event Contractor does not comply with the requirements of this section within the ten (10) day period, the Contractor shall, as a penalty to the County, forfeit one-hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalty shall be withheld from any portion of the payments then due or to become due to the Contractor.

6. Limits on Hours of Work:

Pursuant to California Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code section 1811, the time of service of any worker employed at any time by the Contractor or by a subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of Contractor or any subcontractor, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

7. Penalty for Excess Hours:

The Contractor shall pay to the County a penalty of twenty-five dollars (\$25.00) for each worker employed on the Scope of Work by the Contractor or any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

8. Senate Bill 854 (Chapter 28, Statutes of 2014) and Senate Bill 96 (Chapter 28, Statutes of 2017) Requirements:

- a. Contractor shall comply with Senate Bill 854 and Senate Bill 96. The requirements include, but are not limited to, the following:
 - i. No contractor or subcontractor may be listed on a bid proposal (submitted on or after March 1, 2015) for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirements for bid purposes only as allowed under Labor Code section 1771.1(a).
 - ii. No contractor or subcontractor may be awarded a contract for public work or perform work on a public works project (awarded on or after April 1, 2015) unless registered with the DIR pursuant to Labor Code section 1725.5.

- iii. This project is subject to compliance monitoring and enforcement by the DIR.
 - iv. As required by the DIR, Contractor is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.
 - v. Contractors and all subcontractors must submit certified payroll records online to the Labor Commissioner for all new public works projects issued on or after April 1, 2015, and for all public works projects, new or ongoing, on or after January 1, 2016.
 - 1) The certified payroll must be submitted at least monthly to the Labor Commissioner.
 - 2) The County reserves the right to require Contractor and all subcontractors to submit certified payroll records more frequently than monthly to the Labor Commissioner.
 - 3) The certified payroll records must be in a format prescribed by the Labor Commissioner.
 - vi. Registration with the DIR and the submission of certified payroll records to the Labor Commissioner are not required if the public works project is \$25,000 or less when the project is for construction, alteration, demolition, installation or repair work, or if the public works project is \$15,000 or less when the project is for maintenance work.
- b. Labor Code section 1725.5 states the following:
- “A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, “contractor” includes a subcontractor as defined by Section 1722.1.
- (a) To qualify for registration under this section, a contractor shall do all of the following:
- (1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.
- (B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.
- (2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:
- (A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.
- (B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.
- (C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.
- (D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work."

c. Labor Code section 1771.1 states the following:

"(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the

contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h)(1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works

contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j)(1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.

(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:

(A) Manual delivery of the order to the contractor or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at the address on file with either of the following:

(i) The Contractors' State License Board.

(ii) The Secretary of State.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work."

d. Labor Code section 1771.4 states the following:

"a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

- (2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.
- (3) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:
 - (A) At least monthly or more frequently if specified in the contract with the awarding body.
 - (B) In a format prescribed by the Labor Commissioner.
- (4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.
- (5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.
- (b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:
 - (1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.
 - (2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.
- (c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.
- (d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016."

B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS

1. State Public Works Apprenticeship Requirements:

- a. The Contractor is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable occupations (denoted with “#” symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Contractor, subcontractor, vendor or consultant. Included in these requirements is (1) the Contractor’s requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training fund contributions for each apprenticeable hour employed on the Contract; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five journeyman hours by completion of Contract work (unless an exception is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.
- b. Any apprentices employed to perform any of the Scope of Work shall be paid the standard wage to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.

2. Compliance with California Labor Code section 1777.5 requires all public works contractors to:

- a. Submit Contract Award Information (DAS-140):
 - i. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project.
 - ii. The DAS-140 is a notification “announcement” of the Contractor’s participation on a public works project—*it is not a request for the dispatch of an apprentice.*

- iii. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract or subcontract, but in no event later than the first day in which the Contractor has workers employed on the public work.
 - iv. Contractors who are already approved to train apprentices (i.e. check "Box 1" on the DAS-140) shall only be required to submit the form to their approved program.
 - v. Contractors who are NOT approved to train apprentices (i.e. those that check either "Box 2" or "Box 3" on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see <http://www.dir.ca.gov/Databases/das/pwaddrstart.asp>.
- b. Employ Registered Apprentices
- i. Labor Code section 1777.5 requires that a contractor performing work in an "apprenticeable" craft must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman. This ratio shall be met prior to the Contractor's completion of work on the project. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
 - ii. All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.
 - iii. Contractors may use the "DAS-142" form for making a request for the dispatch of an apprentice.
 - iv. Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
 - v. Contractor should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Contractor has met its requirement to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.
 - vi. Only "registered" apprentices may be paid the prevailing apprentice rates and must, at all times work under the supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).
- c. Make Training Fund Contributions
- i. Contractors performing in apprenticeable crafts on public works projects, must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices.
 - ii. Contractors may use the "CAC-2" form for submittal of their training fund contributions.
 - iii. Contractors who do not submit their training fund contributions to an approved apprenticeship training program must submit their contributions to the California Apprenticeship Council (CAC), PO Box 420603, San Francisco, CA 94142-0603.
 - iv. Training fund contributions to the CAC are due and payable on the 15th day of the month for work performed during the preceding month.
 - v. The "training" contribution amount identified on the prevailing wage determination shall not be paid to the worker, unless the worker falls within one of the exemption categories listed below.

3. Exemptions to Apprenticeship Requirements:

- a. The following are exempt from having to comply with California apprenticeship requirements. These types of contractors do not need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices:
 - i. When the Contractor holds a sole proprietor license ("Owner-Operator") and no workers were employed by the Contractor. In other words, the contractor performed the entire work from start to finish and worked alone.
 - ii. Contractors performing in non-apprenticeable crafts. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
 - iii. When the Contractor has a direct contract with the Public Agency that is under \$30,000.
 - iv. When the project is 100% federally-funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
 - v. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.

4. Exemption from Apprenticeship Ratios:

- a. The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:
 - i. Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
 - ii. The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or
 - iii. The Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or
 - iv. If assignment of an apprentice to any work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.
- b. When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

5. Contractor's Compliance:

- a. The responsibility of compliance with this Section for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Section are subject to the provisions of California Labor Code section 3081 and penalties are pursuant to Labor Code section 1777.7 and the determination of the Labor Commissioner.

ADDENDUM NO. 1

Newmark Elementary School Sidewalks

August 6, 2024

Page 1 of 6

**ADDENDUM NO. 1
NEWMARK ELEMENTARY SCHOOL SIDEWALKS
WORK ORDER: H15204
AREA: Arrowhead Farms
ROAD NO.: 342150-025, 361950-025, 812600-010
BIDS OPEN 2:00 PM, THURSDAY, AUGUST 22, 2024**

By Email via ePro System

The bid opening will be publicly viewable via goto.com, details are available in the Notice to Bidders pages of the Project Special Provisions.

Amend the Project Special Provisions as follows:

1. NOTICE TO BIDDERS

- a. On NB-4, under **PREVAILING WAGES** replace the website link "<https://www.wdol.gov/>." With: <https://sam.gov/content/home>
- b. On NB-5, under **PREVAILING WAGES** replace the website link that reads "<http://www.gpo.gov/davisbacon/ca.html>" With: <https://sam.gov/content/home>

2. DIVISION I GENERAL PROVISIONS

- a. On Page SP-35, replace the website link that reads <http://www.gpo.gov/davisbacon/ca.html> With: <https://sam.gov/content/home>

3. AGENCY CONTACTS

- a. Replace the section under "AGENCY CONTACTS" With:

The following utility/municipal agencies have facilities within the limits of the subject project:

<u>AGENCY</u>	<u>CONTACT</u>	<u>ADDRESS / PHONE / CELL</u>
Frontier Communications	Bob Strong Robert.strong@ftr.com	Redlands, CA (909) 809-9329 Emergency: (800) 921-8101
San Bernardino Municipal Water Department	Robert Lindberg Robert.lindberg@sbmwd.org	1350 South E Street San Bernardino, CA 92408 (909) 453-6167
Southern California Edison	Kevin Purdy (Distribution) Kevin.purdy@sce.com Robert Martinez (Telecom) Robert.6.martinez@sce.com	287 Tennessee St Redlands, CA 92373 (909) 307-6759 (Kevin) (626) 607-6343 (Robert) Emergency: (800) 611-1911

ADDENDUM NO. 1

Newmark Elementary School Sidewalks

August 6, 2024

Page 2 of 6

Southern California Gas	Gerardo Tabares gtabares@socalgas.com	1981 West Lugonia Avenue Redlands, CA 92374 (213) 231-1840 Emergency: (800) 427-2200
Spectrum	Keith Coley Keith.coley@charter.com	7337 Central Avenue Riverside, CA 92504 (909) 821-8024

The initial written utility notification and preliminary plans were sent to utility agencies on December 8, 2023, and contact has continued at various times since.

UTILITY RELOCATIONS

The following utilities will be relocated:

<u>AGENCY</u>	<u>APPROXIMATE LOCATION</u>	<u>DETAILS</u>
San Bernardino Municipal Water Department	<ul style="list-style-type: none">• Third Avenue – Sta 30+55 and 36+61	<ul style="list-style-type: none">• Contractor to reserve a 2 working day window during construction for SBMWD to relocate water valves out of proposed curb
Any Agency	<ul style="list-style-type: none">• Throughout Project	<ul style="list-style-type: none">• If necessary, Contractor shall provide 2 working day window, per agency, during construction for unforeseen conflicts requiring relocation. Any unused days may be used by another agency, if necessary.

UTILITY PROTECTION

Protection of the following utility facilities will require coordination with the contractor's operations:

<u>AGENCY</u>	<u>APPROXIMATE LOCATION</u>	<u>DETAILS</u>
Frontier	<ul style="list-style-type: none">• 41st Street – aerial line, south of centerline, from west of Third Avenue to east of F Street• Third Avenue – aerial line, west of centerline, from south of 41st Street to north of 48th Street and underground line, from approx. 410' south of 48th Street to 48th Street, crossing from west of centerline to east side• F Street – aerial line, east of centerline, from 41st Street to north of Melrose Drive, with aerial and underground crossings at various locations	<ul style="list-style-type: none">• Contractor to locate and protect in place

ADDENDUM NO. 1

Newmark Elementary School Sidewalks

August 6, 2024

Page 3 of 6

San Bernardino Municipal Water Department	<ul style="list-style-type: none">• 41st Street – 12" VCP sewer line, from west of Third Avenue to F Street• F Street – 8" VCP sewer line, from south of 41st Street to 48th Street• 41st Street – 12" steel water line, south of waterline, from west of Third Avenue to east of 48th Street and 30" CL&CC waterline north of centerline, from west of Third Avenue to east of 48th Street• Third Avenue – 6" D&WP water line, west of centerline, from south of 41st Street to north of 48th Street• F Street – 6" steel and 16" CL&WP water lines, west of centerline, from south of 41st Street to north of 48th Street• Water valves, fire hydrants, and lateral crossings at various locations	<ul style="list-style-type: none">• SBMWD to furnish traffic rated water meter lids for water meters that• Contractor to locate and protect in place• Contractor to adjust valve cans to final grade, if adjustable
Southern California Edison	<ul style="list-style-type: none">• 41st Street – 751 volts – 22.5kV aerial line, south of centerline, from west of Third Avenue to west of F Street, with crossings at various locations• Third Avenue – 751 volts – 22.5kV aerial line, west of centerline, from south of 41st Street to north of 48th Street, with underground crossings at various locations• F Street – 0 volts – 22.5kV aerial line, east of centerline, from south of 41st Street to north of 48th Street, with crossings at various locations and underground line, west of centerline, from Melrose Drive to 48th Street	<ul style="list-style-type: none">• Southern California Edison to adjust vault at 33+46.71 to grade• Contractor to locate and protect in place
Southern California Gas Company	<ul style="list-style-type: none">• Third Avenue – 2" gas line, east of centerline from south of 41st Street to north of 48th Street• F Street – 3" gas line, east of centerline, from north of 41st	<ul style="list-style-type: none">• Contractor to locate and protect in place• Contractor to adjust valve cans to final grade, if adjustable

ADDENDUM NO. 1

Newmark Elementary School Sidewalks

August 6, 2024

Page 4 of 6

	Street to north of 48 th Street • 41 st Street – 2" gas line, north of centerline, from west of Third Avenue to east of F Street	
Spectrum	• 41 st Street – aerial line, south of centerline, from west of Third Avenue to east of F Street • Third Avenue – aerial line, west of centerline, from south of 41 st Street to north of 48 th Street and underground line, east of centerline, approx. 336' south of 48 th Street crossing to west side at approx. 183' south of 48 th Street • F Street – aerial line, east of centerline, from south of 41 st Street to north of 48 th Street, with aerial and underground crossings at various locations	• Contractor to locate and protect in place

HIGH RISK UTILITIES

The following utility facilities are "HIGH RISK" facilities:

<u>AGENCY</u>	<u>LOCATION</u>	<u>DESCRIPTION</u>
Southern California Gas Company	• 48 th Street – south of centerline, crossing 3 rd Avenue and F Street	• 12" high pressure gas line • Contractor to locate and protect in place

4. SECTION 101 FEDERAL MINIMUM WAGE (PINK PAGES)

- a. Delete and replace Pink Pages with Attachment #1.

5. DIVISION II - GENERAL CONSTRUCTION

1. Under **CLEARING AND GRUBBING** of Section 10-1.06, include a paragraph after "Nothing herein shall be construed as relieving the Contractor of his responsibility for final cleanup of the highway as provided in Section 4-1.13, "Cleanup," of the Standard Specifications." **With:**

All existing sprinklers and irrigation lines in conflict with construction shall be replaced, or relocated and capped, only as necessary and/or directed by the Engineer to clear the way for rough and final grading until the landscaping (includes sprinklers, irrigation lines and sod replacement) is complete.

2. Under **PAINT PAVEMENT MARKING (2-COAT)** of Section 10-1.29, replace entire heading and section with:

ADDENDUM NO. 1

Newmark Elementary School Sidewalks

August 6, 2024

Page 5 of 6

10-1.29 PAINT TRAFFIC STRIPES & PAVEMENT MARKINGS

Materials and application for painted traffic stripes (traffic lines) and pavement markings shall conform to the provisions of paint traffic stripes in Section 84-2, "Traffic Stripes and Pavement Markings," of the Standard Specifications.

Traffic stripes and pavement markings shall be white or yellow to match the color of the existing markings as shown on the plans and as shown on plan and/or as determined by the Engineer.

Traffic stripes and pavement markings shall be painted at the locations shown on the plans and/or as determined by the Engineer.

Curbs shall be painted red at the locations shown on the plans and/or as determined by the engineer.

The contract prices paid per square foot for **Paint Pavement Markings (2-Coat)** shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in applying paint pavement markings, complete in place, as shown on the plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

The contract prices paid per liner foot for **Paint Red Curb (2-Coat)** shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in painting red curbs, complete in place, as shown on the plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

6. PROPOSAL PAGES

- a. Replace proposal page P-4 with revised proposal page Addendum No. 1 P-4 – Attachment #2

Amend the Project Plans as follows:

1. Provide original project plan set (14 Sheets) – Attachment #3
2. Replace plan set sheets 4 and 10 with the revised plan set sheets 4 and 10 noted Addendum 1 – Attachment #4

Make the following information available for bidders:

Attachments:

1. Pink Pages – Federal Minimum Wage
2. Revised Proposal Page Addendum No. 1 P-4
3. Original Project Plan Set
4. Plan Sheet 4 and 10 Addendum No. 1

ADDENDUM NO. 1


Newmark Elementary School Sidewalks

August 6, 2024

Page 6 of 6

The addition of these requirements shall be considered in concert with existing documents in preparation of bids. **THE BIDDER'S CERTIFICATION FOR THIS ADDENDUM NO. 1 SHALL BE SIGNED BY THE SAME PERSON WHO SIGNS THE PROPOSAL AND SHALL BE SUBMITTED WITH THE PROPOSAL. ANY proposal not accompanied by a signed BIDDER'S CERTIFICATION (below) acknowledging receipt of this Addendum No. 1 will NOT be accepted.**

Noel Castillo, Director
Department of Public Works

By: 
Andy Silao, P.E., Chief
Contracts Division
AS:mb

BIDDER'S CERTIFICATION:

By my signature hereunder, I acknowledge receipt of Addendum No. 1 and I fully understand the intent and detail of Addendum No. 1, which I have considered in my preparation of the attached proposal.

Bidder's Signature

Date

Note: The page containing the executed BIDDER'S CERTIFICATION (just this page), must be included with the proposal.

**ADDENDUM NO. 2
NEWMARK ELEMENTARY SCHOOL SIDEWALKS
WORK ORDER: H15204
AREA: San Bernardino
ROAD NO.: 342150-025, 361950-025, 812600-010**

BIDS OPEN 10:00 AM, THURSDAY, AGUST 22, 2024

By Email via ePro System

The bid opening will be publicly viewable via goto.com, details are available in the Notice to Bidders pages of the Project Special Provisions.

Amend the Project Special Provisions as follows:

1. **EXHIBIT A – PREVAILING WAGE REQUIREMENTS REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS, FEMALE AND MINORITY GOALS, AND FEDERAL
TRAINEE PROGRAM**
 - a. Delete and replace Pages 12 to 25 with attached.

ADDENDUM NO. 2

Newmark Elementary School Sidewalks

August 19, 2024

Page 2 of 2

Attachments:

1. REQUIRED CONTRACT PROVISIONS FEDERAL AID CONSTRUCTION CONTRACT ADDENDUM NO.2.

The addition of these requirements shall be considered in concert with existing documents in preparation of bids. **THE BIDDER'S CERTIFICATION FOR THIS ADDENDUM NO. 1 SHALL BE SIGNED BY THE SAME PERSON WHO SIGNS THE PROPOSAL AND SHALL BE SUBMITTED WITH THE PROPOSAL. ANY proposal not accompanied by a signed BIDDER'S CERTIFICATION (below) acknowledging receipt of this Addendum No. 1 will NOT be accepted.**

Noel Castillo, Director
Department of Public Works

By:



Andy Silao, P.E., Chief
Contracts Division

AS:mb

BIDDER'S CERTIFICATION:

By my signature hereunder, I acknowledge receipt of Addendum No. 1 and I fully understand the intent and detail of Addendum No. 1, which I have considered in my preparation of the attached proposal.

Bidder's Signature

Date

Note: The page containing the executed BIDDER'S CERTIFICATION (just this page), must be included with the proposal.



Community Development and Housing (CDH)

CONSTRUCTION CONTRACT LABOR COMPLIANCE PROVISIONS (Attachment D)

NOTICE TO BIDDERS

COUNTYWIDE VISION

The project(s) implemented with these funds assist in meeting an element of the Countywide Vision for sustainable infrastructures and housing as adopted by the County Board of Supervisors and San Bernardino County Transportation Authority on June 30, 2011.

PROJECT FUNDING SUBJECT TO FEDERAL PREVAILING WAGE REQUIREMENTS

Bidders are advised that federal funds are being used for this project and that as a result, certain requirements are to be imposed, depending upon the source of the federal funds. Sources may include Community Development Block Grant (CDBG) funds, Neighborhood Stabilization Program (NSP) funds and/or HOME Investment Partnerships Program (HOME) funds. The utilization of these federal funds on a project will require the payment of federal prevailing wages under the Davis-Bacon and Related Acts ("DBRA") (40 USC §3142, 40 USC §§ 276a-276a-7, 29 CFR Part 5), which will be enforced when the contract amount for the Prime Contract exceeds \$2,000. The Prime Contractor is responsible for ensuring all Subcontractor(s) and lower tier Subcontractor(s) comply with DBRA. Also, Federal Labor Standards Provisions (HUD-4010) apply and are attached.

A copy of the Federal Prevailing Wage Decision, the date of which reflects the latest applicable modification at the time of the bid advertisement, shall be included. Bidders shall be notified, via Addendum, of modifications, if any, which supersede that modification included herein, up until a minimum of ten days prior to the actual Bid Opening for this project. Bidder can obtain Davis-Bacon Act Wage Decision(s) at: <https://sam.gov/content/home>.

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity - The bidder's attention is called to the "Equal Opportunity Clause" and "Standard Federal Equal Employment Specifications" contained in the bid package. 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, is 19% for minorities and 6.9% for women.

PROJECT FUNDING SUBJECT TO STATE PREVAILING WAGE REQUIREMENTS

Bidder is advised and certify by bidding on this project that bidder (including any and all sub-contractors) is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Section 1720 of the California Labor Code states in part: "For purposes of this paragraph, 'construction' includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the post-construction phases of construction, including, but not limited to, all cleanup work at the jobsite." If the Services/Scope of Work are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services/Scope of Work available to interested parties upon request and shall post copies at the Contractor's principal place of business and at the project site. Contractor will also adhere to any other applicable requirements, including but not limited to, those regarding the employment of apprentices, travel and

subsistence pay, retention and inspection of payroll records, workers compensation and forfeiture of penalties prescribed in the Labor Code for violations. Contractor shall defend, indemnify and hold the County, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with Prevailing Wage Laws.

Upon request by bidder a copy of the Director's General Prevailing Wage Determination(s), the date of which reflects the latest applicable modification at the time of this bid advertisement will be furnished. Bidders shall be notified, via Addendum, of modifications, if any, which supersede that wage determination. Bidder can obtain a copy of the Director's General Prevailing Wage Determination(s) at: <http://www.dir.ca.gov/OPRL/dprevagedetermination.htm>.

PROJECT(S) SUBJECT TO FEDERAL AND STATE PREVAILING WAGE REQUIREMENTS

When the project(s) is subject to both the State (CA) and Federal (Davis-Bacon) prevailing wage rate laws, and when federal funds trigger prevailing wage requirements as determined under the Davis Bacon Act, the higher of the two, the State prevailing wage rate and the Davis-Bacon (federal) wage rate and the most restricted prevailing wage regulation(s) will apply to each job classification, and the project(s), unless applicable law requires otherwise.

TABLE OF CONTENTS

- CONSTRUCTION CONTRACT PROVISIONS – DEFINITIONS
- LABOR COMPLIANCE REQUIREMENTS
- REQUIRED DOCUMENTS (including eDocuments)
- FEDERAL LABOR STANDARDS PROVISIONS (HUD 4010)
- SECTION 3 24 CFR 75 PART, SUBPART A-D
- AFFIRMATIVE ACTION COMPLIANCE GUIDELINES FOR CONSTRUCTION AND NON-CONSTRUCTION CONTRACTORS
- EQUAL OPPORTUNITY CLAUSES
- CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS
- SAMPLE DOCUMENTS
- DAVIS-BACON WAGE DETERMINATION

CONSTRUCTION CONTRACT PROVISIONS - DEFINITIONS

The following are definitions of State and federal provisions/documents for federally-assisted projects.

NOTE: Please refer to the "Required Documents" table for any documents to be completed and submitted for this project. The term "Contractor" or "Contractor's" are used throughout this document and may refer to the Prime Contractor, Subcontractor and/or lower tier Subcontractor. See the "Required Documents" table for information on which Contractor(s) are required to submit each document.

Affirmative Action Compliance Guidelines for Construction or Non-Construction Contractors – Generally, affirmative action requirements apply to contracts and subcontracts in excess of \$10,000. This document provides guidelines to assist all Contractors, as identified on the "Required Documents" table, meet affirmative action and Equal Employment Opportunity requirements set forth in federal regulations 41 CFR 60.

Affirmative Action Compliance Form For Construction Contracts Over \$10,000 (LCF DB16-2.2) – eDocument affirming all Contractors, as identified on the "Required Documents" table, understanding and implementation of Affirmative Action Compliance requirements.

Authorization For Payroll Deduction(s) (LCF 16-1.4) – eDocument signed by any employee of the Contractor, as identified on the "Required Documents" table, who has "Other/Garnish" payroll deduction.

Bid Bond – A bid guarantee of at least 10% of the contract price is required from each bidder and must be submitted with the Bid.

Business Certification – Business certification includes Disadvantaged Business Enterprise (DBE) – Disadvantaged Veteran Business Enterprise (DVBE) – Local Business Enterprise (LBE) – Minority Business Enterprise (MBE) – Small Business Enterprise (ESBE) – Women Business Enterprise (WBE).

Certificate of Owner's Attorney – This certificate is to be completed by the owner's attorney when applicable.

Certificate of Understanding and Authorization Form (LCF 16-1.2) – eDocument signed by all Contractors, as identified on the "Required Documents" table, certifying the most current "Davis-Bacon Labor Standards" has been read and understood.

Certification of Bidder Regarding Equal Employment Opportunity (LCF DB16-2.1) – eDocument certification required by all Contractors, as identified on the "Required Documents" table, by federal regulations (41 CFR 60).

Certification of Compliance with Air and Water Acts – All Contractors, as identified on the "Required Documents" table, must comply with this certification when the contract exceeds \$100,000.

Checklist of Labor Law Requirements (LCF CA16-3.1) – eDocument signed by all Contractors, as identified on the "Required Documents" table, acknowledging awareness of the applicable labor law requirements.

Contractor's Certification of Compliance with Davis-Bacon and Related Acts (LCF DB16-2.0) – eDocument certification required by all Contractors, as identified on the "Required Documents" table, by federal law (29 CFR 5).

Davis-Bacon Act Wage Decision – The Davis-Bacon Act Wage Decision contains the wage rates for construction projects within San Bernardino County. A copy of the Davis-Bacon Act Wage Decision is

included in the bid package and can also be found at <https://www.sam.gov/portal/public/SAM/>. The wage decision that applies to the project is the one in effect ten days prior to the bid opening date.

eDocuments – Labor compliance documents required to be submitted by all Contractors, as identified on the “Required Documents” table, electronically prior to Certified Payroll submission. Each eDocument is listed by name in the definitions herein.

Equal Employment Opportunity Clauses/Equal Employment Opportunity Construction Contract Provisions – These provisions are to be inserted in all applicable federally assisted contracts and subcontracts.

E-signature Authorization (LCF 16-1.0) – eDocument signed by an owner, partner, executive officer, and all duly authorized “Designee” employee(s) of all Contractors, as identified on the “Required Documents” table, who have authority to enter into agreements on behalf of Contractor and who will be uploading eDocuments and/or certified payroll records (CPR)s into LCPtracker. This document must be notarized with an “Acknowledgment” form and will be valid for a period of one (1) calendar year from the signature date.

Federal Labor Standards Provisions (HUD-4010 form) – These provisions set forth the federal labor requirements for Contractors working on federally assisted construction projects in which the prime contract exceeds \$2,000. Contractors are required to pay their laborers and mechanics working onsite a wage as specified in the FEDERALLY FUNDED PROJECTS section of this provision. ***The Prime Contractor is responsible to include the Labor Compliance Contract Addendum in all executed Subcontractor/Sub-Tier contracts for the project(s).***

Fringe Benefit Statement (LCF 16-1.3) – eDocument signed by all Contractors, as identified on the “Required Documents” table, identifying bona fide Fringe Benefits in which their employees are participating.

Labor and Materials Bond – This payment bond guarantees that employees/Subcontractors, and suppliers are paid for services rendered and materials supplied. The Labor and Materials Bond must be at least 100% of the contract price and must be submitted to the CITY/COUNTY upon award of the contract.

LCPtracker – County Community Development and Housing Department (CDH)’s Online Certified Payroll System.

Performance Bond – This bond guarantees the Contractor's performance under the terms of the construction contract and must be at least 100% of the contract price and submitted to the CITY/COUNTY following award of the contract.

Project Wage Rate Sheet (LCF 16-1.1) – eDocument used by all Contractors, as identified on the “Required Documents” table, to list *all* labor classifications and wage rate(s) applicable for the project to be set up in LCPtracker for CPR submittal.

Section 3 (24 CFR Part 75, Subpart A-D) – This law applies to all housing rehabilitation, housing construction and other public construction projects contract exceeding \$200,000 or more of housing and community development financial assistance from one or more U.S. Department of Housing and Urban Development (HUD) programs.

Section 3 Resource Participation Certificate (LCF DB16-2.4) – eDocument to certify that all Contractors, as identified on the “Required Documents” table, have read the County’s Section 3 Plan and contacted the resources provided for information on participating in the program.

Section 3 Actions and Outcomes (LCF DB16-2.5) – eDocument signed by all Contractors, as identified on the “Required Documents” table, to certify how the Contractor will implement Section 3 hiring practices for the project.

LABOR COMPLIANCE REQUIREMENTS

Project Bidding

1. Borrower, Prime Contractor, Subcontractor, and every Sub-Tier contractor shall include this CONSTRUCTION CONTRACT LABOR COMPLIANCE PROVISIONS (Attachment D) in all bid documents for Prime Contractor(s), Subcontractor(s) and every Sub-Tier contractor(s) and must clearly state the appropriate prevailing wage rate(s) (i.e., Federal, State, commercial and/or residential and the date of the appropriate wage schedule) for the project(s).

Construction

1. Borrower, Prime Contractor, Subcontractor, and every Sub-Tier contractor shall include the Davis Bacon/California LABOR COMPLIANCE CONTRACT ADDENDUM (DB/CA LCCA) attachment and must clearly state the appropriate prevailing wage rate(s) (i.e., Federal, State, commercial and/or residential and the date of the appropriate wage schedule) for the project(s) in every executed agreement (i.e., contract, purchase order, on-call, etc.) on the project(s).
2. Borrower shall ensure that the Prime Contractor, prior to accepting prospective Subcontractor(s) bid(s) and any Subcontractor accepting prospective lower tier Subcontractor(s) bid(s), has confirmed that each Subcontractor's and lower tier Subcontractor bid is based on the appropriate prevailing wage rate(s) and the correct job classifications for the work to be performed on the project(s) under the subcontract.
3. Prime Contractor, Subcontractor, and every lower tier Subcontractor shall maintain copies of their executed contract(s) for the project(s) and shall provide to CDH a copy of such executed contract(s) upon request within no more than three (3) business days.
4. Prior to construction start, CDH will conduct a mandatory Labor Compliance Pre-Construction Meeting(s). Prime Contractor, Subcontractor, and every lower tier Subcontractor working on the project(s) shall have, in attendance from their office, a representative responsible for managing the duties of prevailing wage labor compliance. Items to be discussed include, but are not limited to, Federal and State labor law requirements applicable to the project(s), prevailing wage requirements, respective record-keeping responsibilities, the requirement for submittal of certified payroll records to CDH, compliance documents and the prohibition against discrimination in employment, required signage, sign-in sheets/daily logs, contract language, WMBE reporting, employee reporting, possible audits, etc. The meeting will be canceled and rescheduled if Prime Contractor, Subcontractor, and/or every lower tier Subcontractor working on the project(s) representative responsible for managing the duties of prevailing wage labor compliance fail to attend the meeting unless authorized to do so by CDH in writing prior to the meeting.
5. Prime Contractor shall maintain at project site(s) daily log/sign-in sheets. Daily log/sign-in sheets shall be separated by company. Sheets shall be written in English and Spanish (and other languages, as appropriate) and shall include CDH and any project labor consultant name and phone number of the current wage monitor, for any worker to contact if there are any questions or concerns about their wages or any other concerns about the project. Prime Contractor shall enforce that all workers employed on site must sign in at the job site daily including time-in, time-out and lunch period (including any applicable travel time to and from project site). The workers must identify the Prime Contractor, Subcontractor and any lower tier Subcontractor for whom they are working and their job classification. Daily log/sign-in sheets shall be emailed to CDH no more than seven (7) days from the end of the scheduled project work week. If requested in writing by CDH, Prime Contractor shall provide to CDH any requested daily log/sign-in sheet copies within no more than three (3) business days of request. Workers who are subject to split-classifications during their tour of duty on the project(s) site shall edit the daily log/sign-in sheets on day's worker duties triggered split-classifications assignment to reflect their actual hours worked in each classification.

6. Prime Contractor, Subcontractor, and every lower tier Subcontractor shall complete in its entirety a Project ID Card for each worker employed on the worksite of the project(s). The Project ID Card shall be completed within five (5) days of execution of contract award for project(s) or before worker(s) begins employment on the project(s) site. The Project ID Card template shall be downloaded from LCPtracker. Prime Contractor, Subcontractor, and every lower tier Subcontractor may use an equivalent Project ID form if approved by CDH in advance and in writing. Prime Contractor, Subcontractor, and every lower tier Subcontractor shall be responsible for furnishing and requiring each worker employed on the worksite to have in possession and/or display such identification card as may be approved and directed by CDH or its designee. Any worker(s) employed on project(s) site found to be without their Project ID Card may be removed from site until Project ID Card is restored. Any Prime Contractor, Subcontractor, and every lower tier Subcontractor who falsifies information on a Project ID Card and/or knowingly reports incorrect information regarding a worker employed on project(s) site shall be dismissed and removed from the project and barred from conducting further business on the project. Workers need to consider wearing heavy duty ID card holders, as they work in extremely physical environments.
7. CDH and/or its designee shall conduct employee interviews and Prime Contractor, Subcontractor, and every lower tier Subcontractor agrees to have their employees interviewed for the purposes of prevailing wage compliance. Employee interviews should be conducted at a frequency and number sufficient to establish the degree of adequacy and accuracy of the CPR, and the nature and extent of any violations. They should also be representative of all classifications of employees on the project. (29 CFR 5.6 (a) (3)).

In doubtful compliance situations, interviews with former employees may be appropriate. Employee interviews are intended to be private from their employer and Prime Contractor agrees allow CDH and/or its designee to conduct such interviews. Each employee should be informed that the information given is confidential, and that his/her identity will not be disclosed to the employer without the employee's written permission. CDH and/or its designee shall conduct at least one set of wage interviews with a representative group of workers during the project construction (PWRB 2013, Investigative Procedures Under Davis Bacon Related Act/Contract Work Hours and Safety Standards Act). CDH and/or its designee must conduct additional interviews if there is any reason to suspect a Contractor or their Subcontractor is at risk for violating wage requirements. As provided in 29 CFR 5.6(a)(5), all interviews must be conducted in confidence.

8. As permitted by Department of Labor, HUD, projects subject to DBRA and Title 8, section 16404 of the California Code of Regulations, allows Prime Contractor, Subcontractor and every lower tier Subcontractor to submit a weekly CPR electronically. Prime Contractor, Subcontractor, and every lower tier Subcontractor agrees to use LCPtracker and shall submit weekly CPR's as required during the term of construction on the project(s). LCPtracker is a web-based software CDH utilizes to collect, verify and manage prevailing wage certified payrolls and related labor compliance documentation.

Prime Contractor, Subcontractor and every Sub-Tier shall submit, via electronic submission, documents as required by CDH, which may include, but is not limited to Certified Payroll Records (CPR)s, Statements of Compliance and other required documents. Prime Contractor, Subcontractor and every Sub-Tier and/or their designee shall sign the E(Electronic)-Signature Authorization Agreement, which must be notarized with an "Acknowledgment", and establish a Personal Identification Number (PIN), on LCPtracker. Prime Contractor, Subcontractor and every Sub-Tier will electronically sign, by use of their established PIN, all documents requiring a signature that are submitted to CDH via LCPtracker. Prime Contractor, Subcontractor and every lower tier Subcontractor agree that their PIN, once established on LCPtracker, constitutes their electronic signature and understands that any information and documents submitted using their PIN is electronically certifying their signature. Prime Contractor, Subcontractor and every lower tier Subcontractor understand that they are legally bound, obligated, and responsible by use of their PIN/electronic signature as much as would be by their handwritten signature.

9. To meet labor compliance requirements, CDH requires that each Prime Contractor, Subcontractor, and every lower tier Subcontractor agrees to complete and submit all required eDocuments on LCPtracker.

All eDocuments are accessed, submitted and approved through LCPtracker. All eDocuments are submitted through CDH's Online Certified Payroll System using a PIN. If requested in writing by CDH, Prime Contractor, Subcontractor, and every lower tier Subcontractor shall provide to CDH any additional requested compliance documentation within no more than three (3) business days of request.

One of the documents that will be required to be uploaded in LCPtracker as part of the eDocuments, is a City business license or a letter stating the reasons why no business license is required. All contractors performing work on a project site located within an incorporated city must possess or obtain that city's business license. However, if the project is located in an unincorporated area of the County, and the contractor's business is located in an incorporated city, the contractor must possess or obtain a business license within the city where their business is located. An exception to the business license requirement will be a letter explaining the exception to the business license requirement, if the contractor's business and the project work site are both located in an unincorporated area of the County.

Prime Contractor, Subcontractor, and every lower tier Subcontractor agree to do the following on project(s):

- A. Submit a hard copy of the Electronic Signature Authorization form within five (5) working days of executed contract - to establish a Personal Identification Number (PIN)) Form must be completed and signed by a company owner, partner, executive officer or designee (if applicable) before a contractor may establish a PIN and electronically sign documents online.
- B. Complete Project ID cards as specified.
- C. Submit required eDocuments online within ten (10) working days of executed contract.
- D. Submit *non-required eDocuments and other documentation online as specified.
- E. Submit CPRs online within ten (10) working days of the work week's ending date.
- F. Submit one CPR online per project, per week.
- G. Report all workers, including owners, partners and superintendents, who were onsite.
- H. All contractors must submit CPRs online from the start of the project until the time that they finish their work on the project.
- I. All contractors must submit a Statement of Non-Performance online to certify that no work was performed by their company for any week of the project they are not working.
- J. All contractors must submit a final CPR online for the last week they are working on-site.
- K. All contractors must pay every worker on a weekly basis (if applicable).
- L. All CPRs must indicate check number or direct deposit transaction number.

(*Non-required eDocuments are those eDocuments which are not mandatory per LCPtracker; however, which may be required for a particular job on a case-by-case basis as specified.)

REQUIRED DOCUMENTS

DOCUMENT QUICK REFERENCE	
	Document Name/Number
Prime Contractor – Due prior to Pre-Construction Conference	
Executed Contract/Purchase Order (FLCCA and/or SLCCA must be attached)	
Bonds (Performance/payment or labor and material bonds)	
Prime/Subcontractor – Due prior to Start of Work	
Contractor Information Form ² (LCF 16-100)	
Copy of all executed Sub-Contractor contracts (FLCCA and/or SLCCA must be attached) ²	
Business Certification (LCF 16-SAM 2) ²	
E-Signature Authorization Annual Form (Must be notarized) (LCF 16-1.0) ²	
Affirmative Action Compliance Form for Construction Contracts over \$10,000 (LCF DB16-2.2)* ³	
Affidavit of Compliance with California Prevailing Wage Law (LCF CA16-3.4) ⁵	
Apprentice and Trainees Acknowledgement (LCF 16-XX) ⁴	
Certification of Bidder Regarding Equal Opportunity (LCF DB16-2.1)* ³	
Certification of Understanding and Authorization Form (LCF 16-1.2)* ^{3/4}	
Checklist of Labor Law Requirements (LCF CA16-3.1) ⁵	
City Business License/Exception Letter ²	
Contractor's Certification of Compliance with Davis-Bacon and Related Act Requirements (LCF DB16-2.0)* ³	
Fringe Benefit Statement Form (LCF 16-1.3)* ⁴	
Labor Compliance Contract Addendum – LCCA ²	
Project Wage Rate Sheet ^{2/2} (LCF -16-1.1)	
Public Works Contract Award Information (DAS 140) (LCF CA16-3.2) ⁵	
Request for Dispatch of an Apprentice (DAS 142) (LCF CA16-3.3) ⁵	
Section 3 Actions and Outcomes (LCF DB16-2.5) ³	
Section 3 Resource Participation Certificate (LCF DB16-2.4) ³	
Section 3 Business Certification (LCF DB 16-2.6)	
Section 3 Worker/Targeted Worker Eligibility Form (LCF DB 16-2.7)	
Section 3 Cumulative Report (LCF DB 16-2.8)	
Prime/Subcontractor – Due Progression of Work – Weekly	
Authorization for Payroll Deduction (LCF 16-1.4)* ³	
Department of Industrial Relations – Apprentice Certification (LCF 16-SAM 5) ⁵	
Department of Labor Apprenticeship Certification (LCF 16-SAM 4)* ³	
Apprenticeship Program Appendix A* ³	
Prime/Subcontractor – Due Progression of Work – Monthly	
Training Fund Contribution (LCF 16-SAM 8) ^{4/5}	
DIR – eCPR Submission Confirmation (LCF 16-SAM 9) ⁵	
Ready-Mix Concrete Driver Certified Time Record (LCF 16-SAM 10) ⁵	
Prime/Subcontractor – Due Progression of Work – As Needed	
C-10 Electrical Certification /Electrical Trainee (LCF 16-SAM 11) ⁵	
Employee CPR Certified Documentation ^{1/2}	

*These forms are located on the LCPTracker online database discussed in, "Electronic Submission of Certified Payrolls" section and will be discussed by County CDH staff at the preconstruction conference.

¹ If applicable to contractor

² Applies to all regardless of Funding

³ Federal Funds ONLY (Davis-Bacon)

⁴ Federal and State Funds

⁵ State Funds ONLY

STATE PREVAILING WAGE REQUIREMENTS

A. All or a portion of the Scope of Work in the Contract or Purchase Order (as applicable) requires the payment of prevailing wages and compliance with the following requirements.

(1) Determination of Prevailing Rates

Pursuant to Labor Code sections 1770, et seq., the County has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the California Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the County, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at www.dir.ca.gov. The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Contractor shall post, at appropriate and conspicuous locations on the jobsite, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.

(2) Payment of Prevailing Rates

Each worker of the Contractor, Subcontractor, lower tier Subcontractor engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor, Subcontractor, lower tier Subcontractor and their respective worker(s). California law prohibits the use of credits for Employer Payments to reduce the obligation to pay the hourly straight time or overtime wages specified as the Basic Hourly Rate in the general prevailing wage determination.

(3) Prevailing Rate Penalty

The Contractor shall, as a penalty, forfeit two hundred dollars (\$200.00) to the County for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Contractor, Subcontractor or lower tier Subcontractor in connection with the Scope of Work. Pursuant to California Labor Code section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Prime Contractor, Subcontractor or lower tier Subcontractor.

(4) Ineligible Contractors

Pursuant to the provisions of Labor Code section 1777.1, the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a Prime Contractor, Subcontractor, or lower tier Subcontractor on a public works project. This list of debarred contractors is available from the DIR website at <http://www.dir.ca.gov/Public-Works/PublicWorks.html>. Any contract entered into between a Prime Contractor and a debarred subcontractor is void as a matter of law. A debarred Subcontractor may not receive any public money for performing work as a Subcontractor on a public works contract, and any public money that may have been paid to a debarred Subcontractor by a Prime Contractor on the project shall be returned to the County. The Prime Contractor shall be responsible for the payment of wages to workers of a debarred Subcontractor or lower tier Subcontractor who has been allowed to work on the Scope of Work.

(5) Payroll Records

Pursuant to California Labor Code section 1776, the Prime Contractor, Subcontractor, and lower tier Subcontractor shall keep accurate certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by them in connection with the Scope of Work. Each payroll record enumerated herein shall contain or be verified by a

written declaration that it is made under penalty of perjury stating both of the following: (1) the information contained in the payroll record is true and correct and (2) the Prime Contractor, Subcontractor, or lower tier Subcontractor has complied with the requirements of California Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Prime Contractor on the following basis:

- (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;
- (2) A certified copy of all payroll records shall be made available for inspection or furnished upon request to the County or the Division of Labor Standards Enforcement of the DIR;
- (3) A certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the County or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the County or the Division of Labor Standards Enforcement, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Prime Contractor, Subcontractor, or lower tier Subcontractor and the entity through which the request was made. The public shall not be given access to such records at the principal office of the Prime Contractor;
- (4) The Prime Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and
- (5) Copies provided to the public, by the County or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address and social security number. The name and address of the Prime Contractor, Subcontractor, or lower tier Subcontractor performing a part of the Scope of Work shall not be marked or obliterated. The Prime Contractor shall inform the County of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address.

The Prime Contractor shall have ten (10) days from receipt of the written notice specifying in what respects they must comply with the above requirements. In the event Prime Contractor does not comply with the requirements of this section within the ten (10) day period, the Prime Contractor shall, as a penalty to the County, forfeit one-hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalty shall be withheld from any portion of the payments then due or to become due to the Prime Contractor.

(6) Limits on Hours of Work

Pursuant to California Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code section 1811, the time of service of any worker employed at any time by the Prime Contractor, Subcontractor, or lower tier Subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of the Prime Contractor, Subcontractor, or lower tier Subcontractor in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

(7) Penalty for Excess Hours

The Prime Contractor shall pay to the County a penalty of twenty-five dollars (\$25.00) for each worker employed on the Scope of Work by the Prime Contractor, Subcontractor, or lower tier Subcontractor for

each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Prime Contractor, Subcontractor or lower tier Subcontractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

(8) Senate Bill 854 (Chapter 28, Statutes of 2014) Requirements:

1) Prime Contractor, Subcontractors and lower tier Subcontractors shall comply with Senate Bill 854 (signed into law on June 20, 2014). The requirements include, but are not limited to, the following:

- a. No Prime Contractor, Subcontractor, or lower tier Subcontractor may be listed on a bid proposal for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirements for bid purposes only as allowed under Labor Code section 1771.1(a).
- b. No Prime Contractor, Subcontractor, or lower tier Subcontractor may be awarded a contract for public work or perform work on a public works project unless registered with the DIR pursuant to Labor Code section 1725.5.
- c. This project is subject to compliance monitoring and enforcement by the DIR.
- d. As required by the DIR, Prime Contractor is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.
- e. Prime Contractor, Subcontractors, and lower tier Subcontractors must submit certified payroll records online to the Labor Commissioner for all public works projects, new or ongoing, on or after January 1, 2016.
 - a. The certified payroll must be submitted at least monthly to the Labor Commissioner.
 - b. The County reserves the right to require Prime Contractor, Subcontractors, and lower tier Subcontractor to submit certified payroll records more frequently than monthly to the Labor Commissioner.
 - c. The certified payroll records must be in a format prescribed by the Labor Commissioner.

2) Labor Code section 1725.5 states the following:

A Prime Contractor, Subcontractors, and lower tier Subcontractors shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, "contractor" includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a Prime Contractor shall do all of the following:

- (1) Beginning July 1, 2014, register with the Department of Industrial Relations in the manner prescribed by the Department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1st of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the Director to support the costs specified in Section 1771.3.
- (2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:
 - (A) Workers' Compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the Prime Contractor, Subcontractor or lower tier Subcontractor employs to

perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of Workers' Compensation Insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

- (B) If applicable, the Prime Contractor, Subcontractor, or lower tier Subcontractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.
 - (C) The Prime Contractor, Subcontractor or Sub-Tier does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.
 - (D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.
 - (E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:
 - (i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.
 - (ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).
- (b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.
- (c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on, or engaging in the performance of, any contract for public works until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.
- (d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:
- (1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.
 - (2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors

are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2) of this subdivision.

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work, as defined in this chapter, entered into on or after April 1, 2015.

3) Labor Code section 1771.1 states the following:

(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted, nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5(h).

(h)(1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

- 1) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.
- 2) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.
- 3) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j) (1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.

- 2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:
 - a) Manual delivery of the order to the contractor or subcontractor personally.
 - b) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at one of the following:
 - a. The address of the contractor or subcontractor on file with either the Secretary of State or the Contractors' State License Board.
 - b. If the contractor or subcontractor has no address on file with the Secretary of State or the Contractors' State License Board, the address of the site of the public work.
- 3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered

contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

- 4) Any employee of an unregistered contractor or subcontractor who is affected by a work stoppage ordered by the commissioner pursuant to this subdivision shall be paid at his or her regular hourly prevailing wage rate by that employer for any hours the employee would have worked but for the work stoppage, not to exceed 10 days.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

4) Labor Code section 1771.4 states the following:

(a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) (A) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(i) At least monthly or more frequently if specified in the contract with the awarding body. For purposes of this clause, "monthly" means that a submission of records shall be made at least once every 30 days while work is being performed on the project and within 30 days after the final day of work performed on the project.

(ii) In an electronic format, in the manner prescribed by the Labor Commissioner, on the department's internet website.

(B) A contractor or subcontractor who fails to furnish records pursuant to subparagraph (A), relating to its employees, shall be subject to a penalty by the Labor Commissioner of one hundred dollars (\$100) per each day in which that party was in violation of subparagraph (A), not to exceed a total penalty of five thousand dollars (\$5,000) per project. Penalties received pursuant to this paragraph shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(C) The Labor Commissioner shall not levy a penalty pursuant to subparagraph (B) until a contractor or subcontractor fails to furnish the records pursuant to subparagraph (A) 14 days after the requirement set forth in clause (i) of subparagraph (A).

- (D) Penalties pursuant to subparagraph (B) may only accrue to the actual contractor or subcontractor that failed to furnish the records pursuant to subparagraph (A).
- (4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.
- (5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.
- (b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:
 - (1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.
 - (2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.
- (c)
 - (1) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.
- (d) The requirements of paragraph (3) of subdivision (a) shall apply to all contract for public work, whether new or ongoing, on or after January 1, 2016.

(9) Compliance with California Labor Code section 1720.9

- (1) Labor Code section 1720.9 expanded the definition of “public works” under the California Prevailing Wage Law to include the following:
 - (a) Hauling and delivery of ready-mixed concrete to carry out a public works, contract, with respect to contracts involving any state agency, including the California State University and the University of California, or any political subdivision of the state.
- (2) Section 1720.9 defines the term “ready-mixed concrete” and specifies that rate of pay shall be the current prevailing wage “for the geographic area in which the factory or batching plant is located” as determined by the DIR. The entity hauling or delivering ready-mixed concrete to carry out a public works contract shall enter into a written subcontract agreement with the party that engaged the entity to supply the ready-mixed concrete. The written agreement shall require compliance with Prevailing Wage Law.
- (3) Section 1720.9 requires that the entity hauling or delivering ready-mixed concrete to carry out a public works contract shall submit a certified copy of the payroll records required by subdivision (a) of Section 1776 to the party that engaged the entity and to the general contractor within five working days after the employee has been paid, accompanied by a written time record that shall be certified by each driver for the performance of job duties in Section 1720.9(c).
- (4) Section 1720.9(e) the entity hauling or delivering ready-mixed concrete for public works project shall be considered subcontractors and must register with the DIR as per Labor Code 1725.5.

B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS

1. State Public Works Apprenticeship Requirements:

The Contractor is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable occupations (denoted with “#” symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Contractor, subcontractor, vendor or consultant. Included in these requirements is (1) the Contractor’s requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training fund contributions for each apprenticeable hour employed on the Contract; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five journeyman hours by completion of Contract work (unless an exception is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.

Any apprentices employed to perform any of the Scope of Work shall be paid the standard wage to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.

2. Compliance with California Labor Code section 1777.5 requires all public works contractors to:

(1) Submit Contract Award Information (DAS-140)

- a. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project.
- b. The DAS-140 is a notification “announcement” of the Contractor’s participation on a public works project—*it is not a request for the dispatch of an apprentice.*
- c. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract or subcontract, but in no event later than the first day in which the Contractor has workers employed on the public work project.
- d. Contractors who are already approved to train apprentices (i.e. check “Box 1” on the DAS-140) shall only be required to submit the form to their approved program.
- e. Contractors who are NOT approved to train apprentices (i.e. those that check either “Box 2” or “Box 3” on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see <http://www.dir.ca.gov/Databases/das/pwaddrstart.asp>.

(2) Employ Registered Apprentices

- a. Labor Code section 1777.5 requires that a contractor performing work in an “apprenticeable” craft must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman. This ratio shall be met prior to the Contractor’s completion of work on the project. “Apprenticeable” crafts are denoted with a pound symbol “#” in front of the craft name on the prevailing wage determination.
- b. All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.
- c. Contractors may use the “DAS-142” form for making a request for the dispatch of an apprentice.
- d. Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
- e. Contractor should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Contractor has met its requirement

to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.

- f. Only "registered" apprentices may be paid the prevailing apprentice rates and must, at all times work under the supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).

(3) Make Training Fund Contributions

- a. Contractors performing in apprenticeable crafts on public works projects, must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices.
- b. Contractors may use the "CAC-2" form for submittal of their training fund contributions.
- c. Contractors who do not submit their training fund contributions to an approved apprenticeship training program must submit their contributions to the California Apprenticeship Council (CAC), PO Box 420603, San Francisco, CA 94142-0603.
- d. Training fund contributions to the CAC are due and payable on the 15th day of the month for work performed during the preceding month.
- e. The "training" contribution amount identified on the prevailing wage determination shall not be paid to the worker, unless the worker falls within one of the exemption categories listed below.

3. Exemptions to Apprenticeship Requirements:

The following are exempt from having to comply with California apprenticeship requirements. These types of contractors do not need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices.

- a. When the Contractor holds a sole proprietor license ("Owner-Operator") and no workers were employed by the Contractor. In other words, the contractor performed the entire work from start to finish and worked alone.
- b. Contractors performing in non-apprenticeable crafts. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
- c. When the Contractor has a direct contract with the Public Agency that is under \$30,000.
- d. When the project is 100% federally-funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
- e. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.

4. Exemption from Apprenticeship Ratios:

The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:

- (1) Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
- (2) The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or
- (3) The Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or
- (4) If assignment of an apprentice to any work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

5. Contractor's Compliance:

The responsibility of compliance with this Section for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Section are subject to the provisions of California Labor Code section 3081 and penalties are pursuant to Labor Code section 1777.7 and the determination of the Labor Commissioner.

A. APPLICABILITY

The Project or Program to which the construction work covered by this Contract pertains is being assisted by the United States of America, and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

(1) MINIMUM WAGES

- (i) 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 29 CFR 5.5(a)(1)(iv); 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 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH1321)) 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.

(ii) Additional Classifications.

- (A) Any class of laborers or mechanics 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. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:
- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
 - (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the contractor, the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division ("Administrator"), Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget ("OMB") under OMB control number 1235-0023.)
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, or HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1235-0023.)

- (D) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (1)(ii)(B) or (C) of this paragraph, 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.
- (iii) 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.
- (iv) 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. (Approved by the Office of Management and Budget under OMB Control Number 1235-0023.)
- (2) **Withholding.** HUD or its designee shall, upon its own action or upon written request of an authorized representative of the U.S. 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, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, 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. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The U.S. Department of Labor shall make such disbursements in the case of direct Davis-Bacon Act contracts.
- (3) **Payrolls and basic records.**
- (i) **Maintaining Payroll Records.** 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(s), 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. (Approved by the Office of Management and Budget under OMB Control Numbers 1235-0023 and 1215-0018)
- (ii) **Certified Payroll Reports.**
- (A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. 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 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 <https://www.dol.gov/agencies/whd/forms> 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 HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the U.S. Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph 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 HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1235-0008.)

- (B) 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:
 - (1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;
 - (2) 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 29 CFR Part 3;
 - (3) 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; and
 - (C) 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 subparagraph (a)(3)(ii)(b).
 - (D) 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 3729 of Title 31 of the United States Code.
- (iii) The contractor or subcontractor shall make the records required under subparagraph (a)(3)(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the U.S. 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, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, 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.**
- (i) **Apprentices.** 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, fringe benefits 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.

- (ii) **Trainees.** 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 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.

- (iii) **Equal employment opportunity.** The utilization of apprentices, trainees, and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

- (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 will insert in any subcontracts the clauses contained in subparagraphs (1) through (11) in this paragraph (a) and such other clauses as HUD or its designee may, by appropriate instructions, require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses 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 this paragraph.
- (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 U.S. 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 HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.
- (10) **Certification of Eligibility.**
- (i) 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) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

- (ii) 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) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.
- (iii) Anyone who knowingly makes, presents, or submits a false, fictitious, or fraudulent statement, representation or certification is subject to criminal, civil and/or administrative sanctions, including fines, penalties, and imprisonment (e.g., 18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §§ 3729, 3802).

(11) Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic, to whom the wage, salary, or other labor standards provisions of this Contract are applicable, shall be discharged or in any other manner discriminated against by the contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The provisions of this paragraph (b) are applicable where the amount of the prime contract exceeds **\$100,000**. 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 the individual is employed on such work to work in excess of 40 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 40 hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph B(1) of this paragraph, 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 subparagraph B(1) of this paragraph, **in the sum set by the U.S. Department of Labor at 29 CFR 5.5(b)(2)** for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph B(1) of this paragraph. In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. § 2461 Note), the DOL adjusts this civil monetary penalty for inflation no later than January 15 each year.
- (3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall, upon its own action or upon written request of an authorized representative of the U.S. 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 contract, 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 subparagraph B(2) of this paragraph.
- (4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph B(1) through (4) of this paragraph 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 subparagraphs B(1) through (4) of this paragraph.

C. HEALTH AND SAFETY

The provisions of this paragraph (c) are applicable where the amount of the prime contract exceeds **\$100,000**.

- (1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety, as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
- (2)** The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96), 40 U.S.C. § 3701 et seq.
- (3)** The contractor shall include the provisions of this paragraph in every subcontract, so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

SECTION 3

(Information for the Section 3 Report will be input on LCPtracker)

Section 3 Purpose

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701(u)) ("Section 3") requires the San Bernardino County Community Development and Housing Department ("County") to ensure that employment, training, contracting and other economic and business opportunities generated by certain United States Department of Housing and Urban Development ("HUD") financial assistance, to the greatest extent feasible, is directed to public housing residents and other low- and very low-income persons, particularly recipients of government housing assistance, and business concerns.

Applicability

As a federal participating jurisdiction, the County receives Community Development Block Grant ("CDBG") funds and Home Investment Partnerships Program ("HOME") funds on an annual basis from HUD. These funds activate Section 3 which applies to any such jurisdiction, and any of its organizations, subrecipients, or other entities receiving in excess of \$200,000 combined from HUD in any one year. The County occasionally may receive additional funding that may contain a Section 3 requirement.

If developers, contractors, and subcontractors and every Sub-tier need to hire new personnel or subcontract portions of Section 3 covered work, they must, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low-and very low-income persons (Section 3 workers and Targeted Section 3 workers) and to eligible businesses (Section 3 Business) and requires the same of its contractors.

Prime Contractor, Subcontractor and every Sub-tier shall agree to do the following on project(s) that are subject to Section 3 rules as described in 24 CFR Part 75:

- A. Prior to the beginning of work and upon completion of a project, contractors, subcontractors and every Sub-tier will be required to certify that they will make or have made best efforts to follow the prioritization of efforts requirements for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as described in 24 CFR Part 75.
- B. After completion of the project contractors, subcontractors and every Sub-tier will be required to certify that they have followed the prioritization of effort requirements. If the Safe Harbor benchmark requirements as described in 24 CFR Part 75 (see below) were not met, evidence of efforts made to assist low and very low-income persons with employment and training opportunities will need to be provided.
 1. Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and
 2. Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.
- C. Contractor will be responsible to implement efforts to achieve Section 3 compliance. Contractors submitting bids or proposals will be required to certify that they will comply with prioritization of efforts for employment, training and contracting as described in 24 CFR Part 75.
- D. Contractors, Subcontractors and every Sub-tier must make their best efforts to award contracts and subcontract to business concerns that provide economic opportunities to Section 3 workers in the following priority:
 1. Business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or non-metropolitan county)

in which assistance is located in the following order of priority (where feasible).

- a. Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project; and
 - b. YouthBuild programs.
- E. Contractors, Subcontractor and every Sub-tier will provide a Self-Certification Section 3 Worker and Targeted Worker Eligibility Form for qualified Section 3 worker and Targeted Section 3 workers as defined in 24 CFR Part 75. For the purpose of Section 3 worker eligibility, the Contractor, Subcontractor and sub-tier will use the individual income to determine eligibility. The income limits will be determined annually using the guideline published at <https://www.huduser.gov/portal/datasets/il.html>.
- F. In the event Section 3 covered projects include multiple sources of funds, including public housing financial assistance and housing and community development assistance, the Contractor, Subcontractor and Sub-tier may be required to follow the definition of Section 3 worker and Targeted Section 3 worker as defined in subpart B or subpart C of 24 CFR Part 75.
- G. Contractors, Subcontractor and every Sub-tier that feel that they meet the Section 3 business requirements may self-register in the HUD Business Registry, here: <http://www.hud.gov/Sec3Biz>. Business may seek Section 3 business concern preference by demonstrating that it meets one or more of the following criteria:
1. At least 51 percent of the business is owned and controlled by low-or very low-income persons; or
 2. At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
 3. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.
- H. Contractor, Subcontractor and every Sub-tier agree to collect, at the time of bid/proposal, a Self-Certification Section 3 Business Concern Eligibility form from any business that seeks a Section 3 preference and that meets the Section 3 business criteria as described above and in 24 CFR Part 75.
- I. Contractors, Subcontractor and every Sub-tier will incorporate the Section 3 language in all Section 3 covered contracts or agreements to ensure contractors meet the requirements of 24 CFR Part 75.
- J. Contractors agree to submit a Section 3 Cumulative Report monthly, annually and upon the completion of a project. Monthly reporting will need to be submitted at the beginning of each month for the preceding month. Additionally, reporting shall be submitted on an annual basis and at the end of each project.

3051 (42 U.S.C. 14043e *et seq.*); E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and E.O. 13559, 75 FR 71319, 3 CFR 2010 Comp., p. 273.

§ 5.105 [Amended]

- 2. Amend § 5.105(a) by removing “; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135.”

PART 14—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN ADMINISTRATIVE PROCEEDINGS

- 3. The authority for part 14 continues to read as follows:

Authority: 5 U.S.C. 504(c)(1); 42 U.S.C. 3535(d).

§ 14.115 [Amended]

- 4. Amend § 14.115 by removing and reserving paragraph (a)(5).
- 5. Add part 75 to read as follows:

PART 75—ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS

Subpart A—General Provisions

Sec.

- 75.1 Purpose.
- 75.3 Applicability.
- 75.5 Definitions.
- 75.7 Requirements applicable to HUD NOFAs for Section 3 covered programs.

Subpart B—Additional Provisions for Public Housing Financial Assistance

- 75.9 Requirements.
- 75.11 Targeted Section 3 worker for public housing financial assistance.
- 75.13 Section 3 safe harbor.
- 75.15 Reporting.
- 75.17 Contract provisions.

Subpart C—Additional Provisions for Housing and Community Development Financial Assistance

- 75.19 Requirements.
- 75.21 Targeted Section 3 worker for housing and community development financial assistance.
- 75.23 Section 3 safe harbor.
- 75.25 Reporting.
- 75.27 Contract provisions.

Subpart D—Provisions for Multiple Funding Sources, Recordkeeping and Compliance

- 75.29 Multiple funding sources.
- 75.31 Recordkeeping.
- 75.33 Compliance.

Authority: 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

Subpart A—General Provisions

§ 75.1 Purpose.

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C.

1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

§ 75.3 Applicability.

(a) *General applicability.* Section 3 applies to public housing financial assistance and Section 3 projects, as follows:

(1) *Public housing financial assistance.* Public housing financial assistance means:

(i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);

(ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;

(iii) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and

(iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.

(2) *Section 3 projects.* (i) Section 3 projects means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 *et seq.*); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

(ii) The Secretary must update the thresholds provided in paragraph (a)(2)(i) of this section not less than once every 5 years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. When the Secretary finds it is warranted to ensure

compliance with Section 3, the Secretary may adjust, regardless of the national construction cost factor, such thresholds through Federal Register notice, subject to public comment.

(iii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

(b) *Contracts for materials.* Section 3 requirements do not apply to material supply contracts.

(c) *Indian and Tribal preferences.* Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of this part.

(d) *Other HUD assistance and other Federal assistance.* Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

§ 75.5 Definitions.

The terms *HUD*, *Public housing*, and *Public Housing Agency (PHA)* are defined in 24 CFR part 5. The following definitions also apply to this part: *1937 Act* means the United States Housing Act of 1937, 42 U.S.C. 1437 *et seq.*

Contractor means any entity entering into a contract with:

(1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or

(2) A subrecipient for work in connection with a Section 3 project. *Labor hours* means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act. *Material supply contracts* means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies. *Professional services* means non-construction services that require an

advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance means assistance as defined in § 75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means:

(1) A business concern meeting at least one of the following criteria, documented within the last six-month period:

(i) It is at least 51 percent owned and controlled by low- or very low-income persons;

(ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

(iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

(2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Section 3 project means a project defined in § 75.3(a)(2).

Section 3 worker means:

(1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

(i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.

(ii) The worker is employed by a Section 3 business concern.

(iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of

someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Section 8-assisted housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act. *Service area or the neighborhood of the project* means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Subrecipient has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

Targeted Section 3 worker has the meanings provided in §§ 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

§ 75.7 Requirements applicable to HUD NOFAs for Section 3 covered programs.

All notices of funding availability (NOFAs) issued by HUD that announce the availability of funding covered by § 75.3 will include notice that this part is applicable to the funding and may include, as appropriate for the specific NOFA, points or bonus points for the quality of Section 3 plans.

Subpart B—Additional Provisions for Public Housing Financial Assistance

§ 75.9 Requirements.

(a) *Employment and training.* (1) Consistent with existing Federal, state, and local laws and regulations, PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing

financial assistance to Section 3 workers.

(2) PHAs or other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (a)(1) of this section in the following order of priority:

(i) To residents of the public housing projects for which the public housing financial assistance is expended;

(ii) To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;

(iii) To participants in YouthBuild programs; and

(iv) To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(b) *Contracting.* (1) Consistent with existing Federal, state, and local laws and regulations, PHAs and other recipients of public housing financial assistance, and their contractors and subcontractors, must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers.

(2) PHAs and other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (b)(1) of this section in the following order of priority:

(i) To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;

(ii) To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance;

(iii) To YouthBuild programs; and

(iv) To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

§ 75.11 Targeted Section 3 worker for public housing financial assistance.

(a) *Targeted Section 3 worker.* A Targeted Section 3 worker for public housing financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

(2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:

(i) A resident of public housing or Section 8-assisted housing;

(ii) A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or

(iii) A YouthBuild participant.

(b) [Reserved]

§ 75.13 Section 3 safe harbor.

(a) *General.* PHAs and other recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary, if they:

(1) Certify that they have followed the prioritization of effort in § 75.9; and

(2) Meet or exceed the applicable Section 3 benchmarks as described in paragraph (b) of this section.

(b) *Establishing benchmarks.* (1) HUD will establish Section 3 benchmarks for Section 3 workers or Targeted Section 3 workers or both through a document published in the **Federal Register**. HUD may establish a single nationwide benchmark for Section 3 workers and a single nationwide benchmark for Targeted Section 3 workers, or may establish multiple benchmarks based on geography, the type of public housing financial assistance, or other variables. HUD will update the benchmarks through a document published in the **Federal Register**, subject to public comment, not less frequently than once every 3 years. Such notice shall include aggregate data on labor hours and the proportion of PHAs and other recipients meeting benchmarks, as well as other metrics reported pursuant to § 75.15 as deemed appropriate by HUD, for the 3 most recent reporting years.

(2) In establishing the Section 3 benchmarks, HUD may consider the industry averages for labor hours worked by specific categories of workers or in different localities or regions; averages for labor hours worked by Section 3 workers and Targeted Section 3 workers as reported by recipients pursuant to this section; and any other factors HUD deems important. In establishing the Section 3 benchmarks, HUD will exclude professional services from the total number of labor hours as such hours are excluded from the total number of labor hours to be reported per § 75.15(a)(4).

(3) Section 3 benchmarks will consist of the following two ratios:

(i) The number of labor hours worked by Section 3 workers divided by the total number of labor hours worked by all workers funded by public housing financial assistance in the PHA's or other recipient's fiscal year.

(ii) The number of labor hours worked by Targeted Section 3 workers, as defined in § 75.11(a), divided by the total number of labor hours worked by

all workers funded by public housing financial assistance in the PHA's or other recipient's fiscal year.

§ 75.15 Reporting.

(a) *Reporting of labor hours.* (1) For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD:

(i) The total number of labor hours worked;

(ii) The total number of labor hours worked by Section 3 workers; and

(iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to § 75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked with public housing financial assistance in the fiscal year of the PHA or other recipient, including labor hours worked by any contractors and subcontractors that the PHA or other recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) PHAs and other recipients reporting under this section, as well as contractors and subcontractors who report to PHAs and recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the PHA, other recipient, contractor, or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) PHAs and other recipients may report on the labor hours of the PHA, the recipient, a contractor, or a subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

(b) *Additional reporting if Section 3 benchmarks are not met.* If the PHA's or other recipient's reporting under paragraph (a) of this section indicates

that the PHA or other recipient has not met the Section 3 benchmarks described in § 75.13, the PHA or other recipient must report in a form prescribed by HUD on the qualitative nature of its Section 3 compliance activities and those of its contractors and subcontractors. Such qualitative efforts may, for example, include but are not limited to the following:

(1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.

(2) Provided training or apprenticeship opportunities.

(3) Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).

(4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.

(5) Held one or more job fairs.

(6) Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, child care).

(7) Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.

(8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.

(9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.

(10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.

(11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.

(12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.

(13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

(14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

(c) *Reporting frequency.* Unless otherwise provided, PHAs or other recipients must report annually to HUD under paragraph (a) of this section, and, where required, under paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

(d) *Reporting by Small PHAs.* Small PHAs may elect not to report under

paragraph (a) of this section. Small PHAs that make such election are required to report on their qualitative efforts, as described in paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

§ 75.17 Contract provisions.

(a) PHAs or other recipients must include language in any agreement or contract to apply Section 3 to contractors.

(b) PHAs or other recipients must require contractors to include language in any contract or agreement to apply Section 3 to subcontractors.

(c) PHAs or other recipients must require all contractors and subcontractors to meet the requirements of § 75.9, regardless of whether Section 3 language is included in contracts.

Subpart C—Additional Provisions for Housing and Community Development Financial Assistance

§ 75.19 Requirements.

(a) *Employment and training.* (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for opportunities and training described in paragraph (a)(1) of this section should be given to:

(i) Section 3 workers residing within the service area or the neighborhood of the project, and

(ii) Participants in YouthBuild programs.

(b) *Contracting.* (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this section should be given to:

(i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and

(ii) YouthBuild programs.

§ 75.21 Targeted Section 3 worker for housing and community development financial assistance.

(a) *Targeted Section 3 worker.* A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

(2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:

(i) Living within the service area or the neighborhood of the project, as defined in § 75.5; or

(ii) A YouthBuild participant.

(b) [Reserved]

§ 75.23 Section 3 safe harbor.

(a) *General.* Recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary if they:

(1) Certify that they have followed the prioritization of effort in § 75.19; and

(2) Meet or exceed the applicable Section 3 benchmark as described in paragraph (b) of this section.

(b) *Establishing benchmarks.* (1) HUD will establish Section 3 benchmarks for Section 3 workers or Targeted Section 3 workers or both through a document published in the **Federal Register**. HUD may establish a single nationwide benchmark for Section 3 workers and a single nationwide benchmark for Targeted Section 3 workers, or may establish multiple benchmarks based on geography, the nature of the Section 3 project, or other variables. HUD will update the benchmarks through a document published in the **Federal Register**, subject to public comment, not less frequently than once every 3 years. Such notice shall include aggregate data on labor hours and the proportion of recipients meeting benchmarks, as well as other metrics reported pursuant to § 75.25 as deemed appropriate by HUD, for the 3 most recent reporting years.

(2) In establishing the Section 3 benchmarks, HUD may consider the industry averages for labor hours worked by specific categories of workers or in different localities or regions; averages for labor hours worked by Section 3 workers and Targeted Section 3 workers as reported by recipients pursuant to this section; and any other factors HUD deems important. In establishing the Section 3 benchmarks, HUD will exclude professional services from the total number of labor hours as such hours are excluded from the total number of labor hours to be reported per § 75.25(a)(4).

(3) Section 3 benchmarks will consist of the following two ratios:

(i) The number of labor hours worked by Section 3 workers divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

(ii) The number of labor hours worked by Targeted Section 3 workers as defined in § 75.21(a), divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

§ 75.25 Reporting.

(a) *Reporting of labor hours.* (1) For Section 3 projects, recipients must report in a manner prescribed by HUD:

(i) The total number of labor hours worked;

(ii) The total number of labor hours worked by Section 3 workers; and

(iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to § 75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) Recipients reporting under this section, as well as subrecipients, contractors and subcontractors who report to recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) Recipients may report their own labor hours or that of a subrecipient, contractor, or subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is

otherwise subject to requirements specifying time and attendance reporting.

(b) *Additional reporting if Section 3 benchmarks are not met.* If the recipient's reporting under paragraph (a) of this section indicates that the recipient has not met the Section 3 benchmarks described in § 75.23, the recipient must report in a form prescribed by HUD on the qualitative nature of its activities and those its contractors and subcontractors pursued. Such qualitative efforts may, for example, include but are not limited to the following:

(1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
(2) Provided training or apprenticeship opportunities.

(3) Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).

(4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.

(5) Held one or more job fairs.

(6) Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, child care).

(7) Provided assistance to apply for/attend community college, a four-year educational institution, or vocational/technical training.

(8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.

(9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.

(10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.

(11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.

(12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.

(13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

(14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

(c) *Reporting frequency.* Unless otherwise provided, recipients must report annually to HUD under paragraph (a) of this section, and, where

required, under paragraph (b) of this section, on all projects completed within the reporting year in a manner consistent with reporting requirements for the applicable HUD program.

§ 75.27 Contract provisions.

(a) Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.

(b) Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of § 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

Subpart D—Provisions for Multiple Funding Sources, Recordkeeping, and Compliance

§ 75.29 Multiple funding sources.

(a) If a housing rehabilitation, housing construction or other public construction project is subject to Section 3 pursuant to § 75.3(a)(1) and (2), the recipient must follow subpart B of this part for the public housing financial assistance and may follow either subpart B or C of this part for the housing and community development financial assistance. For such a project, the following applies:

(1) For housing and community development financial assistance, a Targeted Section 3 worker is any worker who meets the definition of a Targeted Section 3 worker in either subpart B or C of this part; and

(2) The recipients of both sources of funding shall report on the housing rehabilitation, housing construction, or other public construction project as a whole and shall identify the multiple associated recipients. PHAs and other recipients must report the following information:

(i) The total number of labor hours worked on the project;

(ii) The total number of labor hours worked by Section 3 workers on the project; and

(iii) The total number of labor hours worked by Targeted Section 3 workers on the project.

(b) If a housing rehabilitation, housing construction, or other public construction project is subject to Section 3 because the project is assisted with funding from multiple sources of housing and community development assistance that exceed the thresholds in

§ 75.3(a)(2), the recipient or recipients must follow subpart C of this part, and must report to the applicable HUD program office, as prescribed by HUD.

§ 75.31 Recordkeeping.

(a) HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program by which the Section 3 project is governed, or the public housing financial assistance is provided or otherwise made available to the recipient, subrecipient, contractor, or subcontractor.

(b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

(1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

(i) A worker's self-certification that their income is below the income limit from the prior calendar year;

(ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;

(iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or

(v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

(i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:

(A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;

(B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(C) An employer's certification that the worker is employed by a Section 3 business concern; or

(D) A worker's certification that the worker is a YouthBuild participant.

(ii) For a worker to qualify as a Targeted Section 3 worker under subpart C of this part:

(A) An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;

(B) An employer's certification that the worker is employed by a Section 3 business concern; or

(C) A worker's self-certification that the worker is a YouthBuild participant.

(c) The documentation described in paragraph (b) of this section must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR part 200.

(d) A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.

§ 75.33 Compliance.

(a) *Records of compliance.* Each recipient shall maintain adequate records demonstrating compliance with this part, consistent with other recordkeeping requirements in 2 CFR part 200.

(b) *Complaints.* Complaints alleging failure of compliance with this part may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office.

(c) *Monitoring.* HUD will monitor compliance with the requirements of this part. The applicable HUD program office will determine appropriate methods by which to oversee Section 3 compliance. HUD may impose appropriate remedies and sanctions in accordance with the laws and regulations for the program under which the violation was found.

PART 91—CONSOLIDATED SUBMISSIONS FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS

- 6. The authority citation for part 91 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3601–3619, 5301–5315, 11331–11388, 12701–12711, 12741–12756, and 12901–12912.

§ 91.215 [Amended]

- 7. Amend § 91.215(j) by removing “24 CFR part 135” and adding, in its place “24 CFR part 75”.

§ 91.225 [Amended]

- 8. Amend § 91.225(a)(7) by removing “24 CFR part 135” and adding, in its place “24 CFR part 75”.

§ 91.325 [Amended]

- 9. Amend § 91.325(a)(7) by removing “24 CFR part 135” and adding, in its place “24 CFR part 75”.

§ 91.425 [Amended]

- 10. Amend § 91.425(a)(1)(vii) by removing “24 CFR part 135” and adding, in its place “24 CFR part 75”.

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

- 11. The authority citation for part 92 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 12 U.S.C. 1701x and 4568.

- 12. Amend § 92.508 as follows:

- a. Remove paragraph (a)(7)(i)(B);
- b. Redesignate paragraph (a)(7)(i)(C) as (a)(7)(i)(B); and
- c. Add paragraph (a)(7)(xi).
The addition reads as follows:

§ 92.508 Recordkeeping.

(a) * * *

(7) * * *

(xi) Documentation of actions undertaken to meet the requirements of 24 CFR part 75 which implements section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701u).

* * * * *

PART 93—HOUSING TRUST FUND

- 13. The authority citation for part 93 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 12 U.S.C. 4568.

- 14. Amend § 93.407 as follows:

- a. Redesignate paragraphs (a)(5)(ii) through (ix) as paragraphs (a)(5)(iii) through (x);
- b. Remove paragraph (a)(5)(i)(B);
- c. Redesignate paragraph (a)(5)(i)(A) as paragraph (a)(5)(ii);
- d. In newly redesignated paragraph (a)(5)(iv), remove “24 part 35” and add in its place “24 CFR part 35”; and
- e. Add paragraph (a)(5)(xi).
The addition reads as follows:

§ 93.407 Recordkeeping.

(a) * * *

(5) * * *

(xi) Documentation of actions undertaken to meet the requirements of 24 CFR part 75, which implements section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

* * * * *

CHAPTER I—OFFICE OF ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT [AMENDED]

- 15. Under the authority of 42 U.S.C. 3535(d), in chapter I, remove designated subchapter headings A and B.

PART 135 —[REMOVED]

- 16. Remove part 135.

PART 266—HOUSING FINANCE AGENCY RISK-SHARING PROGRAM FOR INSURED AFFORDABLE MULTIFAMILY PROJECT LOANS

- 17. The authority citation for part 266 continues to read as follows:

Authority: 12 U.S.C. 1707; 42 U.S.C. 3535(d).

§ 266.220 [Amended]

- 18. Amend § 266.220(c) by removing “; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), as implemented by 24 CFR part 135”.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

- 19. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1701x, 1701 x-1; 42 U.S.C. 3535(d) and 5301–5320.

§ 570.487 [Amended]

- 20. Amend § 570.487(d) by removing “24 CFR part 135” and adding in its place “24 CFR part 75”.

§ 570.607 [Amended]

- 21. Amend § 570.607(b) by removing “24 CFR part 135” and adding in its place “24 CFR part 75”.

PART 574—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

- 22. The authority citation for part 574 continues to read as follows:

Authority: 12 U.S.C. 1701x, 1701 x-1; 42 U.S.C. 3535(d) and 5301–5320.

§ 574.600 [Amended]

- 23. Amend § 574.600 by adding “and part 75” after the phrase “24 CFR part 5”.

PART 576—EMERGENCY SOLUTIONS GRANTS PROGRAM

- 24. The authority citation for part 576 continues to read as follows:

Authority: 12 U.S.C. 1701x, 1701 x-1; 42 U.S.C. 11371 *et seq.*, 42 U.S.C. 3535(d).

§ 576.407 [Amended]

- 25. Amend § 576.407(a) by removing “24 CFR part 135” and adding in its place “24 CFR part 75”.

PART 578—CONTINUUM OF CARE PROGRAM

- 26. The authority citation for part 578 continues to read as follows:

Authority: 12 U.S.C. 1701x, 1701 x–1; 42 U.S.C. 11381 *et seq.*, 42 U.S.C. 3535(d).

§ 578.99 [Amended]

- 27. Amend § 578.99 by removing “federal” in the section heading and adding in its place “Federal” and removing “24 CFR part 135” in paragraph (i) and adding in its place “24 CFR part 75”.

PART 905—THE PUBLIC HOUSING CAPITAL FUND PROGRAM

- 28. The authority citation for part 905 continues to read as follows:

Authority: 42 U.S.C. 1437g, 42 U.S.C. 1437z–2, 42 U.S.C. 1437z–7, and 3535(d).

§ 905.308 [Amended]

- 29. Amend § 905.308(b)(10) by removing “24 CFR part 135” and adding in its place “24 CFR part 75”.

PART 964—TENANT PARTICIPATION AND TENANT OPPORTUNITIES IN PUBLIC HOUSING

- 30. The authority citation for part 964 continues to read as follows:

Authority: 42 U.S.C. 1437d, 1437g, 1437r, 3535(d).

- 31. Revise § 964.320 to read as follows:

§ 964.320 HUD Policy on training, employment, contracting and subcontracting of public housing residents.

In accordance with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 75, PHAs, their contractors and subcontractors shall make best efforts, consistent with existing Federal, State, and local laws and regulations, to give low and very low-income persons the training and employment opportunities generated by Section 3 covered assistance (as this term is defined in 24 CFR 75.3) and to give Section 3 business concerns the contracting opportunities generated by Section 3 covered assistance.

PART 983—PROJECT-BASED VOUCHER (PBV) PROGRAM

- 32. The authority citation for part 983 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

§ 983.4 [Amended]

- 33. Amend § 983.4 by removing the definition of “Section 3—Training, employment and contracting opportunities in development”.

§ 983.154 [Amended]

- 34. Amend § 983.154 by removing (c) introductory text and paragraph (c)(1) and redesignating paragraph (c)(2) as paragraph (c).

PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

- 35. The authority citation for part 1000 continues to read as follows:

Authority: 25 U.S.C. 4101 *et seq.*; 42 U.S.C. 3535(d).

- 36. Revise § 1000.42 to read as follows:

§ 1000.42 Are the requirements of Section 3 of the Housing and Urban Development Act of 1968 applicable?

No. Recipients shall comply with Indian preference requirements of Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)), or employment and contract preference laws adopted by the recipient's tribe in accordance with Section 101(k) of NAHASDA.

Benjamin S. Carson, Sr.,
Secretary.

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AFFIRMATIVE ACTION COMPLIANCE GUIDELINES FOR CONSTRUCTION AND NON-CONSTRUCTION CONTRACTORS

AFFIRMATIVE ACTION COMPLIANCE GUIDELINES FOR CONSTRUCTION AND NON-CONSTRUCTION CONTRACTORS

These Affirmative Action Compliance Guidelines have been designed to provide Contractors with information necessary to comply with Federal regulations found under Title 41, Part 60 of the Code of Federal Regulations. It is the intent of these guidelines to ensure that equal opportunity for employment is practiced by the Contractor without regard to race, color, sex, religion, national origin, disability, and veteran's status. These guidelines provide the minimum information necessary to comply with EEO and affirmative action requirements, including the preparation of an Affirmative Action Plan that complies with federal regulations regarding Affirmative Action for federally assisted projects. Contractors are urged to contact the implementing entity or the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) officer for any necessary technical assistance in meeting Affirmative Action requirements if they are considering bidding under this contract.

I. AFFIRMATIVE ACTION COMPLIANCE PROGRAM

A. The Affirmative Action program embodies the following principles:

1. Discrimination because of race, color, age, sex, religion, national origin, marital status, disability, or veteran's status is inconsistent with the constitution, laws, and policies of the United States, State of California and San Bernardino County.
2. The implementing entity is committed to ensure that there be no discrimination by vendors, Contractors (including professional services and consultants), lessors, or lessees doing business with the implementing entity.
3. Contractors and Subcontractors agree to take affirmative personnel actions to hire and promote workers who traditionally have been discriminated against in the job market, including women, minorities, members of certain ethnic and religious groups, individuals with disabilities, and veterans.

B. Affirmative Action Step Requirements for CONSTRUCTION Contractors and Subcontractors:

1. Personnel affirmative action in recruitment, hiring, and promotion is required by Contractor and Subcontractors who have entered into a federally assisted construction or non-construction contract that exceed \$10,000 or \$10,000 in the aggregate over a 12-month period.
2. Contractors and Subcontractors who enter into a CONSTRUCTION CONTRACT in excess of \$10,000 must take 16 specific affirmative action steps to ensure equal employment opportunity. These steps are included in 41 CFR 60-4.3 (a) (7) and are also included under "Standard Federal Equal Employment Opportunity Construction Contract Specifications" of Attachment "D" of the bid package.

C. Affirmative Action Plan requirements for NON-CONSTRUCTION Contractors:

1. All Contractors who have entered into a NON-CONSTRUCTION CONTRACT and who: 1) do business in the amount of \$50,000 or more with the implementing entity in any one fiscal year and, 2) employ 50 or more employees, must develop a written Affirmative Action Program within 120 days after the contract award date.
2. All Subcontractors rendering services or supplies to a Contractor in the amount of \$50,000 or more and employ 50 or more employees, must develop a written Affirmative Action Program within 120 days after the contract award date.

D. Exemptions under 41 CFR 60:

The following persons/contracts shall be exempt from this program:

1. A contract or contracts by a Contractor that do not exceed \$10,000 in the aggregate over a 12-month period.
2. Contracts for Work outside the United States
3. State and Local Governments
4. Contracts with certain educational institutions
5. Work on or near Indian Reservations
6. Specific contracts and facilities found exempt by Deputy Assistant Secretary
7. Contracts with religious entities
8. National security contracts

Any Contractor who feels qualified for an exemption should contact the local Contract Compliance Officer or the U.S. Department of Labor's OFCCP Officer for further information.

II. SATISFYING AFFIRMATIVE ACTION PLAN

A. Affirmative Action Plan requirements for NON-CONSTRUCTION Contractors can be met through the following:

1. Completing a Contract Compliance Qualifying Report for Non-construction Contractors and Vendors, (refer to the form found in the "Additional Required Documents/Sample Documents" section of Attachment "D" of the bid package).
2. Completing a Contractor's Affirmative Action Policy, including methods of recruiting minorities and women. If the Contractor does not have its own Affirmative Action Policy, it may adopt the County's model Affirmative Action Policy (refer to the form found in the "Additional Required Documents/Sample Documents" section of Attachment "D" of the bid package).
3. Following Federal Affirmative Action Plan guidelines which comply with the requirements of 41 CFR 60.2.10.

DEFINITIONS

Unless a provision of a contract otherwise requires, certain words and phrases shall be defined as follows:

- A. "Affirmative Action" is a commitment to increase the number of minorities and women in the work force by setting employment goals and timetables, including action to achieve objectives. Affirmative Action seeks to ensure that discrimination is eliminated in dealings with employees or applicants for employment whether the discrimination is intentional or unintentional. In addition, Affirmative Action seeks to improve job standards and productivity through the removal of artificial and unnecessary barriers to employment and promotion and ensure that all job actions are related to job performance measures.
- B. "Affirmative Action Plan" is a written affirmative plan required of Contractors and Subcontractors who have 50 or more employees and have entered into a contract with the implementing entity that exceeds \$50,000, or \$50,000 in contracts over a 12-month period.
- C. "Contract" means a federally assisted purchase order, offer and acceptance, lease, agreement or other arrangement creating an obligation to which the implementing entity is a party, which would make one of the parties within the definition a Contractor.
- D. "Construction" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways or other changes or improvements to real property, including facilities providing utility services.
- E. "Contractor" means a prime Contractor or Subcontractor.
- F. "Covered Area" means the geographical area described in the solicitation from which the contract resulted;
- G. "Director" means Director, OFCCP, U.S. Dept. of Labor, or any person to whom the Director delegates authority to;
- H. "Employee" means one who performs work for compensation, or a person who is permanently or regularly employed by the Contractor or Subcontractor.
- I. "Employer Identification Number" means the Federal Social Security Number;
- J. "Disability" means any individual who:
 - 1. Has a physical or mental impairment, which substantially limits one or more major life activities of such individual;
 - 2. Has a record or such impairment or,
 - 3. Is generally regarded as having such an impairment.
- K. "Employer Identification Number" means the Federal Social Security Number;
- L. "Implementing Entity" means public jurisdiction who is administering the contract.
- M. "Minority" includes:
 - 1. Black (all persons having origins in any Black African racial groups not of Hispanic origin);
 - 2. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - 3. Asian or 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);
 - 4. American Indian or Alaskan native (all persons having origins in any of the native peoples of North America and maintaining identifiable tribal affiliations through membership and participation in community identification).
- N. "Non-construction Contract" means any contract that does not fall within the definition of "Construction Contract".
- O. "Officer" means the Contract Compliance Officer of the implementing entity or U.S. Department of Labor Office of Federal Contract Compliance Program (OFCCP) Officer.
- P. "Persons" means any individual, firm, co-partnership, public service, joint venture, association, social club, fraternal organization, corporation, estate, trust receiver, syndicate CITY, county, municipal corporation, district or other political subdivision, or any other group or combination acting as a unit.
- Q. "Underutilization" means having fewer minorities or women in a particular job classification than would reasonably be expected by their availability.
- R. "Vietnam-Era Veteran" means a person who:
 - 1. Served on actual duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or
 - 2. Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

S. Violation and Appeal Procedure:

1. A Contractor found in violation of equal opportunity/affirmative action laws will be referred to the U.S. Department of Labor's OFCCP Division, and the Solicitor for Labor, Associate Solicitor of Labor Relations and Civil Rights Regional Solicitors and Regional Attorney are authorized to institute enforcement proceedings by filing a complaint and serving that complaint to the Contractor (defendant), in accordance with procedures set forth in 41 CFR 60-30.5. The complaint shall contain information on the alleged violation, a prayer regarding the relief being sought, and the name and address of the attorney representing the Government. Within 20 days after receiving the complaint, the defendant shall file an answer with the Chief Administrative Law Judge, if the case has not been assigned to an Administrative Law judge.
2. The answer shall contain a statement of the facts which constitute the ground of defense, and shall:
 - 1) specifically admit, explain, or deny each of the allegations of the complaint unless the defendant is without knowledge, or
 - 2) state that the defendant admits all the allegations contained in the complaint. The answer may contain a waiver for a hearing and if not, a separate paragraph in the answer shall request a hearing. The answer shall contain the name and address of the defendant, or of the attorney representing the defendant. Failure to file an answer or plead specifically to an allegation of the complaint shall constitute an admission of such allegation.
3. Contractor agrees to fully comply with the laws and programs (including regulations issued pursuant thereto) identified herein. Such compliance is required to the extent such laws, programs and their regulations are, by their own terms, applicable to this contract. Contractor warrants that he will make himself thoroughly familiar with the applicable provisions of said laws, programs, and regulations prior to commencing performance of the contract. Copies of said laws, programs, and regulations are available upon request from the implementing entity's Contract Compliance Officer, or from the U.S. Department of Labor's OFCCP Officer to the extent applicable the provisions of said laws programs and regulations are deemed to be a part of this contract as if fully set forth herein.
4. Vietnam Era Veterans' Readjustment Assistance Acts of 1972 and 1974, as amended. Pub. L. 92-540, Title V, Sec 503(a), Pub. L 93-508. Title IV, Sec. 402. (38 USCA 2011-2013).
5. Rehabilitation Act of 1973, as amended (disability) Pub. L 93-112 as amended. (29 USCA 701-794).
6. California Fair Employment Practice Act. Labor Code Sec. 1410 *et seq.*
5. Civil Rights Act of 1964, as amended (42 USCA 2000a to 2000H-6) and Executive Order No. 11246, September 24, 1965, as amended.

EQUAL OPPORTUNITY CLAUSES

The Contractor and Subcontractors not found exempt under 41 CFR 60-1.5, are required to comply with the following equal opportunity clauses as a condition of being awarded a federally assisted contract. Each nonexempt prime Contractor shall include equal employment opportunity clauses in each of its nonexempt Subcontractors.

EQUAL OPPORTUNITY CLAUSE FOR FEDERALLY ASSISTED CONSTRUCTION CONTRACTS

This clause is inserted pursuant to Executive Order 11246 of September 24, 1965, as amended, and Title VII of the Civil Rights Act of 1964, and is applicable pursuant to 41 CFR Sec. 60-1.4. The following requirements apply to Contractors and Subcontractors

- (1) 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, national origin. Such action shall include, but not be limited to the following: 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. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) 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.
- (3) 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 agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) 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, pursuant thereto, and will permit

access to his books, records, and accounts by the administering agency and Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders

- (6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government 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.
- (7) The Contractor will include the provisions of paragraphs (1) through (7) 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 contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work; provided, that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and Subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and Subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 1124 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and Subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee), refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurances of future compliance has been received from such applicant, and refer the case to the Department of Justice for appropriate legal proceedings.

In addition to the above, Contractor will agree to furnish all information and reports, including Standard form EEO-1, if applicable, to the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Labor's OFCCP, as required by Executive Order No. 11246 of September 24, 1965.

EQUAL OPPORTUNITY CLAUSE FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

This clause is inserted pursuant to Executive Order 11701 of January 24, 1973 and the Vietnam Era Veterans Readjustment Assistance Acts of 1972 and 1974 (P.L. 92-540, 93-508), and is applicable pursuant to 41 CFR Sec. 60-250.

- (1) The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam Era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam Era without discrimination based upon their disability or veterans' status in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (2) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be

listed at an appropriate local office of the State Employment Service System wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

- (3) Listings of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.
- (4) The reports required by paragraph (2) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State Employment Service. Such reports shall indicate for each hiring location, (a) the number of individuals hired during the reporting period, (b) the number of non-disabled veterans of the Vietnam Era hired, (c) the number of disabled veterans of the Vietnam Era hired, and (d) the total number of disabled veterans hired. The reports shall include covered veterans hired for on-the-job training under 38 USC Sec. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The Contractor shall maintain at each hiring location, copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.
- (5) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.
- (6) This clause does not apply to the listing of employment openings, which occur and are filled outside of the 50 States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

- (7) The provisions of paragraphs (2), (3), (4) and (5) of this clause do not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer - union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer - union arrangement for that opening.
- (8) As used in this clause:
- a. "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and non-supervisory; technical; and executive, administrative and professional openings as are compensated on a salary basis of less than \$25,000 per year. The term includes full-time employment, temporary employment of more than three days duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer - union hiring arrangement or openings in an educational institution which are restricted to students of that institution. Under most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.
 - b. "Appropriate office of the State Employment Service System" means the local office of the federal - state national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Colombia, Guam, Puerto Rico and the Virgin Islands.
 - c. "Openings which the Contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.
 - d. "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer - union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of his employees.
- (9) The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (10) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (11) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era for employment, and the rights of applicants and employees.
- (12) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Vietnam Era Veterans' Readjustment Assistance Act, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.
- (13) The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to the Act, 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 Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.
- (14) Collective bargaining agreement or other contract understanding that the Contractor is bound by the terms of the Vietnam Era Veterans' Readjustment Assistance Act, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.
- (15) The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to the Act, 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 Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

EQUAL OPPORTUNITY CLAUSE FOR WORKERS WITH DISABILITIES

This clause is inserted pursuant to the Rehabilitation Act of 1973 (P.L. 93-112) and 41 CFR Sec. 60-741-4.

- (1) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified
- (2) disabled individuals without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (3) The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (4) In the event of the Contractor's non-compliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (5) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer.
- (6) Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
- (7) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally disabled individuals.
- (8) The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500.00 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to Section 503 of the Act, 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 Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

**STANDARD FEDERAL EQUAL
EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT PROVISIONS
(EXECUTIVE ORDER 11246, PURSUANT TO
41 CFR 60-4.3 (a))**

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarter Federal Tax Return. U.S. Treasury Department form 941.
- d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

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

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with the 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 Plan goals and timetables.

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

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

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

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and

shall implement affirmative action steps at least as extensive as the follow 16 steps:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the item and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment source, the Contractor shall send written

- notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Contractors and suppliers, including circulation of solicitations to minority and female Contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors; adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a – p). The efforts of a Contractor association, joint Contractor-union, Contractor-community or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation, which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
 9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the executive order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
 10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
 11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
 12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
 13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum

results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the director shall proceed in accordance with 41 CFR 60-4.6.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer) dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws

which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

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

Minority Goals

The goal for the utilization of women employees on federally assisted construction contracts is set at 6.9%.

The goal for utilization of minorities, based on the Standard metropolitan Statistical Area (SMSA) for Riverside/San Bernardino County is 19%.

For additional information on these goals, please contact the OFCCP-Pacific Region at (415) 848-6969.

CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS

(Applicable to federally assisted construction contracts
and related subcontracts exceeding \$100,000)

During the performance of this Contract, the Contractor and all Subcontractors shall comply with the requirements of the Clean Air act, as amended, 42 U.S.C. 1857 et. seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et. seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the forgoing requirements, all nonexempt Contractors and Subcontractors shall furnish to the owner, the following:

- (1) A stipulation by the Contractor or Subcontractors, that any facility to be utilized in the performance of any nonexempt Contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- (2) Agreement by the Contractor to comply with all requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1318) relating to inspection, monitoring entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- (3) A stipulation that as a condition for the award of the Contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Contract, is under consideration to be listed on the EPA List of Violating Facilities.
- (4) Agreement by the Contractor to include, or cause to be included, the criteria and requirements in paragraph (1) through (3) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

SAMPLE DOCUMENTS



Community Development & Housing Agency

CONTRACTOR INFORMATION FORM

PROJECT NAME: _____ PROJECT CODE: _____

COMPANY NAME: _____

PLEASE CHECK ONE OF THE FOLLOWING: ☐ PRIME CONTRACTOR ☐ SUBCONTRACTOR ☐ SUB-TIER

A. ☐ **PRIME CONTRACTOR:** OUR company **IS** a "Prime Approver" and **IS ENTERED** in Community Development and Housing's Contractor Database. If checked, **complete and sign only the shaded area below (DO NOT COMPLETE ENTIRE FORM).**

B. ☐ **PRIME CONTRACTOR:** OUR company **IS NOT** a "Prime Approver" but **IS ENTERED** in Community Development and Housing's Contractor Database. We have designated the following company personnel as acting "Prime Approver(s)"

Name: _____ Email: _____

Name: _____ Email: _____

C. ☐ **PRIME CONTRACTOR:** OUR company **IS NOT** a "Prime Approver" and **IS NOT ENTERED** in Community Development and Housing's Contractor Database. We have designated the following company personnel as acting "Prime Approver(s)"

Name: _____ Email: _____

Name: _____ Email: _____

D. ☐ **SUBCONTRACTOR/SUB-TIER:** OUR company **IS ENTERED** in Community Development and Housing's Contractor Database. If checked, **complete and sign only the shaded area below (DO NOT COMPLETE ENTIRE FORM).**

E. ☐ **SUBCONTRACTOR/SUB-TIER:** OUR company **IS NOT ENTERED** in Community Development and Housing's Contractor Database.

1) Federal Tax Id No.: _____ 2) D-U-N-S NO.: _____ 3) Public Works Reg. No.: _____

4) Contractor License No.: _____ 5) Contractor License Expiring Date: _____ 6) Contractor Lic. No.: _____
(or 10-Digit Phone Number/User ID Number) (To Display on Certified Payroll)

7) Insurance Certificate No.: _____ 8) Specialty License No.: _____ 9) Business Lic.No.: _____

10) Motor Carrier Permit No.: _____ 11) Worker's Compensation Policy No.: _____

11) Union Status: Select One 12) Type: Select One 13) Ethnicity: Select One 14) Type of Trade: Select One

15) Principal Name: _____ 16) Principal Title: _____ 17) Contact Name: _____

18) Phone No.: _____ 19) Contact Fax: _____ 20) Contact E-Mail: _____

21) Address 1: _____ City: _____ State: _____ Zip Code: _____

☐ Owner Operator: _____ LCPtracker User ID Number: _____ (If Different From Contractor License Number)

22) Business Certifications: "None" _____

23) Certifying Agency: _____ 24) Issued Date: _____ 25) Expiration Date: _____

26) Estimated Start Date: _____ 27) Estimated End Date: _____ 28) Contract Amount: _____

I certify the information above is true and complete to the best of my knowledge and belief.

Contractor (Print Name) _____ Title _____

Contractor Signature _____ Date _____



Community Development and Housing Department

E – SIGNATURE AUTHORIZATION FORM (LCF 16-1.0)

Company Name:	
Address:	
Phone number:	
Project Name:	
Project Code:	

To simplify the reporting burden associated with federally funded construction activities, the San Bernardino County Community Development and Housing Department (CDH) utilizes an online software system called, LCP Tracker, for construction site compliance management, certified payroll(s) and workforce reporting. As a business who has received an award to work on a federally funded construction project, there several forms and certifications that you will be required to sign as part of the CDH's Labor Compliance Program.

Authorization Agreement

I am an owner, partner, executive officer, or authorized employee/designee of the above-listed contractor and have authority to enter into agreements on behalf of the above-listed contractor. By signing this e(Electronic)-Signature Authorization Agreement, I authorize CDH to accept, via electronic submission, documents submitted from the above-listed contractor as required by CDH's Online Certified Payroll and Compliance System, which may include, but is not limited to: Certified Payroll Records, Statements of Compliance and other required documents.

To establish a pin (e-signature password) that will allow you the ability to submit your labor compliance related documents electronically, please read the authorization statement below and provide your signature in blue or black ink, accepting the terms of this certification.

You may choose to delegate your signatory authority to other employees of your firm by acquiring their signature on the same form and by identify the employee(s) you wish to designate as an authorized co-signer on page 2 of this same form.

The original hardcopy of this Agreement containing an original wet signature(s) must be submitted to the **County of San Bernardino Community Development and Housing Department, 560 E. Hospitality Lane, Suite 200, San Bernardino, CA 92415-0043.**

By signing the E-Signature Authorization form, I certify to comply with the following:

- I agree for the above-listed business will exclusively use CDH's Online Certified Payroll and Compliance System for all County of San Bernardino projects on which the above-listed business is required to submit Certified Payroll Reports, Statements of Compliance and other required documents electronically.
- I understand that CDH may change the Online Certified Payroll and Compliance System from time to time.
- I agree that the above-listed business will electronically sign, by use of an established Personal Identification Number (PIN), all documents requiring a signature that are submitted to CDH via the Online Certified Payroll System.
- I agree that my Personal Identification Number (PIN) which I establish on CDH's Online Certified Payroll and Compliance System constitutes my electronic signature.
- I understand that any information and documents submitted using my PIN is electronically certifying my signature.
- I understand that I am legally bound, obligated, and responsible by use of my PIN/electronic signature as much as I would be by my handwritten signature.
- I agree that I will protect my PIN/electronic signature from unauthorized use, and that I will contact CDH immediately, upon discovery that my PIN/electronic signature has been lost, stolen, or otherwise compromised.
- I certify that my PIN/electronic signature is for my own use, that I will keep it confidential, and that I will not delegate it or share it with any individual.
- This request is in effect immediately upon receipt by CDH and will remain in effect until I choose to cancel this request via written notification to the CDH.
- I understand that it is my responsibility to update and notify CDH within three (3) business days, of any circumstances, including my departure or terminated association with the above-listed Company.

Print Name	Select Title	Signature	Date
Print Name	Select Title	Signature	Date
Print Name	Select Title	Signature	Date



Community Development and Housing Department

E – SIGNATURE AUTHORIZATION FORM (LCF 16-1.0)

Company Name:	
Address:	
Phone Number:	
Project Name:	
Project Code:	

Authorized Designee(s) Section

I _____ certify that I am the owner, partner, executive officer, of the company listed above and further certify that the following employees as shown below are employees of this company and is/are authorized to enter into agreement(s) on behalf of the above company and can sign any contract(s), agreement(s), document(s) and Statement of Compliance where federally funded construction activities, the San Bernardino County Community Development and Housing Department (CDH) requires for the duration of the period the E-signature Authorization form is in effect or until otherwise directed.

Authorized Designee(s)

Print Name	Select Title	Signature	Date
Print Name	Select Title	Signature	Date



Community Development and Housing Department

AFFIRMATIVE ACTION COMPLIANCE FORM FOR CONSTRUCTION CONTRACTS OVER \$10,000

(LCF DB16-2.2)

Project Name	
Project Address:	
Company Name:	

As the undersigned Contractor, Prime/Subcontractor/Sub-Tier, (Subcontractor/Sub-Tier having executed a contract with the above named contractor on the above referenced project), hereby make the following certification and acknowledgment. Please check the box that applies to your company to affirm an understanding and implementation of **AFFIRMATIVE ACTION COMPLIANCE** requirements and that you have read and completed the requirements for the project as noted below:

I / We have reviewed and understand the "**CONSTRUCTION CONTRACT LABOR COMPLIANCE PROVISIONS (ATTACHMENT D)**" of the bid package and/or "**LABOR COMPLIANCE CONTRACT ADDENDUM**".

☐

I / We **DO** currently maintain an effective Affirmative Action Program. The Affirmative Action Program complies with the **Standard Federal Equal Employment Opportunity Construction Contract Provisions Executive Order 11246, pursuant to 41 CFR 60-4.3 (a) (7)** and will furnish a copy upon request.

OR

☐

I / We **DO NOT** currently maintain an Affirmative Action Program. I / We agree to the **Equal Opportunity Clause for Federally-Assisted Construction Contracts (Executive Order 11246)**, as amended, and Title VII of the Civil Rights Act of 1964, and is applicable pursuant to 41 CFR 60-1.4) of "**CONSTRUCTION CONTRACT LABOR COMPLIANCE PROVISIONS (ATTACHMENT D)**" of the bid package and/or "**LABOR COMPLIANCE CONTRACT ADDENDUM**".

Personnel affirmative action in recruitment, hiring and promotion is required by Prime Contractors, Subcontractors and Sub-Tiers who have entered into a federally-assisted construction contract that exceeds \$10,000 or \$10,000 in the aggregate over a 12-month period. Prime Contractors, Subcontractors or Sub-Tiers who enter into a "Construction Contract" in excess of \$10,000 must take 16 specific affirmative action steps to ensure equal employment opportunity. These steps are included in **41 CFR 60-4.3 (a) (7)** and are also included under "Standard Federal Equal Employment Opportunity Construction Contract Specifications" of "**CONSTRUCTION CONTRACT LABOR COMPLIANCE PROVISIONS (ATTACHMENT D)**" of the bid package and/or "**LABOR COMPLIANCE CONTRACT ADDENDUM**".

Select

Print Name of Authorized E-Signature Signer

Title

Date



Community Development and Housing Department

AFFIDAVIT OF COMPLIANCE WITH CALIFORNIA PREVAILING WAGE LAW, CALIFORNIA LABOR CODES SECTIONS 1720-1815

Project Name:	
Project Address:	
Company Name:	

The undersigned, being duly sworn, states as follows:

1. I the undersigned am the _____ of the above named contractor a subcontractor/sub-tier (referred to as Subcontractor) to _____ in the above named project and location. I am familiar with the payroll practices of the above named on the Project. One of my duties and responsibilities is to ensure that the above named complies with the California Prevailing Wage Law, California Labor Code sections 1720 through 1815 on the Project. I make this sworn statement pursuant to California Labor Code sections 1775, subdivision (b)(4), and 1777.7, subdivision (d)(4).
Responsible Employer / Contractor Name
2. I have reviewed the payroll practices and the payroll records for the above named on the Project. The above named has paid the specified prevailing rate of wages to each of its employees on the Project as required by Prevailing Wage Law, and has paid any amounts due such employees under California Labor Code section 1813. The above named has employed the required number of apprentices on the Project.
3. If applicable, I have also reviewed the payroll practices of each of the above named sub-tier subcontractors on the Project. Each of our sub-tier subcontractors has paid the specified prevailing rate of wages to its employees, has paid any amount due such employees under California Labor Code section 1813, has employed the required number of apprentices on the Project, and has provided the above named with an affidavit that complies with California Labor Code sections 1775, subdivision (b)(4), and 1777.7, subdivision (d)(4).
4. I understand that the Responsible Employer/Contractor is relying upon the truth of the contents of this sworn statement in making final payment to the above named for work performed on the Project and may suffer damages if my sworn representations were not true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this affidavit was executed on _____ in _____, California.

Date

Location

Select

Print Name of Authorized E-Signature Signer

Title

Date



Community Development and Housing Department

APPRENTICES AND TRAINEES ACKNOWLEDGMENT FORM

Project Name:	
Project Address:	
Company Name:	

The only workers who can be paid less than the wage rate on the wage decision for their work classification are "Apprentices" and "Trainees" registered in approved apprenticeship or training programs. Approved programs are those which have been registered with the Department of Labor (DOL) or a DOL-recognized State Apprenticeship Council (SAC). Apprentices and Trainees are paid wage rates in accordance with the wage schedule in the approved program.

1. **Probationary Apprentice:** Can be paid as an Apprentice (less than the rate on the wage decision) if the DOL or SAC has certified that the person is eligible for probationary employment as an Apprentice.
2. **Pre-Apprentice:** Someone who is not registered in a program and who hasn't been DOL- or SAC- certified for Probationary Apprenticeship would not be considered an "Apprentice" and must be paid the full Journeyman's rate on the wage decision for the classification of work they perform.
3. **Ratio of Apprentices and Trainees to Journeymen:** The maximum number of Apprentices or Trainees that you can use on the job site cannot exceed the ratio of Apprentices or Trainees to Journeymen allowed in the approved program. Compliance with the ratio is determined on a daily, not weekly basis.
4. **Apprentices or Trainees:** All required Apprentice / Trainee documents must be submitted and approved by the Community Development Housing Department before the first payroll on which any Apprentice or Trainee appears. Incomplete or missing Apprentice / Trainee documents will render that Apprentice / Trainee a Journeyman and must be paid the full Journeyman's rate on the wage decision for the classification of work they perform.

REQUIRED DOCUMENTS FOR APPRENTICE PROGRAMS:

- ❖ Program Certification MUST be issued by the Department of Labor (DOL), Office of Apprenticeship (OA)
- ❖ Copy of DOL Individual(s) Apprenticeship Certification Print out : SAMPLE ATTACHED
- ❖ Copy of the Apprenticeship Program Appendix A which includes: SAMPLE ATTACHED
 - Level, Step or Period of the Apprentice
 - Ratio Information
 - Apprentice Wage Scale
 - Schedule of Work Experience
 - Schedule of Related Instructions
- ❖ Copy of Fringe Benefit Apprenticeship Percentage Form also referred to as Rate Sheet Copy of DIR-DAS Apprenticeship Programs (State only): SAMPLE ATTACHED

I acknowledge that I am aware of the foregoing requirements and that I am authorized to make this certification on behalf of the above-named contractor. I fully understand that failure to comply with any of the above requirements may result in the apprentice/trainee being rendered as improperly paid and will be intitled to the journeyman rate for the classification perform.

Select

Print Name of Authorized E-Signature Signer

Title

Date

**U.S. DEPARTMENT OF LABOR - OFFICE OF APPRENTICESHIP
APPRENTICESHIP CERTIFICATION**

#####

The following individuals are apprentices registered with the U.S. Department of Labor, Office of Apprenticeship, under the sponsorship of program CA##### - XXXXX Apprenticeship Program:

Laborers XXX Apprenticeship Program
XXXXXXXX

Apprentice ID	SSN	Apprentice Name	Occupation	Date Apprenticeship Began	Date Cancelled	Date Completed
#####	** - #####	XXXX XXXXX	XXXXXX	##/##/##		



Certified by the U.S. Department of Labor

Date Issued: ##/##/####

****VOID 90 DAYS FROM ISSUE DATE****

STANDARDS OF APPRENTICESHIP

DEVELOPED BY

Southwest Carpenters Training Fund

FOR THE OCCUPATIONS OF

CABINETMAKER	SOC CODE 51-7011.00	RAPIDS CODE 0055
CARPENTER	SOC CODE 47-2031.00	RAPIDS CODE 0067
DRY-WALL APPLICATOR	SOC CODE 47-2081.02	RAPIDS CODE 0145
FLOOR LAYER	SOC CODE 47-2042.01	RAPIDS CODE 0199
MILLWRIGHT	SOC CODE 49-9044.00	RAPIDS CODE 0335
PLASTERER	SOC CODE 47-2161.01	RAPIDS CODE 0423
RESIDENTIAL CARPENTER	SOC CODE 47-2031.01	RAPIDS CODE 0564
TERRAZZO WORKER	SOC CODE 47-2053.00	RAPIDS CODE 0568
ACOUSTICAL CARPENTER	SOC CODE 47-2031.01	RAPIDS CODE 0861
ASSEMBLER-INST. (GEN)	SOC CODE 51-2011.01	RAPIDS CODE 0876
INSULATION WORKER	SOC CODE 47-2031.01	RAPIDS CODE 0909
TERRAZZO FINISHER	SOC CODE 47-2053.00	RAPIDS CODE 0972
CARPENTER, PILEDRIIVER	SOC CODE 47-2031.02	RAPIDS CODE 1009

United States Department of Labor
Office of Apprenticeship



Registered as part of the National Apprenticeship Program in accordance
with the basic Standards of Apprenticeship established by the Secretary of Labor

APPROVED BY:


Richard Davis, California State Director
UNITED STATES DEPARTMENT OF LABOR,
OFFICE OF APPRENTICESHIP

DATE OF REGISTRATION: March 22, 2007
PROGRAM ID: CA000070085
ORG ID: SP589

Appendix A

Program Name: Southern California Carpenters Joint Apprenticeship and Training Committee

Program ID: CA000070086

For Occupation: Carpenter

O*NET/SOC CODE: 47-2031.00

RAIS CODE: 0067/0067 HY

This schedule is attached to and a part of these Standards for the above identified occupation.

1. TERM OF APPRENTICESHIP

The term of the occupation Carpenter will be hybrid in nature with an on-the-job learning training term of **5200 - 8000 HOURS**. This occupation will be supplemented by the required hours of related instruction as stated on the Sample Work Process Schedule and Related Instruction Outline (Appendix A). Full credit will be given for the probationary period.

2. RATIO OF APPRENTICES TO JOURNEYWORKERS

The ratio as provided in the Collective Bargaining Agreement is as follows:

- A. The sponsor shall not indenture a number of apprentices that exceed a ratio of one (1) apprentice/s to three (3) journey-workers normally employed in the jurisdictional area, consistent with proper supervision, training, safety, and continuity of employment.

The allowable ratio of apprentices to journey workers shall be no more than one (1) apprentice to one (1) journey worker and no less than one (1) apprentice in a crew of four, with one (1) additional apprentice for every three (3) journey workers hereafter as covered in the CBA.

No apprentice may work without a Journeyman Carpenter on the job.

3. APPRENTICE WAGE SCHEDULE

Apprentices shall be paid a progressively increasing schedule of wages based on a percentage of the current journeyworker wage as stated below or as per the CBA.

Carpenter Commercial	\$40.40
Carpenter Commercial (Kern, Inyo, Mono)	\$39.83
Carpenter Commercial (San Diego)	\$35.10
Carpenter Residential/Lt. Commercial (San Diego)	\$28.08
Carpenter Engineering (San Diego)	\$40.20
Bridge Carpenter	\$40.53
Bridge Carpenter (Kern, Inyo, Mono)	\$40.53
Pile Driver/Bridge Carpenter (San Diego)	\$40.33
Locksmith (All Counties)	\$40.40
Carpenter Residential Framer (all counties)	\$29.55
Carpenter Residential Insulator	\$18.00
Carpenter Residential Shingler	\$27.60
Carpenter Residential Cabinet Installer	\$28.16
Residential Subterranean Garage/Slab (Concrete)	\$27.08
Carpenter Residential Floor Installer	\$24.71
Residential Fence Builder	\$29.20

STATE OF CALIFORNIA

EDMUND G. BROWN, JR., Governor

**DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF APPRENTICESHIP STANDARDS**

P.O. Box 420603

San Francisco, CA 94142-0603



To whom it may concern:

The Division of Apprenticeship Standards hereby certifies that, according to transactions recorded as of January 21, 2015, the below named Apprentice is registered with the State of California as an apprentice in the occupation during the period between the start date and the end date or completion (comp) date listed below. If there is no end date for an occupation, the Apprentice is currently registered in that occupation.

Name	Occupation	Action	Effective Date	Cert. id
F Torre	Carpet, Linoleum & Soft Tile Layer	Start	12-12-2007	De

If you have any questions please contact your local Division of Apprenticeship Standards office.

Glen Forman
Deputy Chief

Required on project subject to State Prevailing
Wage requirements.



Community Development and Housing Department

CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY (LCF DB16-2.1)

Project Name:	
Project Address:	
Company Name:	

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder (Prime Contractor, or any of their proposed Subcontractors/Sub-Tiers) shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the Equal Opportunity Clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven (7) calendar days after bid opening. No contract shall be awarded unless such report is submitted.

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

(check box)

☐ Yes (IF YES, identify the most recent contract) _____

☐ No (IF NO, bidder may be required to submit an EEO-1 survey or other reports to the Equal Employment Opportunity Commission, contact EEOC at 800-669-4000 or online at <https://www.eeocdata.org/eo1>.

2. Compliance reports were filed in connection with such contract or subcontract with the Joint Reporting Committee, the Deputy Assistant Secretary or the Equal Employment Opportunity Commission.

(check box)

☐ Yes ☐ No ☐ None Required

3. Has Bidder ever been or is bidder being considered for sanction due to violation of EXECUTIVE ORDER 11246, as amended. <https://www.dol.gov/agencies/ofccp/executive-order-11246/as-amended>

(check box)

☐ Yes ☐ No

Select

Print Name of Authorized E-Signature Signer

Title

Date



Community Development and Housing Department

CERTIFICATE OF UNDERSTANDING AND AUTHORIZATION FORM

(LCF 16-1.2)

Project Name	
Project Address:	
Company Name:	

The undersigned certifies that the company principal(s), or designee and the "Authorized Payroll Officer" have if project is subject to Davis-Bacon And Related Acts read the most current "LABOR STANDARDS" (A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects) and if project is subject to California prevailing wage requirements is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. as well as California Code of Regulations, Title 8, Section 16000 et seq. ("PREVAILING WAGE LAWS"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. The undersigned further certifies under penalty of perjury that the records or copies thereof submitted are the originals or true, full and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, direct deposit or whatever form to the individual or individuals named. The undersigned have read, signed and submitted to the County of San Bernardino Community Development and Housing (CDH) the E-Signature Authorization form and have established Personal Identification Number (PIN), for CDH's Online Certified Payroll System.

THE UNDERSIGNED IS A (OWNER, PARTNER, OFFICER, DESIGNEE) WITH THE AUTHORITY TO ACT FOR AND ON BEHALF OF THE ABOVE NAMED CONTRACTOR. DESIGNATE THE FOLLOWING PERSON(S) AS THE "AUTHORIZED PAYROLL OFFICER" AND IS HEREBY AUTHORIZED TO SIGN THE STATEMENT OF COMPLIANCE WHICH WILL ACCOMPANY EACH WEEKLY CERTIFIED PAYROLL REPORT FOR THE ABOVE PROJECT.

Authorized Payroll Officer

Date

Authorized Payroll Officer

Date

Print Name of Authorized E-Signature Signer

Select

Title

Date



Community Development and Housing Department

LABOR LAW REQUIREMENTS – (ONE-TIME FORM)

Project Name:	
Project Address:	
Contractor (Company) Name:	

PLEASE CHECK ONE OF THE FOLLOWING: ☐ PRIME CONTRACTOR ☐ SUBCONTRACTOR ☐ SUB-TIER

The FEDERAL AND STATE LABOR LAW REQUIREMENTS applicable to the contract are composed of, but not limited to, the following:

Payment of Prevailing Wage Rates

The contractor to whom the contract is awarded and its subcontractors hired for the public works project are required to pay not less than the specified general prevailing wage rates to all workers employed in the execution of the contract. Labor Code Section 1770 et seq.

The contractor is responsible for ascertaining and complying with all current general prevailing wage rates for crafts and any rate changes that occur during the life of the contract. Information on all prevailing wage rates and all rate changes are to be posted at the job site for all workers to view. Additionally, current wage rate information can be found at the DLSR web site, www.dir.ca.gov/dlsr/statistics_research.htm.

Apprentices

It is the duty of the contractor and subcontractors to employ registered apprentices on the public works project and to comply with all aspects of Labor Code Section 1777.5, relating to Apprentices on public Works. (1) Notify approved apprenticeship programs of contract award; (2) employ apprentices; (3) pay training fund contributions.

Penalties

There are penalties required for contractor's/subcontractor's failure to pay prevailing wages and for failure to employ apprentices, including forfeitures and debarment under Labor Code Sections 1775; 1776; 1777.1; 1777.7 and 1813.

Certified Payroll Reports

Under Labor Code Section 1776, contractors and subcontractors are required to keep accurate payroll records showing the name, address, social security number and work classification of each employee and owner performing work; also the straight time and overtime hours worked each day for each week, the fringe benefits, and, the actual per diem wage paid to each owner, journey person, apprentice worker or other employee hired in connection with the public works project.

This requirement includes and applies to all subcontractors performing work on Awarding Body projects even if their portion of the work is less than one half of one percent (0.05%) of the total amount of the contract.

The certified payroll records shall contain the same data fields listed on the Public Works Payroll Reporting Form (A-1-131) and contain or is accompanied by a declaration made under penalty of perjury. (California Code of Regulations, Section 16401).

Prime Contractors are responsible for submittal of their payrolls and those of their respective subcontractors as one package. Any payroll not submitted in the proper form will be rejected. In the event that there has been no work performed during a given week, the Certified payroll report shall be annotated: "No work" for that week or a Non-performance Statement must be submitted.

Employee payroll records shall be certified and shall be made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor, or shall be furnished to any employee, or his/her authorized representative on request, pursuant to Labor Code Section 1776.



Community Development and Housing Department

Under Labor Code Section 1776(g) there are penalties required for contractor's/subcontractor's failure to maintain and submit copies of certified payroll records on request.

Nondiscrimination in Employment

There exist prohibitions against employment discrimination under Labor Code Sections 1735 and 1777.6, the Government Code, the Public Contracts Code, and Title VII of the Civil Rights Act of 1964.

Kickbacks Prohibited

Contractors and subcontractors are prohibited from recapturing wages illegally by accepting or extracting "kickbacks" from employee wages under Labor Code Section 1778.

Acceptance of Fees Prohibited

There exists a prohibition against contractor/subcontractor acceptance of fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works contracts pursuant to Labor Code Section 1780.

Listing of Subcontractors

All prime contractors are required to list properly all subcontractors hired to perform work on the public works projects covering more than one-half of one percent, pursuant to Government Code Section 4104.

Proper Licensing

Contractors are required to be licensed properly and to require that all subcontractors be properly licensed. Penalties are required for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractor License Law found at Business and Professions Code Section 7000 et seq.

Unfair Competition Prohibited

Contractors and sub-contractors are prohibited from engaging in unfair competition as specified under Business and Professions Code Sections 17200 to 17208.

Workers Compensation Insurance

Labor Code Section 1861 requires that contractors and subcontractors be insured properly for Workers Compensation.

OSHA

Contractors and subcontractors are required to abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project.

Proof of Eligibility/Citizenship

The federal prohibition against hiring undocumented workers, and the requirement to secure proof of eligibility/citizenship from all workers, is required.

Itemized Wage Statement

Labor Code Section 226 requires that employees be provided with itemized wage statements.

CERTIFICATION

I acknowledge that I have been informed and am aware of the foregoing requirements and that I am authorized to make this certification on behalf of the above named contractor. I fully understand that failure to comply with any of the above requirements may subject me, or my company, to penalties as provided above.

Select

Print Name of Authorized E-Signature Signer

Title

Date



Community Development and Housing Department

CONTRACTOR'S CERTIFICATION OF COMPLIANCE WITH DAVIS-BACON AND RELATED ACTS REQUIREMENTS

(LCF DB16-2.0)

Project Name:	
Project Address:	
Company Name:	

As the undersigned Contractor, Prime/Subcontractor/Sub-Tier, (Subcontractor/Sub-Tier having executed a contract with the above named contractor on the above referenced project), hereby make the following certification and acknowledgment with respect to the applicability of **"DAVIS-BACON AND RELATED ACTS"** requirements:

- 1) By entering into this contract I certify and acknowledge that the above referenced project is federally funded, as the Prime Contractor, I am solely responsible, or as the Subcontractor/Sub-Tier contractor I am responsible, for complying with the **"DAVIS-BACON AND RELATED ACTS"** requirements; and
- 2) I am required to pay laborers and mechanics employed a wage not less than the highest wage applicable to their work classifications. If no federal work classification appears to apply to the employee duties, the Subcontractor/Sub-Tier shall make a written request to the Prime contractor to obtain the applicable work classification and wage rate prior to the start of construction. The Prime Contractor shall forward Subcontractor/Sub-Tier request and shall also make a written request to the County of San Bernardino to obtain the applicable work classification and wage rate prior to the start of construction. The Prime Contractor is solely responsible for ensuring that all Subcontractor/Sub-Tier are in compliance with the **"DAVIS-BACON AND RELATED ACTS"** requirements.
- 3) I have read and understand the **"LABOR COMPLIANCE CONTRACT ADDENDUM"** including the applicable **Wage Determination(s)** for the above referenced project. I acknowledge the receipt and adherence to following provisions set forth in the **"FEDERAL LABOR STANDARDS PROVISIONS"** before participation on this project.
- 4) I will include the **"LABOR COMPLIANCE CONTRACT ADDENDUM"** including the applicable **Wage Determination(s)** for the above referenced project in any subcontracts/lower tier subcontracts/purchase orders executed. I will forward to Prime Contractor a copy of all executed sub- tier contracts/purchase orders to any lower tier subcontractors within seven (7) days of the execution date.

	Select	
_____	_____	_____
Print Name of Authorized E-Signature Signer	Title	Date



Community Development and Housing Department

FRINGE BENEFIT STATEMENT

(LCF 16-1.3)

Project Name	
Project Address:	
Company Name:	

Use this form to identify those bona fide Fringe Benefit Plan(s) in which your employees are participating. List all third-party plans, funds or trustees to which your firm makes fringe benefit payments in the interest of your employees. Provide an hourly equivalent of each fringe type (in dollars) below. Payrolls will be monitored to ensure the proper Fringe Benefit rates are being paid. Additional documentation may be required if paying.

Specify the fringe benefit hourly amount along with the name, address and contact name/ phone number.

Classification:	Effective Date:	Subsistence or Travel Pay \$:
Fringe Benefit Hourly Amount:	Name, Address and Contact Information of Plan, Fund or Program	
Health & Welfare \$:	Name: Address:	Phone#:
Pension \$:	Name: Address:	Phone#:
Vacation/ Holiday \$:	Name: Address:	Phone#:
Apprentice/ Training \$:	Name: Address:	Phone#:
Other \$: Specify: _____	Name: Address:	Phone#:
Classification:	Effective Date:	Subsistence or Travel Pay \$:
Fringe Benefit Hourly Amount:	Name, Address and Contact Information of Plan, Fund or Program	
Health & Welfare \$:	Name: Address:	Phone#:
Pension \$:	Name: Address:	Phone#:
Vacation/ Holiday \$:	Name: Address:	Phone#:
Apprentice/ Training \$:	Name: Address:	Phone#:
Other \$: Specify: _____	Name: Address:	Phone#:

☐ All Fringes Paid in Cash

I certify under penalty of perjury that I have read and understand the instructions for completing the fringe benefit statement clauses pertaining to this project; and that Fringe Benefits are paid to the approved plans, funds, programs or employees as listed above; and during the progress of work on above project should a change in plan or rate of any of the classifications be made supplemental statements will be submitted precipitously.

Select One

Print Name (Authorized E-Signature Signer)

Title

Date

LCF 16-1.3

Created 3-12 – Revised 2/2022



Community Development and Housing Department

FRINGE BENEFIT STATEMENT INSTRUCTIONS

The Fringe Benefit Statement must be submitted by each contractor and subcontractor with the first certified payroll report. The form details the fringe benefit contributions and indicates whether these payments are paid to employees in cash or made to a third party trust fund. Supplemental statements must be submitted during the progress of the work should there be an increase or change in rates. Classification: Include all Trades/Classifications of employees that your company will use on the project, including apprentices. Do not list each employee by name. Please provide group number when applicable. For apprentices, please list the period levels.

Classification: List each craft(s) of employee(s) that you have working on the Project.

Effective Date: The date of the wage determination for the project.

Subsistence or Travel Pay: The amount shown in the wage decision of the craft of workers that require subsistence or travel at the Project location. If your company will be required to pay this fringe benefit insert the per diem amount within this section.

Fringe Benefit Hourly Amount: The amount of fringe benefits that are paid to each craft. If any monies are paid on behalf of the employees they must be authorized in writing. All methods of payment must be shown on the form. Next to each listed Fringe Benefit, indicate the hourly rates for payments made to employees on the various classifications of work. **Do not** include amounts that are paid directly by the employee.

Name, Address and Contact Information of Plan, Fund, or Program Paid To: Insert the name, address and phone# of the Plan, Fund or Program where the monies are being paid. If the benefit amount is to be paid directly to the employee, indicate **Paid to Employee**. **Do not** list each employee by name. Note: If you do not make your fringe benefit payments to the local union trust fund you may still claim your own benefit program paid on behalf of your employees, as long as the amounts do not exceed the total amount shown on the Department of Industrial Relations Wage Decision that is posted on their website. If the difference in the amount of your program is less than the amount shown in the wage determination then the difference must be paid to the employee as part as the basic wage rate. Remember that any Pension Fund payments must be irrevocably paid to a "Third Party Trust". All fringe benefits must be irrevocably paid to an authorized Plan, Fund, Program or to the employee.

Please note that training fund contributions cannot be paid directly to employees (Check DIR website for exceptions) and must be paid to the California Apprentice Council (CAC) or to an approved fund such as a union trust fund. Note: A worker's title or status with the employer is not determinative of an individual's coverage by the prevailing wage laws. What is determinative is whether the duties performed by the individual on the public works project constitute covered work. An individual who performs skilled or unskilled labor on a public works project is entitled to be paid the applicable prevailing wage rate for the time the work is performed, regardless of whether the individual holds a particular status such as partner, owner, owner-operator, independent contractor or sole proprietor, or holds a particular title with the employer such as president, vice-president, superintendent or foreman (Department of Industrial Relations (DIR) Public Works Manual).



Community Development and Housing Department

VACATION PLAN/PAID HOLIDAY DOCUMENTATION: CDH may require copies of your company's policy for employer paid vacation and holidays. For vacation, if requested please explain how you track the vacation hours for each employee. Additionally if requested, please submit copies of monthly reports or statements from the bank/fund depository showing that the plan and vacation amounts are available for the workers.

HEALTH AND WELFARE DOCUMENTATION: CDH may require copies of the plan documentation indicating monthly or quarterly billings for the covered benefits (and delineating all benefits per worker), as well as statements and copies of checks transmitted by your company to the trust fund or plan for these benefits.

PENSION PLAN DOCUMENTATION: CDH may require copies of the plan documentation from the Plan Administrator including the plan summary, account balances, monthly or quarterly transmittals into the account and copies of checks transmitted by your company as payments into the accounts.

TRAINING DOCUMENTATION: Please submit copies of the Apprentice/ Training Certification Letter from your Federally Registered Program Sponsors. The apprenticeship program must be registered with the Department of Labor (DOL), Office of Apprenticeship. Include level, step or period of the apprentice; apprentice's wage scale and ratio information. A training or apprentice wage can be paid only if the trainee is registered in a DOL approved apprenticeship or training program or with a State Apprenticeship Agency recognized by DOL. Otherwise, the individual is to be paid the Davis-Bacon and Related Acts (DBRA) prevailing wage rate for the classification of work that they are performing regardless of their skill level. (Federal regulations DO NOT REQUIRE the employment of apprentices on federally funded projects)

OTHER DOCUMENTATION: CDH may require copies of explanation, monthly reports or statements and plan documentation from the Plan Administrator for all "OTHER" company paid plan(s). The implementing agency will verify plan(s) for employer to receive credit.

If your company does not operate under a collective bargaining agreement or contribute based on an hourly amount; you may use the following formulas to compute hourly benefits. Please be advised that examples are provided only to demonstrate how the formulas are used.

Annual Calculation: The annual calculation is based on 2080 hours per year (40hrs x 52 weeks per year)

Formula: Employee's Basic Hourly Rate x Number of Benefit Hours (8 Hrs a Day x Number of Days) divided by 2080 Hours.

Example: At \$20/Hr, with 80 vacation hours a year, the hourly rate would calculate as follows:

$$\$20 \times 80 \text{ Hrs} = \$1,600 \text{ divided by } 2,080 \text{ hours per year} = \$0.77$$

Fringe Benefit Hourly Amount: \$.77

Monthly Calculation: The monthly calculation factor 173.33 is based on 2080 hours per year divided by 12 months.

Formula: Monthly Benefit Plan Contribution divided by 173.33

Example: If employer pays \$200/month for a medical benefit, the monthly hourly rate calculates as follows:

$$\text{A monthly plan contribution of } \$200 \text{ divided by } 173.33 = \$1.15$$



Community Development and Housing Department

PROJECT WAGE RATE SHEET

(LCF-16-1.1)

Project Name:	
Project Address:	
Company Name:	

TYPE OF WAGE: ☐ DAVIS BACON

☐ APPRENTICE CLASSIFICATION

DAVIS BACON WAGE (DB) DECISION NUMBER/MODIFICATION NUMBER: _____

When completing form enter ONLY the DB Wage Decision Rates provided in the pre-con packet. Contractors employing apprentices on the project MUST complete a Project Wage Rate Sheet, be sure to list all available apprentice period/levels on form. For Apprentice rates, please forward to CDH a copy of the Appendix A and copy of the rate sheet with this form. All documents must be uploaded onto the applicable edocument type in LCPTracker.

Department of Labor Wage /Apprentice Classification (For DB rate use classification as it appears on the DB decision)	Base Rate:	Fringe Benefit:	Total Rate:
			0
			0
			0
			0
			0
			0
			0
			0
			0
			0

Select

Print Name of Authorized E-Signature signer

Title

Date

*****CDH USE ONLY*****

Rates confirmed:

☐

Apprentice Rate Request- Appendix A uploaded in LCP Tracker

☐

PUBLIC WORKS CONTRACT AWARD INFORMATION

Contract award information must be sent to your Apprenticeship Committee if you are approved to train. **If you are not approved to train, you must send the information (which may be this form) to ALL applicable Apprenticeship Committees in your craft or trade in the area of the site of the public work. Go to: <http://www.dir.ca.gov/databases/das/pwaddrstart.asp> for information about programs in your area and trade.** You may also consult your local Division of Apprenticeship Standards (DAS) office whose telephone number may be found in your local directory under California, State of, Industrial Relations, Division of Apprenticeship Standards.

Do not send this form to the Division of Apprenticeship Standards.

NAME OF YOUR COMPANY	CONTRACTOR'S STATE LICENSE NO
MAILING ADDRESS- NUMBER & STREET, CITY, ZIP CODE	AREA CODE & TELEPHONE NO.
NAME & ADDRESS OF PUBLIC WORKS PROJECT	DATE YOUR CONTRACT EXECUTED
	DATE OF EXPECTED OR ACTUAL START OF PROJECT
NAME & ADDRESS OF PUBLIC AGENCY AWARDED CONTRACT	ESTIMATED NUMBER OF JOURNEYMEN HOURS
	OCCUPATION OF APPRENTICE
THIS FORM IS BEING SENT TO: (NAME & ADDRESS OF APPRENTICESHIP PROGRAM(S))	ESTIMATED NUMBER OF APPRENTICE HOURS
	APPROXIMATE DATES TO BE EMPLOYED

This is not a request for dispatch of apprentices.

Contractors must make a separate request for actual dispatch, in accordance with Section 230.1(a) California Code of Regulations

Check One Of The Boxes Below

1. ☐ We are already approved to train apprentices by the _____
Apprenticeship Committee. We will employ and train under their Standards. Enter name of the Committee

2. ☐ We will comply with the standards of _____
Apprenticeship Committee for the duration of this job only. Enter name of the Committee

3. ☐ We will employ and train apprentices in accordance with the California Apprenticeship Council regulations, including § 230.1 (c) which requires that apprentices employed on public projects can only be assigned to perform work of the craft or trade to which the apprentice is registered and that the apprentices must at all times work with or under the direct supervision of journeyman/men.

Signature _____

Date _____

Typed Name _____

Title _____

**State of California - Department of Industrial Relations DIVISION
OF APPRENTICESHIP STANDARDS**

Explanation to box 1 - 3 on form DAS 140

- Box 1 is for contractors who are already approved to train by an apprenticeship program (signatory/member).
- Box 2 indicates that a contractor is willing to comply with a program's Standards for the current project only. This generally means that the fringe benefits and the training funds will be paid to that Committee's Trust Fund. It also allows a contractor to take advantage of a more generous maximum ratio than the CAC Standards, but does not affect the minimum ratio of 1 apprentice hour for every 5 journeyman hours.
- Box 3 means that a contractor will be governed by the regulations of the California Apprenticeship Council. Generally this means that the minimum and maximum ratio for apprentices is the same – 1 apprentice hour for every 5 journeyman hours per each craft, totaled at the end of the project. It also means the Training Fund Contribution is usually paid to the California Apprenticeship Council.

SAMPLE

REQUEST FOR DISPATCH OF AN APPRENTICE – DAS 142 FORM

DO NOT SEND THIS FORM TO DAS

You may use this form to request dispatch of an apprentice from the Apprenticeship Committee in the craft or trade in the area of the public work. Go to: <http://www.dir.ca.gov/databases/das/pwaddrstart.asp> for information about programs in your area and trade. You may also consult your local Division Apprenticeship Standards (DAS) office whose telephone number may be found in your local directory under California, State of, Industrial Relations, Division of Apprenticeship Standards. **Except for projects with less than 40 hours of journeyworkers work, you must request and employ apprentices in no less than 8 hour increments.**

List one occupation/craft per form

Date: _____

Contractor Requesting Dispatch:

To Applicable Apprenticeship Committee:

Name: _____

Name: _____

Address: _____

Address: _____

License No. _____

Tel. No. _____ Fax No. _____

PWC Registration Number: _____

Tel. No. _____ Fax No. _____

Project Information: PWC Project Number _____ Contract Number _____

Total Contract Amount. _____ Sub-Contract Amount _____

Name of the Project: _____

Address: _____

Dispatch Request Information:

Number of Apprentice(s) Needed: _____ Craft or Trade: _____

Date Apprentice(s) to Report: _____ (72 hrs. notice required) Time to Report: _____

Name of Person to Report to: _____

Address to Report to: _____

You may use this form to make your written request for the dispatch of an apprentice. Requests for dispatch must be in writing and submitted at least 72 hours in advance (excluding weekends and holidays) via first class mail, fax or email. **Proof of submission may be required.** Please take note of California Code of Regulations, Title 8, § 230.1 (a) for all applicable requirements regarding apprenticeship requests and/or

visit <https://www.dir.ca.gov/das/PublicWorksForms.htm>

DAS 142 (Revised 10/18)



Community Development and Housing Department

SECTION 3 ACTION AND OUTCOME PLAN (LCF DB16-2.5)

Project Name	
Project Code:	
Company Name:	

Contractor must complete and submit this form **FOLLOWING** the completion of the **SECTION 3 RESOURCE PARTICIPATION CERTIFICATE**. Contractor must provide information in **EACH** of the following sections and may attach additional sheets.

Action – Outcome: Section 3 Businesses

- Contractor will subcontract all or a portion of the work on this project: ☐ Yes ☐ No
- Contractor must describe outreach effort(s) (action) and the results (Outcome) taken to provide opportunities to qualified Section 3 Businesses:

Action (Describe):	Outcome(Summarize results of the actions taken):

Action – Outcome: Section 3 Residents

- Contractor will hire new personnel for all or a portion of the work on this project: ☐ Yes ☐ No
- Contractor must describe outreach effort(s) (action) and the results (Outcome) taken to employ Section 3 Workers/Targeted Workers:

Action (Describe):	Outcome(Summarize the results):

Non-Construction Employment: Identify any new employees the Contractor has hired for **Non-Construction** jobs for this project.
Example **Non-Construction** Job Classifications: Office/Clerical – Technical – Professional

Employee Name:	Section 3 Resident: Yes/ No	Date of Hire:	Job Classification:

Contractor Certifications

- Contractor has received a copy of San Bernardino County Section 3 Plan and the 24 CFR Part 75 regulations.
- Contractor shall include the *Labor Compliance Contract Addendum* (LCCA - which includes the 24 CFR Part 75 regulations) in all of Contractor's executed Subcontractor contracts for this Project.
- Contractor shall comply with the County's Section 3 Plan, and this *Contractor's Section 3 Outreach Efforts and Outcome Plan*.
- Contractor will, to the greatest extent feasible, comply with the numerical Section 3 benchmarks set forth in the County's Section 3 Plan for this project or subcontracting any of the work on this project.
- Contractor will complete the *HUD Section 3 Information* tab on all employees (new and current) in LCPTracker.

I hereby declare under penalty of perjury in the State of California that the above information and statements contained in the Contractor's Section 3 Action and Outcome Plan are true and correct.

_____	_____	_____
Print Name of Authorized E-Signature Signer	Select Title	Date



Community Development and Housing Department

SECTION 3 RESOURCE PARTICIPATION CERTIFICATE

(LCF DB16-2.4)

Project Name:	
Project Code:	
Company Name:	
Telephone Number:	

The undersigned certifies that the company principal(s), and any authorized personnel have read the County's Section 3 Plan and will contact the Housing Authority of the County of San Bernardino (HACSB) and the County of San Bernardino Workforce Development Department (WDD). After contacting and receiving information from HACSB and WDD, the Contractor and HACSB and WDD must sign and date their signature block section of this form.

****PLEASE ALLOW 72 HOURS TO RESPOND TIME****

Housing Authority of the County of San Bernardino

CONTACT INFORMATION: **Evan Miles (909) 890-5374 emiles@hacsb.com**

Contractor has contacted the Housing Authority of the County of San Bernardino and has received information to participate in the practicable opportunity for Business and Employment Services including Section 3 business/ residents to participate in the construction of the project.

I hereby declare under penalty of perjury in the State of California that the above information and statements contained are true and correct.

HOUSING AUTHORITY SIGNATURE

DATE

Comments: _____

Workforce Development Department

CONTACT INFORMATION: WDD - **Curtis Compton (909) 948-6625 ccompton@wdd.sbcounty.gov**

Contractor has contacted the County of San Bernardino Workforce Development Department and has received information to participate in the practicable opportunity for Business and Employment Services including Section 3 business/residents to participate in the construction of the project.

I hereby declare under penalty of perjury in the State of California that the above information and statements contained are true and correct.

WORKFORCE DEVELOPMENT SIGNATURE

DATE

Comments: _____

Print Name of Authorized E-Signature Signer

Select One

Title

Date



Community Development and Housing

SECTION 3 FORMS INSTRUCTIONS

(LCF DB16-2.4)

INTRODUCTION:

Employment opportunities for business and lower income persons in connection with assisted projects. Section 3 applies to housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more Housing and Urban Development (HUD) programs.

The County of San Bernardino Community Development and Housing Department (CDH) is the recipient of HUD financial assistance for public housing and housing as well as community development activities. These programs require compliance with Section 3 of the Housing and Urban Development Act of 1968. Section 3 requires that employment and other economic opportunities be directed toward low and extremely low-income persons, particularly those who are recipients of federal assistance for housing, and to business concerns that employ these qualifying residents.

The Section 3 Plan handbook is provided as a guide to understand Section 3 County plan, and the business and employment goals related to this project. It is intended to assist contractors in complying with Section 3 requirements, but does not supersede the contract provisions.

SECTION 3 RESOURCE PARTICIPATION CERTIFICATE:

- Complete the information section at the top of the form.
- Contact the Housing Authority of the County of San Bernardino (HACSB)
- Complete an informational resource meeting with the HACSB
- HACSB signs and dates their signature block section
- Contact the Workforce Development Department (WDD)
- Complete an informational resource meeting with WDD
- WDD signs and dates their signature block section
- Contractor signs and dates their signature block section
- Contractor uploads document into LCPtracker

CONTRACTOR'S SECTION 3 ACTION AND OUTCOME PLAN:

- Complete the information section at the top of the form
- List any "Action" (contractor) implemented for outreach to hire Section 3 Businesses
- List any "Outcome" from the (contractor's) outreach to Section 3 Businesses.
- List any "Action" (contractor) implemented for outreach to employ Section 3 Residents
- List any "Outcome" from the (contractor's) outreach to Section 3 residents
- List any "Non-Construction Employment" (New Hires) for the project
- Read "Contractor Certifications"
- Contractor signs and dates at bottom of page.
- Contractor uploads document into LCPtracker.



Community Development and Housing Department

SECTION 3 BUSINESS CERTIFICATION

Name of Business:

Address:

City:

State:

Zip Code:

Name of Business Owner:

Phone Number(s):

E-Mail Address:

Name of Preferred Contact:

Phone Number of Preferred

Contact (if different from above):

Type of Business: Sole Proprietorship ☐ Partnership ☐ Corporation ☐ Joint Venture ☐

Certification Regarding Status as a Section 3 Business Concern

The undersigned certifies that the company principal(s), and any authorized personnel have read the County's *Section 3 Plan*. Before contract award, business must submit additional documentation to verify Section 3 eligibility and demonstrate capability. For further information regarding Section 3 Business Concern can be found at [24 CFR 55.5](#)

"Section 3 Business Concern" means a business wherein (mark one):

- ☐ At least 51% or more owned and controlled by low-or very-low income person (Refer to income guidelines found on page 2); or
- ☐ At least 51% of the business owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
- ☐ At least 75% of labor hours performed for the business over a the prior three-month period are performed by Section 3 workers.

Owner hereby declares under penalty of perjury in the State of California that the foregoing declaration of "Section 3 Business Certification" is true and correct.

OWNER SIGNATURE

TITLE

PRINT NAME

DATE



Community Development and Housing Department

SECTION 3 Worker/Targeted Worker Eligibility Form

Company Name:			
Employee Name:			
Employee Address:		City:	
State:		Zip Code:	
Date of Hire:		Phone Number:	

The purpose of HUD's Section 3 program is to provide employment, training and contracting opportunities to low-income individuals, particularly those who are recipients of government assistance for housing or other public assistance programs. Your response is voluntary, confidential, and has no effect on your employment.

A Section 3 worker seeking certification shall self-certify and submit this form to the recipient contractor or subcontractor, that the person is a Section 3 worker or Targeted Section 3 Workers as defined in 24 CFR Part 75.

Section 3 Worker eligibility qualification:

Individual Income for the previous or annualized calendar year is below the income limits established by HUD for the area where you currently reside.

Individual Income							
<input type="checkbox"/>	Less than \$10,000	<input type="checkbox"/>	\$10,001 - \$20,000	<input type="checkbox"/>	\$20,001 - \$30,000	<input type="checkbox"/>	\$30,001 - \$40,000
<input type="checkbox"/>	\$40,001 - \$50,000	<input type="checkbox"/>	\$50,001 - \$60,000	<input type="checkbox"/>	\$60,001 - \$70,000	<input type="checkbox"/>	More than \$70,001

- ☐ I am currently employed by a Section 3 business concern.
- ☐ I am a Youthbuild participant (Section 3 Targeted Worker eligibility).

Section 3 Targeted Worker eligibility qualifications:

- ☐ Currently Employed by a Section 3 business concern
- ☐ Currently fits or when hired meets at least one of the following categories, as documented within the past five years:
- ☐ Living within the service area or the neighborhood of the project; or
- ☐ I am a Youthbuild participant.

I affirm that the information on this form is true, complete, and correct to the best of my knowledge and belief.
I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

SIGNATURE _____

DATE _____

PRINT NAME _____

FOR EMPLOYER ADMINISTRATIVE USE ONLY

- Is the employee a Section 3 worker based upon their self-certification? ☐ YES ☐ NO
- Is the employee a Targeted Section 3 worker based upon their self-certification? ☐ YES ☐ NO
- Was this an applicant who was hired as a result of the Section 3 project? ☐ YES ☐ NO

EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS



Community Development and Housing

SECTION 3 CUMULATIVE REPORT

Company Name:	
Address:	City:
State:	Zip Code:
<input type="checkbox"/> Initial Report	Project Name:
<input type="checkbox"/> Progress Report	Reporting Period:
<input type="checkbox"/> Final Report	

Section 3 Reporting:

Total number of hours estimated/worked: _____

Total number of labor hours estimated/worked by Section 3 Worker: _____

Total number of labor hours estimated/worked by Section 3 Targeted worker: _____

Section 3 Benchmarks:

- 1) Section 3 Labor Hours/Total Labor Hours = 25%
And
- 2) Targeted Section 3 Laborer Hours/Total Labor Hours = 5%

Initial Submission Report	Progress/Final Report
<input type="checkbox"/> The qualitative activities mark below will be pursued in effort to meet Section 3 requirements:	<input type="checkbox"/> If Section 3 benchmarks were NOT met, mark all qualitative activities pursued to meet Section 3 requirements:
<input type="checkbox"/> Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers. <input type="checkbox"/> Provided training or apprenticeship opportunities. <input type="checkbox"/> Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching). <input type="checkbox"/> Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services. <input type="checkbox"/> Held one or more job fairs. <input type="checkbox"/> Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, child care). <input type="checkbox"/> Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/ technical training. <input type="checkbox"/> Assisted Section 3 workers to obtain financial literacy training and/or coaching. <input type="checkbox"/> Engaged in outreach efforts to identify and secure bids from Section 3 business concerns. <input type="checkbox"/> Provided technical assistance to help Section 3 business concerns understand and bid on contracts. <input type="checkbox"/> Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns. <input type="checkbox"/> Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns. <input type="checkbox"/> Promoted use of business registries designed to create opportunities for disadvantaged and small businesses. <input type="checkbox"/> Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.	<input type="checkbox"/> Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers. <input type="checkbox"/> Provided training or apprenticeship opportunities. <input type="checkbox"/> Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching). <input type="checkbox"/> Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services. <input type="checkbox"/> Held one or more job fairs. <input type="checkbox"/> Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, child care). <input type="checkbox"/> Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/ technical training. <input type="checkbox"/> Assisted Section 3 workers to obtain financial literacy training and/or coaching. <input type="checkbox"/> Engaged in outreach efforts to identify and secure bids from Section 3 business concerns. <input type="checkbox"/> Provided technical assistance to help Section 3 business concerns understand and bid on contracts. <input type="checkbox"/> Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns. <input type="checkbox"/> Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns. <input type="checkbox"/> Promoted use of business registries designed to create opportunities for disadvantaged and small businesses. <input type="checkbox"/> Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

I affirm that we have made/will make best efforts to follow the prioritization of efforts requirements as follows 1) Section 3 workers residing within the services area of the neighborhood of the project, and 2) Participated in Youthbuild program. I hereby certify, under penalty of law, that the above statement is correct to the best of my knowledge.

Signature: _____ Date: _____

Print Name: _____



Community Development and Housing Department

Clear form

AUTHORIZATION FOR PAYROLL DEDUCTION(S)

Project Name:	
Project Code:	
Company Name:	
Employee Name:	
Last 4 digits of Social Security:	

Form **MUST** be signed by the **EMPLOYEE** who has "OTHER/GARNISH" deduction(s) subtracted from his/her payroll check. Deduction types include: Alimony, Child Support, other Court-Ordered Deductions or Garnishments, Training, Uniforms, 401K, Loans, Advance Paybacks, or Voluntary Insurance, etc. This form is to be submitted **BEFORE** the first Certified Payroll Report (CPR) reflecting the deduction(s). **SUPPORTING DOCUMENTATION** for "Other/Garnish" deductions may be required, as requested.

Deduction Type:	Explanation for Deduction(s)	Weekly Amount:

I THE ABOVE NAMED EMPLOYEE, HEREBY AUTHORIZE THE ABOVE NAMED CONTRACTOR TO MAKE THE ABOVE LISTED DEDUCTION(S) FROM MY PAYROLL CHECK. IT IS UNDERSTOOD THAT THESE DEDUCTIONS ARE IN THE INTEREST OF THE EMPLOYEE AND NOT A CONDITION OF EMPLOYMENT, OR A DIRECT OR INDIRECT FINANCIAL BENEFIT ACCRUING TO THE EMPLOYER, AND NOT FORBIDDEN BY LAW.

Employee Signature

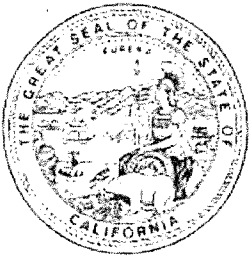
Date

Company Name/Name of Authorized E-Signature Signer

Title

Date

COMPLETE ONE (1) FORM PER EMPLOYEE.



**TRAINING FUND
CONTRIBUTIONS**

*California Apprenticeship
Council*

Transaction ID: XXXXXX

Total Amount: \$00.00

Please Mail this form and your check payable to the
California Apprenticeship Council to:

Contractor License: XXXXXX

**State of California
Department of Industrial Relations
California Apprenticeship Council
P.O. Box 511283
Los Angeles, CA 90051-7838**

Contractor's Name & Address:

Company name

Address 1

City, State Zip Code

Report Period: Dates

Contract/Project No: DIR Project #

Jobsite: Jobsite name #1

Remittance for the Following Project:

<u>COUNTY</u>	<u>CLASSIFICATION</u>	<u>HOURS</u>	<u>CONTRIBUTION RATE</u>	<u>AMOUNT</u>
SAN BERNARDINO	CARPENTERS	28.00	\$0.62	\$17.36

Submitter Contact Information

Submitter's name

Submitter's title

Email address

Phone #

Name of submitter

Submitter Title

Email address

Phone #

eCPR Online Confirmation

Your payroll submission request has been processed.

Please review the results of your submission. Should you have any questions please contact the eCPR unit at publicworks@dir.ca.gov.

Contractor Name: Name of Contractor.

Contractor Address: Contractor Address

City, CA Zip Code Awarding Body: Name of Awarding Body

Project ID: 123456

Contract With: Name of Prime Contractor

Week Ending Date: 2020-12-20

Payroll Number: 1

Amendment Number: 0

4 employee payroll record(s) processed

Your Transaction ID is: 100000000

[Print this Page](#)



[View your submission](#)

[Submit another set of payroll records](#)

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated 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. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

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, United States Code, as required in 23 CFR 633.102(b) (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). 23 CFR 633.102(e).

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. 23 CFR 633.102(e).

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) in accordance with 23 CFR 633.102. 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 solicitation-for-bids or request-for-proposals 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). 23 CFR 633.102(b).

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. 23 CFR 633.102(d).

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. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A 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 Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 230, Subpart A, 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 (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 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 Part 35 and 29 CFR Part 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. 23 CFR 230.409 (g)(4) & (5).

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, sexual orientation, gender identity, 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 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 or other knowledgeable company official.

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, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with 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. 23 CFR 230.409. 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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 thereunder. 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, sexual orientation, gender identity, 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, 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. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of 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 recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

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 more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, 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, sexual orientation, gender identity, 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), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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 (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), 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 basic hourly 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. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. 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 must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. 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 classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must 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. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

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

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must 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 be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate 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 used 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) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) 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 will be sent by the contracting officer by email to DBAconformance@dol.gov. 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.

(4) 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 will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The 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.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must 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.

d. *Fringe benefits not expressed as an hourly rate.*

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

e. *Unfunded plans.* 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, in accordance with the criteria set forth in § 5.28, 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.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and 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.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its reprourement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901-3907](#).

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must 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.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working 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 [29 CFR part 3](#); and

(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(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

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

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, 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, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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 (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must 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, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must 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 this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. 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. 23 CFR 230.111(e)(2). 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 as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 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 as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, 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 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 [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), 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 watchpersons 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. 29 CFR 5.5.

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 and interest from the date of the underpayment. 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 watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* 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.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, 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 that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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" in paragraph 1 of Section VI 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: (based on longstanding interpretation)

(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. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), 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. Pursuant to 23 CFR 635.116(c), 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. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

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 Part 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. 23 CFR 635.108.

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 Part 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). 29 CFR 1926.10.

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 Part 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 11, 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 (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

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. 2 CFR 180.220 and 1200.220.

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. 2 CFR 180.320.

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. 2 CFR 180.325.

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. 2 CFR 180.345 and 180.350.

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, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient 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 recipient or subrecipient 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. 2 CFR 180.330.

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. 2 CFR 180.220 and 180.300.

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. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. 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 System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

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 CFR 180.335;

(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, 2 CFR 180.800;

(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, 2 CFR 180.700 and 180.800; 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. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. 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). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant 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. 2 CFR 180.365.

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, Subpart I, 180.900 – 180.1020, 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 recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "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 recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to 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. 2 CFR 1200.220 and 1200.332.

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. 2 CFR 180.220 and 1200.220.

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 System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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. 2 CFR 180.325.

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

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should 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 Part 20, App. A.

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.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

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.