

**Proposed**

**Standard Bid Package**

**PROJECT NUMBER**

**PROJECT DESCRIPTION**

\_\_\_\_\_ **County**

**Sponsor Name**

## **INSTRUCTIONS TO BIDDERS (Federal Aid Projects)**

The instructions listed on this page are offered as a courtesy to bidders in order to help avoid situations in which proposals may have to be rejected or eliminated from consideration due to common pitfalls and oversights. This page shall not be considered an official part of the proposal or contract documents, and shall have no binding effect upon them. While completion of the following checklist by the contractor is entirely voluntary, the items listed herein are generally required in order for a bid to be considered.

### **CHECKLIST**

#### **Proposal:**

- Submit Proposal on ORIGINAL documents (not copy) provided by owner. (Your set is numbered serially and is not transferrable to another bidder.)
- Everything in INK or TYPED.
- Fill in Date & Time of bid opening and Name(s) & Address of Bidder(s) on Page 1.
- Complete information on Page 1A for any Addenda received.

#### **Contract Schedule:**

- Enter Prices & Amounts on Contract Schedule.
- Separate dollars & cents with a single decimal (per Spec. Prov. 22-LPA-001).
- Follow instructions (if applicable) in Subarticle 102.06(b) of Spec. Prov. 22-LPA-001, for any included "Alternates", "Cumulative Alternates", or alternate specified types of materials.

#### **Federal-Aid Funded Project:**

- Check appropriate certification statement(s) as required on Page 2.
- List Name(s) of Contractor on Page 6 (all if partnership or Jt. Venture).
- Sign on Page 6. (this is part of the Proposal and Contract Schedule)
- Date & Notarize on Page 6. (this is part of the Proposal and Contract Schedule)

#### **Bid Bond:**

- Bid Bond to be signed by same person signing Federal-Aid Funded Projects Proposal.
- Bid Bond executed by Surety's Agent (or cashier's check from an Alabama bank attached).
- Attach valid Power of Attorney to Bid Bond (unless check attached instead).

#### **Submittal of Bid:**

- Mark envelope "Proposals for Highway Work" or "Bid Proposal".
- List Project No., etc. on envelope (see 102.10 in Spec. Prov. 22-LPA-001).  Deliver Proposal with Bid Bond or check in SEALED envelope.
- Submit Proposal prior to date & time set for opening bids.

**ALDOT - - 2022 STANDARD BID PACKAGE**  
**Let & Awarded By: Local Public Agency**  
**Source of Funding: Federal Transportation Alternative Project**

The attached documents (available in electronic format) are the ALDOT "2022 STANDARD BID PACKAGE" for federally-funded Transportation Alternative projects. There are thirty (30) attachments in a combination of MS Word, MS Excel, and Adobe pdf formats.

The general instructions are: The documents should be assembled in the order in which they are listed below. For the nine (9) documents marked with an asterisk ("\*"), follow the directions listed inside the brackets ("[]") within each document, and fill in the blanks, etc. Then, **delete the brackets and any included instructions**. "Reformatting" (changing fonts, margins, line spacing's, page numbers/breaks, etc.) of these documents should be avoided, except where absolutely necessary in order to fit in project-specific information. The CONTRACT SCHEDULE may require some spreadsheet manipulation in order to accommodate the number of pay items and alternates (if any) that you have in your project.

- | <u>File)</u> | <u>Form</u>                     |  |
|--------------|---------------------------------|--|
| 1)           | Title Page                      |  |
| 2)           | INSTRUCTIONS TO BIDDERS         |  |
| 3)           | ALDOT 2022 Standard Bid Package | <i>(this page)</i>   |
| 4)           | * ADVERTISEMENT                 | <i>("Notice to Contractors")</i>   |
| 5)           | * PROPOSAL                      |  |
| 5A)          | * CONTRACT SCHEDULE             | (Base Bid Only)  |
| Or           |                                 | <i>(same file, select appropriate worksheet)</i>   |
| 5B)          | * CONTRACT SCHEDULE             | (Base Bid plus Add Alternates)   |
| 6)           | FEDERAL-AID FUNDED PROJECTS     |  |
| 7)           | * BID BOND                      |  |
| 8)           | * Special Provisions            | <i>(List of special provisions)</i>  |
|              | 8.1)                            | 22-LPA 0011 (Sections 101, 102, 103, 107, 109, 110)  |
|              | 8.2)                            | 22-LPA 002(2) (Section 105: Control of Work)   |
|              | 8.3)                            | Equal Employment Opportunity   |
|              | 8.4)                            | FHWA-1273 – Revised October 23, 2023   |
|              | 8.5)                            | <i>(Insert Applicable Davis-Bacon Wage Rates)</i>  |
|              | 8.6>)                           | <i>(Insert any special provisions needed for items covered by ALDOT specs)</i><br>The 2022 Current General Application Special Provisions list (accessible on the ALDOT webpage ( <a href="https://www.dot.state.al.us/publications/Construction/Specifications.html">https://www.dot.state.al.us/publications/Construction/Specifications.html</a> )) should be studied to determine if any of those special provisions need to be inserted into the above documents. This will all depend upon what items of work are included in the contract for each specific project. These mostly represent improvements or updates to the existing specs; however, for enhancement projects, we recommend minimizing the number of these special provisions that are included, for the sake of simplicity. An adequately qualified person should look them over to decide just how necessary each one is for your project. |
|              | 8.7>)                           | <i>(Insert any special provisions needed for items NOT covered by ALDOT specs)</i>   |
| 9)           | Form HR-DBE                     | (Bidder's List of Quotes, Revised January 2007)  |
| 10)          | Form DBE-10                     | (ALDOT Form DBE-10, Revised May 2015)  |
| 11)          | Form DBE-11                     | (ALDOT Form DBE-11, Revised January 2007)  |
| 12)          | * CONTRACT                      |  |
| 13)          | AFF ACTION FOR EEO STMT         | <i>(Contractor executes &amp; returns with executed contract)</i>  |
| 14)          | * PERFORMANCE BOND              | (For Performance Of The Work)  |
| 15)          | * MATERIALS BOND                | (For Payment Of Labor, Materials, Feed-Stuffs Or Supplies)   |

**NOTICE TO CONTRACTORS  
FEDERAL AID PROJECT NO. STPTE  
OF  
COUNTY, ALABAMA**

SEALED BIDS WILL BE RECEIVED BY THE \_\_\_\_\_ OF \_\_\_\_\_ AT \_\_\_\_\_ ALABAMA, UNTIL  
AND AT THAT TIME PUBLICLY OPENED FOR CONSTRUCTING THE FOLLOWING:

THE BRACKET ESTIMATE ON THIS PROJECT IS FROM \_\_\_\_\_ TO \_\_\_\_\_. THIS BRACKET RANGE IS PROVIDED ONLY AS A GENERAL INDICATION OF A BROAD FINANCIAL SIZE CATEGORY FOR THE PROJECT. IT SHOULD NOT BE USED IN PREPARING A BID, NOR WILL IT HAVE ANY BEARING ON ANY DECISION TO AWARD THE CONTRACT. THE PRINCIPAL ITEMS OF WORK ARE APPROXIMATELY AS FOLLOWS:

THE ENTIRE PROJECT SHALL BE COMPLETED IN \_\_\_\_\_ CALENDAR DAYS.

A CASHIER'S CHECK (DRAWN ON AN ALABAMA BANK) OR BID BOND FOR 5% OF THE AMOUNT BID (MAXIMUM OF \$10,000.00) AND MADE PAYABLE TO THE \_\_\_\_\_ OF \_\_\_\_\_ MUST ACCOMPANY EACH BID AS EVIDENCE OF GOOD FAITH. IT IS NOT REQUIRED THAT A CONTRACTOR BE LICENSED IN ORDER TO SUBMIT A BID; HOWEVER, PRIOR TO AWARD OF A CONTRACT, PROPER PROOF OF ALL APPLICABLE LICENSURES MUST BE PROVIDED BY THE CONTRACTOR. PROOF OF INSURANCE COVERAGES OF THE TYPES AND AMOUNTS AS SET FORTH IN THE PROJECT SPECIFICATIONS WILL BE REQUIRED OF THE CONTRACTOR, AND ANY AND ALL SUBCONTRACTORS, PRIOR TO BEGINNING WORK. THE CONTRACTOR WILL BE REQUIRED TO PERFORM WORK AMOUNTING TO AT LEAST 30% OF THE TOTAL CONTRACT COST WITH HIS OWN ORGANIZATION.

CONTRACTOR PREQUALIFICATION IS NOT REQUIRED TO BID ON THIS PROJECT. HOWEVER, THE AWARD OF THE CONTRACT WILL NOT BE MADE TO ANY BIDDER WHO, AT THE TIME OF THE AWARD, IS CONSIDERED BY THE ALABAMA DEPARTMENT OF TRANSPORTATION (ALDOT) TO BE DISQUALIFIED FROM BIDDING, NOR TO ANY BIDDER WHO IS AN AFFILIATE OF OR HAS A CORPORATE OFFICER, DIRECTOR, OR PRINCIPAL OWNER WHO IS A CORPORATE OFFICER, DIRECTOR, OR OWNER OF, ANOTHER PERSON WHO IS PRESENTLY DISQUALIFIED BY ALDOT. FURTHER DETAILS AND DEFINITIONS REGARDING THIS PROVISION ARE INCLUDED IN THE PROJECT SPECIFICATIONS.

TO BE ELIGIBLE FOR CONSIDERATION, BIDS MUST BE SUBMITTED ON COMPLETE ORIGINAL PROPOSALS MADE AVAILABLE BY THE OWNER. BID DOCUMENTS (INCLUDING PLANS AND PROPOSALS) ARE AVAILABLE AT \_\_\_\_\_ ALABAMA \_\_\_\_\_ UPON PAYMENT OF A REFUNDABLE (IF PLANS ARE RETURNED IN REUSABLE CONDITION WITHIN 10 DAYS OF BID OPENING) DEPOSIT OF \_\_\_\_\_. CHECKS SHALL BE MADE PAYABLE TO THE \_\_\_\_\_ OF \_\_\_\_\_. BID DOCUMENTS WILL BE MAILED ONLY UPON RECEIPT OF DEPOSIT. NO BID DOCUMENTS WILL BE DISTRIBUTED LATER THAN 24 HOURS PRIOR TO THE SCHEDULED OPENING OF BIDS.

BID DOCUMENTS ARE ON FILE AT \_\_\_\_\_

THIS IS A FEDERALLY FUNDED PROJECT. THE PROPOSED WORK SHALL BE PERFORMED IN CONFORMITY WITH THE RULES AND REGULATIONS FOR CARRYING OUT THE FEDERAL HIGHWAY ACT AND OTHER ACTS AMENDATORY, SUPPLEMENTARY, OR RELATIVE THERETO. THIS PROJECT IS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT AND ITS IMPLEMENTING REGULATIONS. MBE/DBE PARTICIPATION IS ENCOURAGED; HOWEVER, NO SPECIFIC MBE/DBE GOALS HAVE BEEN ESTABLISHED FOR THIS PROJECT.

MINIMUM WAGE RATES FOR THIS PROJECT HAVE BEEN PRE-DETERMINED BY THE SECRETARY OF LABOR AND ARE SET FORTH IN THE ADVERTISED SPECIFICATIONS.

IN ACCORDANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 78 STAT. 252, 42 U.S.C. 2000D TO 2000D-4 AND TITLE 49, CODE OF FEDERAL REGULATIONS, DEPARTMENT OF TRANSPORTATION, SUBTITLE A, OFFICE OF THE SECRETARY, PART 21, NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION ISSUED PURSUANT TO SUCH ACT, ALL BIDDERS ARE HEREBY NOTIFIED THAT IT WILL BE AFFIRMATIVELY ENSURED THAT IN ANY CONTRACT ENTERED INTO PURSUANT TO THIS ADVERTISEMENT, MINORITY BUSINESS ENTERPRISES WILL BE AFFORDED FULL OPPORTUNITY TO SUBMIT BIDS IN RESPONSE TO THIS INVITATION AND WILL NOT BE DISCRIMINATED AGAINST ON THE GROUNDS OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN CONSIDERATION FOR AN AWARD.

THE RIGHT TO REJECT ANY OR ALL BIDS AND TO DISREGARD ANY MINOR IRREGULARITIES IS RESERVED BY THE OWNER.

HONORABLE

# PROPOSAL

FOR THE CONSTRUCTION OF FEDERAL AID

PROJECT No. [LLLL- ####(###)]

[CITY] OF [ city ]

[ county ] COUNTY, ALABAMA

DATE: \_\_\_\_\_

TIME : \_\_\_\_\_ : \_\_\_\_\_ M

PROPOSAL OF \_\_\_\_\_

(Name of Bidder)

LICENSE No. \_\_\_\_\_ OF \_\_\_\_\_

(Not Required to Bid)

(Address)

for constructing the [

*description of project*

]

in the [City] of [ city ], County of [ county ], State of Alabama.

The plans are composed of drawings identified as follows:

FEDERAL AID PROJECT No. STPTE-[####(##)]

The specifications are hereto attached.

TO THE [MAYOR] OF THE [CITY] OF [ city ], ALABAMA:

SIR: The following proposal is made on behalf of the undersigned and no others. Submittal of this bid on these COMPLETE ORIGINAL DOCUMENTS furnished by the owner constitutes evidence of authority for the undersigned to bid on this project.

The undersigned has carefully examined the plans for this project, the Alabama Department of Transportation Standard Specifications for Highway Construction, 2006 Edition, including the special provisions hereto attached, and has also personally examined the site of work. On the basis of the specifications and plans the undersigned proposes to furnish all necessary machinery, tools, apparatus and other means of construction, and do all the work and furnish all material in the manner specified.

The undersigned further agrees to complete the entire project in [\*\*\*\*ty (##)] working days. MBE/DBE participation is encouraged; however, no specific MBE/DBE goals have been established for this project.

The undersigned understands that the quantities below are approximate only and are subject to either increase or decrease and hereby proposes to perform any increased or decreased quantities of work in accordance with said Specifications. The undersigned further understands and specifically agrees that in making this proposal, in case of error in the extension of prices in the bid, unit prices will govern.

Receipt of the following Addenda to these documents is hereby acknowledged by the undersigned (bidder to complete below):

ADDENDUM NO.	DATE ISSUED	ADDENDUM NO.	DATE ISSUED
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The undersigned understands and agrees that the above-listed Addenda are made, by reference, a part of this proposal document, the same as if they had been originally included herein.

In accordance with DIVISION 100 of the specifications, unless modified by special provisions included herein, the timetable for the award and execution of the contract, return of bid guaranties, and issuance of a work order ("Notice to Proceed") will be generally as follows (see specifications and special provisions for further details):

**BID GUARANTIES RETURNED**

Successful Bidder. . . . .

**After contract & bonds executed and approved.** May be allowed to substitute bond for check after 30 days after bid opening.

Next 2 Lowest Bidders . . .

**15 days** after bid opening, or after successful bidder's contract and bonds approved if before the 15 days.

All others . . . . .

**After bids tabulated and checked.**

**AWARD OF CONTRACT . . . . .**

Within **30 days** after bid opening, or later if agreed to.

**EXECUTION OF CONTRACT .**

Contractor must execute within **15 days** after presentation for signature. May be extended no more than 5 days by owner.

**APPROVAL OF CONTRACT. . .**

Owner approves within **20 days** after presentation by contractor, unless contractor agrees to a longer period.

**WORK ORDER ISSUED . . . . .**

Within **15 days** after approval and execution of contract by owner. May be extended by agreement.

**TIME CHARGES BEGIN. . . . .**

Within **15 days** of issuance of Work Order, or when work begins, whichever occurs first.

Any allowable extensions made in this timetable are to be made in writing.

## CONTRACT SCHEDULE

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*[ Enter list of Pay Item Nos., Item Descriptions, Quantities, and Units into spreadsheet file CONTRACT SCHEDULE (PROPOSAL SHEET 2).xls, then print out and insert in place of this sheet as Page 2 of proposal. Multiple pages for the CONTRACT SCHEDULE should be numbered as 2, 2A, 2B, 2C, etc. ]*

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**CONTRACT SCHEDULE**

WITH SPECIAL REGARD TO SPECIFICATION SECTION 102.06, "PREPARATION OF PROPOSAL", **AS REVISED BY THE SPECIAL PROVISIONS**, THE FOLLOWING REPRESENTS THE BIDDER'S SCHEDULE OF CONTRACT UNIT PRICES FOR THIS PROPOSAL (bidder to complete below):

LINE NO.	ITEM NO.	DESCRIPTION	QUANTITY & UNIT	UNIT PRICE	AMOUNT BID	
<b>BASE BID:</b>						
1				\$	\$	
2				\$	\$	
3				\$	\$	
4				\$	\$	
5				\$	\$	
6				\$	\$	
7				\$	\$	
8				\$	\$	
9				\$	\$	
10				\$	\$	
11				\$	\$	
12				\$	\$	
13				\$	\$	
14				\$	\$	
15				\$	\$	
16				\$	\$	
17				\$	\$	
18				\$	\$	
19				\$	\$	
20				\$	\$	
21				\$	\$	
22				\$	\$	
23	<b>TOTAL BID AMOUNT, BASE BID</b> (ADD "AMOUNT BID" COLUMN FIGURES FROM LINES 1 THROUGH 22):				\$	\$

<b>CUMULATIVE ALTERNATE A:</b>				
1A			\$	\$
2A			\$	\$
3A			\$	\$
4A	<b>TOTAL ADDITIVE AMOUNT FOR CUMULATIVE ALTERNATE A</b> (ADD "AMOUNT BID" COLUMN FIGURES FROM LINES 1A THROUGH 3A):			\$
5A	<b>TOTAL BID AMOUNT, BASE BID PLUS CUMULATIVE ALTERNATE A</b> (ADD "AMOUNT BID" COLUMN FIGURES FROM LINES 23 AND 4A):			\$
<b>CUMULATIVE ALTERNATE B:</b>				
1B			\$	\$
2B			\$	\$
3B			\$	\$
4B	<b>TOTAL ADDITIVE AMOUNT FOR CUMULATIVE ALTERNATE B</b> (ADD "AMOUNT BID" COLUMN FIGURES FROM LINES 1B THROUGH 3B):			\$
5B	<b>TOTAL BID AMOUNT, BASE BID PLUS CUMULATIVE ALTERNATES A AND B</b> (ADD "AMOUNT BID" COLUMN FIGURES FROM LINES 5A AND 4B):			\$
<b>CUMULATIVE ALTERNATE C:</b>				
1C			\$	\$
2C			\$	\$
3C			\$	\$
4C	<b>TOTAL ADDITIVE AMOUNT FOR CUMULATIVE ALTERNATE C</b> (ADD "AMOUNT BID" COLUMN FIGURES FROM LINES 1C THROUGH 3C):			\$
5C	<b>TOTAL BID AMOUNT, BASE BID PLUS CUMULATIVE ALTERNATES A, B, AND C</b> (ADD "AMOUNT BID" COLUMN FIGURES FROM LINES 5B AND 4C):			\$

**LOCAL PUBLIC AGENCY  
FEDERAL-AID FUNDED PROJECTS**

**PLEASE READ AND COMPLETE SECTIONS A AND B. THE EXECUTION HEREINAFTER MADE ALSO CONSTITUTES THE EXECUTION OF THE PROPOSAL AND REPRESENTS THE AGREEMENT OF THE CONTRACTOR TO COMPLY WITH ALL DOCUMENTS CONTAINED IN THE PROPOSAL AND THOSE REFERRED TO THEREIN. FAILURE TO SUBMIT THE SWORN CERTIFICATION THROUGH PAGE 6 OF THIS NOTICE WILL BE CONSIDERED A NON-RESPONSIVE BID. BID BOND MUST BE SEPARATELY EXECUTED BY CONTRACTOR AND SURETY.**

The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in 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; and/or
- (3.) Disqualifying the contractor from future bidding as non-responsive.

The Statement Required To Be Submitted By Proposed Contractor Pursuant To Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) and Regulations in 41 CFR Part 60-4 On All Federal and Federally-Assisted Contracts In Excess of \$10,000 Will Be Included In the Award of Your Contract and Should Be Returned With Your Executed Contract.

The undersigned agrees that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this contract shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this contract, be enacted, then that conflicting provision in the contract shall be null and void.

The undersigned understands that in the event the term of this contract includes more than one fiscal year, said contract is subject to termination should funds not be appropriated for the continued payment of the contract in subsequent fiscal years.

The undersigned understands that in the event of the proration of the fund from which payment under this contract is to be made, the contract will be subject to termination.

**Section A: The Alabama Department of Transportation is obligated on every Federal-aid project to implement, to the extent practical, 49CFR26, "Participation by Disadvantaged Business Enterprises (DBE) in U.S. DOT Financial Programs". This participation can be achieved by race neutral and/or race conscious means.**

When race conscious means are used the contract goal for DBE participation will be indicated on **Page Two of the Proposal Cover Sheet** and in Section 111 of the Alabama Department of Transportation Standard Specifications for Highway Construction. Race neutral participation occurs when the contractor exceeds the indicated contract goal, or in the absence of a contract goal, obtains participation from a certified DBE that meets the CREDIT TOWARD PARTICIPATION portion of Section 111 of the Alabama Department of Transportation Standard Specifications for Highway Construction.

If the Department has determined that this project has sufficient opportunities for MBE/DBE participation the goal for this contract will be listed on **Page Two of the Proposal Cover Sheet**.

All bidders must complete form HR-DBE, "BIDDERS LIST OF QUOTERS FOR THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM."

If the contractor is low bidder for the project, it is understood the contractor will provide a DBE Utilization Plan which outlines the proposed percentage of DBE Utilization within five (5) calendar days of the letting date, along with documentation of the contractor's "Good Faith" efforts to utilize DBE firms if the proposed percentage of utilization is less than the designated project goal. The contractor's good faith efforts will fully comply with and meet all requirements, provisions and criteria of Title 49, Code of Federal Regulations, Part 26, including the criteria set forth in 49 CFR, Part 26, Appendix A and will comply with and meet the requirements, provisions and criteria set forth in Section 111 of the Alabama Department of Transportation

Standard Specifications for Highway Construction as all of such foregoing requirements, provisions and criteria are applicable to Disadvantaged Business Enterprises, all of which the contractor represents that he is familiar. The contractor understands that the good faith efforts of the contractor will be reviewed by the Department in keeping with all such requirements, provisions and criteria.

#### NOTE

The Department will advise the low bidder of his status as soon as possible after the opening of bids. A copy of the Department's DBE Utilization form has been attached to this proposal for use in complying with the Requirement.

Failure by the successful bidder to provide an acceptable DBE Utilization plan within the time frame required or failure of the successful bidder to make and document Good Faith Efforts, when applicable, will result in non-award of the contract to that bidder. If the contract is awarded to the next low bidder, the original low bidder will be prohibited from doing any work on the contract, either as subcontractor or in any other capacity. The original low bidder will also be prohibited from bidding on the project if it is re-advertised for letting. These restrictions shall apply to any other name under which the same person, individual, partnership, company, firm, corporation, association, co-operative or other legal entity that may be operating in which the principal owner(s) is involved.

#### Section B: CONTRACTOR'S CERTIFICATION

The contractor proposes to perform all "Force Account of Extra Work" that may be required on the basis provided in the Specifications hereto attached, and to give such work personal attention in order to see that it is economically performed.

The contractor further proposes to execute the Contract Agreement in a form to be attached as soon as the work is awarded to the contractor and to begin and complete the work within the respective time limit provided for in the Specifications hereto attached.

The contractor also proposes to furnish a Performance Bond, acceptable to the State, in an amount equal to the total amount of the contract. This bond shall serve not only to guarantee the completion of the work but also to guarantee the excellence of both workmanship and materials until the work is finally accepted. The contractor will also furnish a materialsman bond, acceptable to the State, equal to the amount of the contract.

The contractor encloses a cashier's check or bid bond for five percent (5%) of the bid, maximum \$50,000.00, and hereby agrees that in case of failure to execute a contract and furnish bonds within fifteen (15) days\* after notice of award, the awarding authority shall retain from the proposal guaranty, if it is a cashier's check, or recover from the principal and/or the sureties, if the guaranty is a bid bond, the difference between the amount of the Contract as awarded and the amount of the proposal of the next lowest acceptable bidder, which amount shall not exceed \$50,000.00.

If no other bids are received, the full amount of the proposal guaranty shall be so retained and/or recovered as Liquidated Damages for such default. It is understood that in case the work is not awarded to the contractor, the proposal guaranty, if a cashier's check, will be returned as provided in the Alabama Department of Transportation Standard Specifications for Highway Construction.

In compliance with State of Alabama Act 2016-312, the contractor further certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade. In compliance with Ala. Act No. 2023-409, by signing this contract, Contractor provides written verification that Contractor, without violating controlling law or regulation, does not and will not, during the term of the contract engage in economic boycotts as the term "economic boycott" is defined in Section 1 of the Act.

#### 1. DISADVANTAGED BUSINESS ENTERPRISES

The contractor intends to comply with the contract documents to utilize Disadvantaged Business Enterprises (hereinafter referred to at times as (DBE)) to the extent practical and when, under Section A herein above, the contract documents specify a minimum monetary amount to be expended with Disadvantaged Business Enterprises, to equal or exceed said amount through subcontracting and/or by purchases of materials and services on the project.

\*Time may be modified by Special Provision.

It is understood that failure to submit a Disadvantaged Business Enterprise Plan, when such is required by the contract within the time frame so specified, will be cause for assessment of penalties as provided in the contract.

It is further understood that failure to comply with the contract relating to Disadvantaged Business Enterprises, when such are applicable, will be cause for the assessment of penalties as provided in the contract.

**2. REQUIREMENT BY THE EQUAL EMPLOYMENT OPPORTUNITY REGULATIONS OF THE SECRETARY OF LABOR (41 CFR 60-1.7(b) (1))**

THE CONTRACTOR MUST CHECK THE APPROPRIATE BOX BELOW:

The contractor submitting this proposal certifies that such contractor

HAS /\_\_\_\_\_/                      HAS NOT /\_\_\_\_\_/

participated in a previous contract or subcontract subject to the Equal Opportunity Clause, as required by Executive Orders 10925, 1114 or 11246.

If the contractor checked the "HAS" box above, the following statement must be completed. The contractor submitting this proposal certifies that such contractor

HAS /\_\_\_\_\_/                      HAS NOT /\_\_\_\_\_/

filed with the Joint Reporting Committee, the director of OFCC, any Federal Agency or the former President's Committee on Equal Employment Opportunity all reports due under the applicable filing requirements of those organizations. All reports due are considered to be those requested by one of these committees or agencies.

Concurrently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and who have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the director, Office of Federal Contract Compliance, U. S. Department of Labor.

**3. COLLUSION**

It is further certified that neither the person, firm, partnership or corporation submitting this bid, nor any of their officers, have directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this contract.

**4. SUSPENSION/DEBARMENT**

**A. Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions**

**Instructions for Certification**

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

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

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

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

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

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

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

A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

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

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

#### Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

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

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

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;

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 the preceding paragraph of this

certification; and 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.

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

**B. For Lower-Tier Requirements, see Section XI of "Required Contract Provisions Federal-Aid Construction Contracts" located in the proposal.**

Exceptions to the above are to be submitted on a separate sheet with the bid proposal. For any exception noted, indicate to whom it applies, initiating agency and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

#### **5. LOBBYING RESTRICTIONS**

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

The contractor certifies to the best of his/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.

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 Section 1352, Title 31, U.S. Code. Any person who fails to file this 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.

The contractor also agrees by submitting this proposal that he/she shall require that the language of this certification be included in all lower-tier subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

I further certify that I am a properly authorized individual or corporate official, as applicable, to make this certification that the above is true and correct; and that I recognize, by signing this certification, I am also signing the contract proposal on behalf of the contractor in whose name the proposal is made, whether individual, partnership, or corporation as might be applicable.

**NOTE: PROVIDED THE BID BOND ON THE FOLLOWING TWO PAGES IS PROPERLY EXECUTED IN THE CONTRACTOR'S NAME, SIGNED BY AN AUTHORIZED OFFICER OF THE CONTRACTOR CORPORATION (OR INDIVIDUAL OR PARTNER, WHEN NOT A CORPORATION), THE SAME MAY MAKE THE FOREGOING CERTIFICATIONS BY SIGNING BEFORE A PROPERLY SWORN NOTARY PUBLIC. THE CERTIFICATIONS MUST BE PROPERLY SWORN TO, SIGNED AND NOTARIZED BELOW.**

**Signature of Contractor.** If the contractor is an **INDIVIDUAL**, signature of the individual is required; if contractor is a **CORPORATION**, signature of proper corporate officer is required; if contractor is a **PARTNERSHIP**, signature of partner is required; if contractor is **JOINT VENTURE**, appropriate signatures of all contractors are required.

Legal name of Contractor:

\_\_\_\_\_  
(Partnership, Joint Venture, Corporation or Individual)

By: \_\_\_\_\_  
(Signature of Officer or Individual, as applicable)

By: \_\_\_\_\_  
IF JOINT VENTURE (Signature of Officers or Individual, as applicable)

The foregoing certifications are sworn to and subscribed before me on this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

**AWARD WILL NOT BE CONFERRED UNLESS THIS FORM IS COMPLETED AND SIGNED AND WITNESSED BY A NOTARY.**



**NOTE:** PROPOSAL WILL NOT BE ACCEPTED, AND BIDS WILL NOT BE CONSIDERED UNLESS THIS FORM FOR BID BOND IS USED AND SIGNED BY PRINCIPAL AND SURETY, OR UNLESS A CASHIER'S CHECK (DRAWN ON AN ALABAMA BANK) IN THE PROPER AMOUNT IS FURNISHED.

**FORM OF  
BID BOND**

Revised 5/2016

KNOW ALL MEN BY THESE PRESENTS:

That the contractor, as **Principal**, and \_\_\_\_\_ (Name of

\_\_\_\_\_, as **Surety**, are held and firmly  
Surety)

bound unto

THE [CITY] OF [ city ]

as **Obligee** in the full and just sum of five percent (5%) of amount bid (Maximum amount - \$10,000.00), lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said **Principal** is herewith submitting its proposal for Project Number **????- [#### (###)]**, located in the [City] of [ city ], County of [ county ], State of Alabama.

The condition of this obligation is such that:

If the aforesaid **Principal** shall be awarded the contract and said **Principal** will, within the time required, enter into a formal contract and give a good and sufficient bond to secure the performance of the terms and conditions of the contract, then this obligation will be void; otherwise, the **Principal** and the **Surety** will pay unto the **Obligee** the difference in money between the amount of the contract as awarded and the amount of the proposal of the next lowest acceptable bidder, but not to exceed the total amount of the proposal guaranty. If no other bids are received, the full amount of the proposal guaranty shall be retained and/or recovered as liquidated damages for such default.

Witness our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(Day) (Month) (Year)

SIGNATURE OF INDIVIDUAL BIDDER: (USE ONLY WHERE BIDDER IS AN INDIVIDUAL)

\_\_\_\_\_, Doing Business As, \_\_\_\_\_  
(Name of Individual) (Business Name)  
Business Mailing Address: \_\_\_\_\_  
(Mailing Address)

NAME OF CORPORATION, PARTNERSHIP, OR JOINT VENTURE:

\_\_\_\_\_  
(Name of Partnership, Joint Venture or Corporation\*) - (If Two Corporations\*\*)

Business Mailing Address: \_\_\_\_\_ BY: \_\_\_\_\_ (L.S.)  
(Address) (Signature and Position or Title of Officer Authorized to Sign Bids and Contracts for the Firm)

Business Mailing Address: \_\_\_\_\_ BY: \_\_\_\_\_ (L.S.)  
(Address) (Signature and Position or Title of Officer Authorized to Sign Bids and Contracts for the Firm)

Business Mailing Address: \_\_\_\_\_ BY: \_\_\_\_\_ (L.S.)  
(Address) (Signature and Position or Title of Officer Authorized to Sign Bids and Contracts for the Firm)

\*(Corporate Seal) Attest: \_\_\_\_\_  
(Secretary)

Name of State under the laws of which The Corporation was chartered: \_\_\_\_\_  
(State)

\*\* (Corporate Seal) Attest: \_\_\_\_\_  
(Secretary)

Name of State under the laws of which The Corporation was chartered: \_\_\_\_\_  
(State)

**SURETY:** \_\_\_\_\_  
(Name of Surety)

BY (AGENT): \_\_\_\_\_  
(Attorney in Fact)

AGENT'S ADDRESS: \_\_\_\_\_  
(Mailing Address)

**NOTICE:** VALID POWER OF ATTORNEY MUST BE ATTACHED.

**PLEASE LEAVE ATTACHED IN YOUR BIDDING FORM**

**SPECIAL PROVISIONS**  
**PROJECT No.** \_\_\_\_\_  
**Project Sponsor:** \_\_\_\_\_  
 \_\_\_\_\_ **COUNTY, ALABAMA**

The following Special Provisions are supplementary requirements and amendments to the Standard Specifications for Highway Construction, which apply to this project. The requirements and amendments given in these Special Provisions shall take precedence over the requirements given in the Standard Specifications. In case of conflict, the first two Special Provisions listed below shall take precedence over the remaining Special Provisions.

<u><b>SPECIAL PROVISION</b></u>	<u><b>NUMBER</b></u>
<b>8.1)</b> General Provisions for Projects let by LPA (with prequalification)	22-LPA-001
<b>8.2)</b> Acceptance of Projects let by LPA	22-LPA-002(2)
<b>8.3)</b> Required Contract Provisions for all Federal Aid Projects For Equal Employment Opportunity	22-FH0002-FH0005
<b>8.4)</b> Form FHWA-1273 (12 pages) Revised October 23, 2023	FHWA-1273
<b>8.5)</b> Insert Applicable Davis-Bacon Wage Rates	SP 22 - _____

**8.6>)** *(Insert any special provisions needed for items not covered by ALDOT specs)*  
 Also, the 2022 Current General Application Special Provisions list (accessible on the ALDOT webpage, <https://www.dot.state.al.us/publications/Construction/Specifications.html>) should be studied to determine if any of those special provisions need to be inserted into the above documents. This will all depend upon what items of work are included in the contract for each specific project. These mostly represent improvements or updates to the existing specs; however, for enhancement projects, we recommend minimizing the number of these special provisions that are included, for the sake of simplicity. An adequately qualified person should look them over to decide just how necessary each one is for your project.

**8.7>)** *[ For any work, pay items, or requirements not covered by existing ALDOT specifications, compose additional Special Provisions. Ensure that any new items of work are fully described. Fully describe all required work, materials & equipment, Item No., Item Description and units (for payment), and method of measurement. If specifying by manufacturer, model no., etc., at least three (3) different manufacturers (plus "or approved equal") shall be listed. Exceptions require written justification and approval by the FHWA, ALDOT, and possibly the Alabama Building Commission (see state code 39-2-2(f) and 41-16-57). List the additional Special Provisions here, and insert into proposal package in the order listed. ]*

**Special Permit Requirements [Discuss with ALDOT Region] [ ##### ]**

# ALABAMA DEPARTMENT OF TRANSPORTATION

DATE: January 4, 2022

Special Provision No. 22-LPA-001

EFFECTIVE DATE: January 1, 2022

SUBJECT: General Provisions for Projects let by LPA (with prequalification)

Alabama Standard Specifications, 2022 Edition, shall be amended by the modification of SECTIONS 101, 102, 103, 107, 109 and 110 as follows:

## SECTION 101 DEFINITION OF TERMS

### 101.01 Definitions

*This Article (101.01) shall be amended to include the following Subarticle:*

#### (d) LOCAL PUBLIC AGENCY

This project is being advertised, let to contract, and administered by a Local Public Agency (henceforth referred to as LPA). The LPA is the awarding authority for the contract. The work shall be under the supervision of the LPA, but subject to the inspection and approval of the proper officials of the Alabama Department of Transportation (ALDOT). Such inspection shall in no sense make ALDOT a party to this contract and will in no way interfere with the rights of the Contractor or the LPA.

All references made in the standard specifications and in other related and included documents of this proposal, to ALDOT, the "State", the "Department" or "Highway Department", etc. shall be understood to mean the LPA for this project, except in any references made to ALDOT qualification procedures (including prequalification, disqualification, requalification), or to the LPA consulting or interacting with ALDOT, etc. All references made in the standard specifications and in other related and included documents of this proposal, to any of the representatives, employees, officials, bureaus, committees, laboratories and other facilities, physical address and contact information, etc. of ALDOT, the "State", the "Department" or "Highway Department", etc. shall be understood to mean the appropriate and applicable ALDOT or non-ALDOT person(s), parties, facilities, physical address and contact information, etc. as determined (in consultation with ALDOT personnel) and designated by the LPA for this project.

All references made in the standard specifications and in other related and included documents of this proposal, to ALDOT or State of Alabama Highway Department manuals, lists, forms, procedures, and other TECHNICAL publications and documents (including electronic and websites), shall remain intact and in full effect for this project unless otherwise indicated in the plans and proposal.

The term "owner", as used in this proposal and its related and included documents, shall be understood to mean the LPA for this project, except in those cases where it is clear that the term "owner" is used in reference to a party other than the LPA.

## SECTION 102 PROPOSAL REQUIREMENTS AND CONDITIONS

### 102.02 Qualification of Bidders.

***This Article shall be amended by deleting Article 102.02(a) as written and the following substituted in lieu thereof:***

#### (a) PREQUALIFICATION.

Consultants/contractors must be prequalified by ALDOT for project awards in excess of \$1,000,000. Project awards less than \$1,000,000.00 will not require ALDOT prequalification. For project awards in excess of \$1,000,000.00, proposal forms will only be issued to prospective bidders who have qualified with the Alabama Department of Transportation and have a valid ALDOT certification of qualification. Said certification shall be the same as that which would, by State law, be required prior to bid if the project were being let to contract by ALDOT. The contract will not be awarded to a bidder who does not have such a certification in effect with ALDOT at the time of the award, even if a proposal form was issued to that bidder. All applicants for qualification shall submit to ALDOT's Office Engineer Bureau, under Oath, a complete confidential statement, equipment questionnaire, and experience questionnaire on forms that will be furnished by ALDOT upon request. To ensure sufficient time for consideration, the applicant shall properly complete and submit the forms at least 14 calendar days prior to the date of opening bids on which the applicant desires to submit proposals. Forms received at a later date, so long as they are received prior to the date and time set for the opening of the bids, will be considered whenever practicable.

If the applicant is a corporation organized in a State other than Alabama, it shall furnish a certificate from the Secretary of State showing that it is qualified to transact business in Alabama. A corporation from another State can be issued a certificate valid for award of contracts only on projects involving Federal participation, without the certificate from the Secretary of State.

A prospective bidder will not be prequalified who has a corporate officer, director, or principal owner who is a corporate officer, director, or owner of another person which is presently disqualified by ALDOT. A prospective bidder will also not be prequalified who is an affiliate of a person that is presently disqualified by ALDOT.

For the purposes of this Section, the following definitions shall apply:

- an affiliate shall be defined as any person that controls, is controlled by, or is under common control with another person.
- a person shall be defined as an individual, a corporation, a partnership, an association, a joint stock company, a trust, or any unincorporated organization.
- control shall be defined as the ownership, directly or indirectly, of 10% or more of the voting securities of a person or if the person is not a corporation, an ownership interest, directly or indirectly of 10% or more of the person.

***This Article shall be further amended by deleting the first sentence of Subarticle (b) through the colon (":") as written and the following substituted in lieu thereof:***

#### (b) DISQUALIFICATION.

ALDOT will have the right to disqualify a prospective bidder and prohibit the issuance of a proposal and/or award of a contract to that bidder, the LPA will have the right to refuse to award a contract to a bidder (even if a proposal form was issued to the bidder), and ALDOT and the LPA may each elect to consider a contractor to be disqualified from bidding on this or any

future contracts with their respective agencies, for any of the following reasons related to this or any other projects with ALDOT or this LPA:

### **102.03 Contents of Proposal Form.**

***This Article shall be amended by deleting Subarticle (b) as written and the following substituted in lieu thereof:***

#### **(b) ADDENDA.**

Minor changes, corrections, additions, and deletions to the proposal package may be put into effect by the LPA, in the form of Addenda. Prospective bidders to whom bid documents have been distributed prior to the release of respective Addenda will be notified of the Addenda by documented hand-delivery, certified or express type mail, facsimile, telegram, or other electronic media. Bidders shall acknowledge receipt of all Addenda, in writing, in the space so designated in the proposal.

### **102.06 Preparation of Proposal.**

***This Article shall be amended by deleting Subarticle (a) as written and the following substituted in lieu thereof:***

#### **(a) PROPOSAL FORM.**

The bidder's proposal must be submitted on the complete original proposal form furnished him by the LPA. Proposal forms are numbered serially and are not transferable. Unless otherwise provided in the proposal, joint venturers may submit a proposal for a joint venture of qualified bidders on a proposal form issued to one of them, provided each venturer has taken out a proposal and provided the proposal is signed by each co-venturer.

***This Article shall be further amended by deleting Subarticle (b) as written and the following substituted in lieu thereof:***

#### **(b) DETAILS.**

On the "CONTRACT SCHEDULE" included in the proposal form the bidder shall enter in figures a unit price and the extended amount bid (unit price X quantity) in the appropriate column for each bid item, exclusive of those items for which a fixed contract unit price and extension amount are shown. In all prices and amounts entered on the proposal form, the respective figures for dollars and cents shall be clearly separated by a single decimal. If the bidder desires to bid a fraction of a cent for the unit price, he can do so by entering up to four figures to the right of a decimal. On "lump sum" items an entry shall be shown in the amount bid column. If a bidder wishes to bid an item "free", then he shall enter "0.00" in the unit price column (if applicable) and "0.00" in the amount bid column. After all extensions are made, the bidder shall total the extended amounts of the bid items and show his total bid amount in the appropriate place on the proposal form.

Except as provided for in the following paragraph, where the "CONTRACT SCHEDULE" included in the proposal form lists alternate designs or packages (designated as "Alternates"), the bidder shall enter prices on Alternate-related items only for the Alternate which will be most economical for him to construct. All items not designated for a specific Alternate are common items for all Alternates. The bidder shall enter prices for all such common items, as well as for any items relating to the specific Alternate being bid. In the event that the bidder enters prices

for more than one of the listed Alternates (except as provided for in the paragraph below), then the bid shall be considered to be based upon the lowest-priced Alternate.

If the CONTRACT SCHEDULE lists any Alternates as “Cumulative Alternates”, then each Cumulative Alternate represents items which the owner may choose to include in the contract in addition to the items included in the “Base Bid”. Prior to the award of the contract, the selection of any Cumulative Alternates to be included in the contract will be made by the LPA. The selection of Cumulative Alternates (or “Base Bid” with no Cumulative Alternates) will be made cumulatively in the order that they appear on the proposal form, from Base Bid to last Cumulative Alternate, skipping no Cumulative Alternates between the Base Bid and the last chosen Cumulative Alternate. The bidder shall enter prices on ALL Cumulative Alternates. Cumulative Alternates must be bid as a positive or zero (“\$0.00”) amount. No deductive Cumulative Alternates will be considered. If a negative amount is entered for a Cumulative Alternate, it will be considered as a zero additive. The low bidder and contract amount will be determined based upon the total amount bid for the Base Bid plus the additive amounts bid for any selected Cumulative Alternates.

If any item on the proposal form permits a choice between alternate specified types of materials, the bidder shall indicate by a check mark the type of material he proposes to use. If more than one type or none is checked, then the owner will make the selection. Permitted choices between alternate types of materials represent an option made available to the bidder for his convenience and economy in bidding a required item, and are not to be confused with formally designated “Alternates” or “Cumulative Alternates”, as discussed in the preceding two paragraphs.

All figures shall be legibly shown in ink or typed. Any interlineation, erasure, or other alteration of a figure shall be initialed by the signer of the proposal. The LPA will check the extension of each item given in the proposal and correct all errors and discrepancies. In case of a discrepancy between a unit bid price and the extension amount, the unit price shall govern. The sum of the extension amounts will be the contract bid price.

A pay item may be shown with a maximum allowable amount for the bid. The bidder shall enter an amount for the bid that is equal or less than the maximum allowable amount. If the bid entered is greater than the maximum allowable amount, the LPA will adjust the bid price to the maximum allowable amount for that item and recalculate the total bid amount.

A pay item may be shown with a minimum required amount for the bid. The bidder shall enter an amount for the bid that is equal to or greater than the minimum required amount. If the bid entered is less than the minimum required amount, the LPA will adjust the bid price to the minimum required amount for that item and recalculate the total bid amount.

***This Article shall be further amended by deleting Subarticle (c) as written and the following substituted in lieu thereof:***

(c) SIGNING.

The bidder’s proposal must be signed with ink by the individual, by one or more members of the partnership, by one or more members or officers of each firm representing a joint venture, or by one or more officers of a corporation, or by an agent of the Contractor legally qualified and acceptable to the LPA. If the proposal is made by an individual, his name and business address must be shown; by a partnership, the name and business address of each partnership member must be shown; as a joint venture, the name and business address of each member or officer of the firms represented by the joint venture must be shown; by a corporation, the name of the corporation and the business address of its corporate officials must be shown.

The proposal bid bond, if bid bond is tendered, shall be properly signed by the bidder and the surety.

***This Article shall be further amended by deleting Subarticle (e), COMPUTER BIDDING, in its entirety.***

#### **102.07 Irregular Proposals.**

***This Article shall be amended by deleting the Subarticle (a) as written and the following substituted in lieu thereof:***

(a) GENERAL.

Proposals will be considered irregular and may be rejected if they contain any omissions, alteration of form, additions not called for, incomplete bids (includes failure to enter a unit bid price on a bid item or, in the case of an Alternate, the Alternate being bid by the Contractor, or on a Cumulative Alternate), interlineations, erasures or alterations not initialed by the person signing the proposal, or other irregularities of any kind. Proposals may be rejected at any time prior to the execution of the contract by the LPA.

Any bidder using the same or different names for submitting more than one proposal upon any project will be disqualified from further consideration on that project. Evidence that any bidder is interested, as a principal, in more than one proposal for work contemplated (for example bidding in a partnership, as a joint partnership or association, and as a partnership, association, or individuals) will cause the rejection of any such proposal. A bidder, however, may submit a proposal as a principal and as a Subcontractor to some other principal, or may submit a proposal as a Subcontractor to as many other principals as he desires, and by doing so will not be liable to disqualification in the intent of these Specifications.

#### **102.08 Combination Bids.**

***This Article shall be amended by deleting Item 6 under Subarticle (a) as written and the following substituted in lieu thereof:***

(a) COMBINATION BIDDING.

6. SUBMITTAL OF WRITTEN STATEMENT OF NOTIFICATION OF COMBINATION BID.

The bidder shall notify the LPA in writing of a bid that is being submitted as a combination bid. In order for a bid to be evaluated as a combination bid, prior to the opening of bids, the written notification must be enclosed in the sealed bid package envelopes of each bid that is being combined in a combination bid. Alternatively, it may also be transmitted to the awarding authority by facsimile. The Contractor shall be responsible for verifying that the facsimile has been received by the LPA prior to the opening of bids. The letter of notification of a combination bid shall:

- be addressed to the same LPA official as the proposal;
- describe the type of combination bid ("All or None", "Reduction in Unit Price", etc.);
- be dated no later than the date set for bid opening;
- be written on the bidder's letterhead;
- be signed by a person authorized to sign contracts for the bidder;
- contain a list of the project numbers included in the proposed combination bid.

***This Article shall be further amended by deleting Subarticle (b) as written and the following substituted in lieu thereof:***



(b) PROJECT LET BY LPA.

Combination bids will not be accepted on any project or projects let by a LPA unless it is in combination with, and only with, other project(s) being let at the same time (bids due at the same exact time) by the same LPA.

**102.10 Delivery of Proposals.**

***This Article shall be amended by deleting Article 102.10 as written and the following substituted in lieu thereof:***

Each proposal for each contract shall be placed, together with the proposal guaranty, in a sealed envelope on the outside of which is written in large letters "Proposals for Highway Work" or "Bid Proposal", and so marked as to indicate the project number, the name of the LPA (city, county, university, etc.), the town or city in which the work is located or, if not in a town or city, the name of the county in which the work is located, and the name of the bidder. Proposals will be received by the LPA at the location stated in the Notice to Contractors, until the hour and date set therein for the opening of bids. No proposal will be considered which has not been received prior to the hour and date set for the opening of bids. Proposals received after that time will be returned.

**102.11 Withdrawal or Revision of Proposals.**

***This Article shall be amended by deleting Article 102.11 as written and the following substituted in lieu thereof:***

A bidder may withdraw or revise a proposal after it has been deposited with the LPA, provided the request for such is received by the LPA in writing, or by facsimile or telegram before the time set for opening proposals. The request must bear the same signature(s) which the bidder has affixed to the proposal. No proposal may be modified or corrected after the time set for opening such proposals.

Withdrawal of proposals after bid opening will be permitted without forfeiture of bid guaranty only as provided for by, and when evidence of a mistake is furnished in accordance with, Section 39-2-11(d), Code of Alabama, 1975. Such evidence of mistake must be furnished no later than three working days after the opening of bids. Upon such withdrawal without forfeiture, the bidder shall be prohibited from (1) doing any work on the contract, either as a subcontractor or in any other capacity, and (2) bidding on the same project if it is readvertised for letting.

**102.13 Multiple Bids.**

***This Article (102.13) shall be deleted in its entirety.***

**SECTION 103  
AWARD AND EXECUTION OF CONTRACT**

**103.02 Award of Contract.**

***This Article shall be amended by deleting Subarticle (a) as written and the following substituted in lieu thereof:***

(a) GENERAL.

The award of contract, if to be awarded, will be made within 30 calendar days after opening of proposals to the lowest responsible and responsive bidder whose proposals comply with the requirements of Section 102 and the invitation to bid (Notice to Contractors). Should no award be made within 30 days, all proposals will be rejected unless the successful bidder agrees in writing to a stipulated extension in the time limit for award. The successful bidder will be notified by telegram, confirmed facsimile, or letter mailed to the address shown on the proposal that his bid has been accepted and that he has been awarded the contract.

After the opening of bids, the award of the contract to the low bidder will be contingent upon said low bidder's possession of a valid certification of qualification in accordance with Article 102.02. On work involving Federal funds, the award of the contract to the low bidder will also be contingent upon said low bidder obtaining a license from the State Licensing Board for General Contractors in accordance with the existing State laws.

## SECTION 107 LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

### 107.21 Stormwater Management.

*This Article shall be amended by deleting Subarticle (c) as written and the following substituted in lieu thereof:*

(c) NPDES NOTICE OF INTENT.

A "Notice of Intent" (NOI) is an application filed with ADEM requesting NPDES registration. If an NOI has been filed or is required for the project site, the LPA will be the OWNER of record with ADEM for the NOI. The Contractor shall be the OPERATOR and shall comply with all requirements of the NOI.

A Project Note will be shown on the plans to indicate whether or not an NOI has been filed with ADEM for the project. If an NOI has been filed, the note may also provide information regarding the availability of a Construction Best Management Practices Plan (CBMPP) for the project. If an NOI has not been filed, the note may further indicate that the Contractor is required to file an NOI at his own expense.

The Contractor shall be responsible for filing all NOI's required by ADEM on all material pits, waste areas, plant sites, haul roads, and other off-site areas used by him to construct the project. For each area requiring an NOI to be filed, a copy of written acknowledgement from ADEM verifying that a complete NOI has been filed shall be forwarded to the LPA before ground is disturbed in that area.

## SECTION 109 MEASUREMENT AND PAYMENT

### 109.12 Final Payment

*This Article shall be amended by deleting the last sentence of Subarticle (c) as written and the following substituted in lieu thereof:*

(c) FINAL ESTIMATE DOCUMENTATION.

Failure by the Contractor to furnish any of the above documentation may be cause for either or both, the owner and/or ALDOT, to consider the Contractor to be disqualified from future bidding and contract awards, as per Article 102.02.

## SECTION 110 CLAIMS

### 110.04 Claims Process.

***This Article shall be amended by deleting Article 110.04 as written and the following substituted in lieu thereof:***

(a) GENERAL.

After the work has been completed on the disputed item(s) of work, the Contractor shall have 90 calendar days to submit his claim. Any claim not submitted within this 90 calendar day period is waived. The Contractor shall submit six copies of the claim, containing the required documentation listed in Article 110.03, to the LPA. Once the claim is received, the LPA will review the claim submittal in accordance with its local policies and procedures.

(b) PARTICIPATION AND REVIEW BY ALDOT.

If the LPA desires for ALDOT to participate in the possible funding of the Contractor's claim, provided the claim is determined to be valid and funding is available, the LPA shall notify ALDOT of the Contractor's notice of intent to file a claim, and any meetings, hearings, etc. In addition, the LPA shall provide a copy of the Contractor's claim when it is submitted, and then the LPA's written response based on their review. Failure of the LPA to notify ALDOT of the notice of intent and any associated meetings and submittals shall constitute a waiver by the LPA for any possible funding by ALDOT.

The claim and the LPA's response will be reviewed by the Region Engineer within 30 calendar days after the LPA has submitted it to the administering Region. The Region Engineer will review the claim and prepare a recommendation for ALDOT's level of funding participation. The Region Engineer's recommendation will be reviewed by the chairman of ALDOT's Claims Committee, and a response provided back to the Region within 30 calendar days. The review and response by the Region Engineer and chairman of the Claims Committee in the amount of ALDOT funding for the claim shall be final, non-appealable and not subject to judicial or other review. Their decision is binding with the LPA.

Even if the claim is determined to be valid, ALDOT's level of funding will be based on the amount of monies remaining in the project agreement with the LPA.

### 110.06 Auditing of Claims.

***This Article shall be amended by deleting the first paragraph and the following substituted in lieu thereof:***

All claims submitted by the LPA to ALDOT shall be subject to audit by the Department's External Auditor at any time following the filing of such claim. The audit may begin on ten day's notice to the LPA, Contractor, Subcontractor, or Supplier. The LPA, Contractor, Subcontractor, or Supplier shall cooperate with the auditors. Failure of the LPA, Contractor, Subcontractor, or Supplier to maintain and retain sufficient records to allow the Department's auditor to verify the

claim shall constitute a waiver of that portion of such claim that cannot be verified and shall bar recovery thereunder.

# ALABAMA DEPARTMENT OF TRANSPORTATION

DATE: November 30, 2023

Special Provision No. 22-LPA-002(2)

EFFECTIVE DATE: September 5, 2023

SUBJECT: Acceptance for Projects let by LPA

Alabama Standard Specifications, 2022 Edition, shall be amended by the modification of SECTION 105 as follows:

## SECTION 105 CONTROL OF WORK

### 105.15 Acceptance.

*This Article shall be amended by deleting Article 105.15 as written and the following substituted in lieu thereof:*

#### (a) CONSTRUCTION ACCEPTANCE INSPECTION.

Whenever the LPA considers the work provided for and contemplated by the contract is nearing completion, or within two weeks of written notice of presumptive completion of the entire project by the Contractor, the LPA and all pertinent personnel (its representatives, ALDOT Region, FHWA) will inspect all work in the contract. The Contractor should not presume completion of the entire project until permanent vegetation is established. If the LPA finds that the work has not been satisfactorily completed at the time of the inspection, the Contractor will be advised in writing as to the work to be done or the particular defects to be remedied to place the work in condition for acceptance for maintenance purposes. The Contractor will have a maximum of four weeks to correct and complete the items listed. Time charges should resume if the work is not completed in the four weeks.

#### (b) PARTIAL ACCEPTANCE FOR MAINTENANCE.

When requested by the Contractor in writing, the LPA may consider accepting a portion of the contract for maintenance prior to all items of work being completed. This will apply to vegetation establishment being restricted by seasonal limitations and all other contract items of work are complete. Once a satisfactory application of seed prescribed by the tables in Section 860 for Fall or Winter has been completed, time charges may be suspended or extended based on seasonal limitations in accordance with 108.07(c) or 108.09. Time charges should resume based on the first available date in the Spring to apply permanent vegetation as shown in the seed mix tables.

The LPA, with concurrence from ALDOT, will notify the contractor that they will assume maintenance of specific items or operations of work and will also indicate which items are not accepted. The partial acceptance letter to the contractor should also detail the disposition of time charges as indicated in the paragraph above.

Additional costs for completing the remaining items of work as a consequence of a partial acceptance such as traffic control and remobilization shall be borne by the Contractor. Partial acceptance shall in no way void or alter any terms of the contract.

Once the permanent vegetation has been satisfactorily established and any other pending item of work is completed, the LPA will accept the remaining items of work and assume maintenance of the project henceforth.

(c) FINAL ACCEPTANCE.

1. GENERAL.

Upon due notice from the Contractor upon presumptive completion of the remaining items of work in Subarticles (a) and (b) above, the LPA and all pertinent personnel will make an inspection. If all construction provided for and contemplated by the contract is satisfactorily completed, that inspection shall constitute the final inspection.

2. VEGETATION BONDS.

When directed by the LPA, the Contractor shall provide a vegetation bond covering sustained growth of established or planted vegetation. The bond shall be of sufficient value to cover all costs associated with the replanting or reestablishment of the vegetation should it become necessary. The dollar amount of the bond shall cover all costs for the labor, materials, and equipment required for traffic control, temporary erosion and sediment control, and permanent vegetation establishment. The period of time covered by the bond will not be required to be greater than 12 months unless shown otherwise on the plans. Vegetation bonds should not be used as a substitute for established vegetation of a permanent species.

3. ACCEPTANCE FOR MAINTENANCE.

Upon satisfactory completion of the work as noted in Item 105.15(c)1. above, the LPA will notify ALDOT that the contractor has completed all work required by the contract. After ALDOT has concurred with the LPA's recommendation, the LPA will advise the Contractor in writing that the work has been accepted and the LPA will assume the maintenance thereof subject to the "record check" of materials and workmanship.

4. NPDES TERMINATION.

Within 10 days of Acceptance for Maintenance, the LPA will requests NPDES Permit Termination as outlined in Subarticle 107.21(d). The Contractor shall be responsible for stormwater runoff control on the project until the NPDES Permit is terminated or 30 calendar days after the LPA's request for termination has been processed, whichever is less. The Contractor is also responsible for correcting problems associated with onsite erosion and off site sedimentation deposition during this time.

5. CONTRACTOR'S ADVERTISEMENT OF COMPLETION.

The Contractor, immediately after receiving Notice of Acceptance for Maintenance, shall give notice of said completion by an advertisement for a period of three successive weeks using one or more of the following methods:

- a. In a newspaper of general circulation in the county or counties in which the work, or some portion thereof, has been done.
- b. On a website that is maintained by a newspaper of general circulation in the county or counties in which the work, or some portion thereof, has been done.
- c. If a newspaper is not published in the county where work is done, the notice may be given by posting at the courthouse for 30 days and proof of the posting of the notice shall be given by the contractor.

A final settlement shall not be made upon the contract until the expiration of 30 days after the completion of the notice. Proof of publication of the notice shall be made by the contractor to the authority by whom the contract was made by affidavit of the publisher or website owner and a printed copy of the notice published.

In cases where contractors are performing contracts of less than one hundred thousand dollars (\$100,000) in amount, the contractor is not required to give notice of completion as stated above.

6. WRITTEN NOTICE OF FINAL ACCEPTANCE.

After completion of all requirements noted in this Article and Article 109.12, the LPA will process the Final Estimate for payment. At this time, the LPA will give the contractor written notice that the project is completed, and will specify that date as Final Acceptance.

# ALABAMA DEPARTMENT OF TRANSPORTATION

DATE: November 8, 2017

Special Provision No. 22-FH0002

EFFECTIVE DATE: January 1, 2022

SUBJECT: Title VI Assurance.

Alabama Standard Specifications, 2022 Edition, shall be revised by the addition of the following:

## APPENDIX A, TITLE VI ASSURANCE to FHWA

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

- (1) **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- (2) **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set for in Appendix B of 49 C.F.R. Part 21.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitation, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions.

Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

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



# ALABAMA DEPARTMENT OF TRANSPORTATION

DATE: November 8, 2017

Special Provision No. 22-FH0003

EFFECTIVE DATE: January 1, 2022

SUBJECT: Non-Discrimination Statutes and Authorities.

Alabama Standard Specifications, 2022 Edition, shall be revised by the addition of the following:

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

# ALABAMA DEPARTMENT OF TRANSPORTATION

DATE: November 14, 2017

Special Provision No. 22-FH0004

EFFECTIVE DATE: January 1, 2022

SUBJECT: Special Training Responsibilities of Equal Employment Opportunity Requirements

Alabama Standard Specifications, 2022 Edition, are hereby amended to include the following:

This Training Special Provision is an implementation of 23 USC 140(a).

As part of the contractor's equal opportunity affirmative action program training shall be provided as follows:

The contractor shall provide on-the-job training aimed at developing full journeymen in the type of trade or job classification involved. The number of trainee hours under this contract will be as indicated in the bidding proposal and on the plans. In the event that a contractor subcontracts a portion of the contract work, he shall determine how many, if any, of the trainee hours are to be subcontracted, provided, however, that the contractor shall retain the primary provision. The contractor shall also insure that this training special provision is made applicable to such subcontract. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training.

The number of trainees shall be distributed among the work classifications on the basis of the contractor's needs and the availability of journeymen in the various classifications within a reasonable area of recruitment. Prior to commencing construction, the contractor shall submit to the Alabama Department of Transportation for approval the number of trainees to be trained in each selected classification and training to be used. Furthermore, the contractor shall specify the starting time for training in each of the classifications. The contractor will be credited for each trainee employed by him on the contract work that is currently enrolled or becomes enrolled in an approved program and will be reimbursed for such trainees as provided hereinafter.

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

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

The minimum length and type of training for each classification will be as established in the training program selected by the contractor and approved by the Alabama Department of Transportation and the Federal Highway Administration. The Alabama Department of Transportation and the Federal Highway Administration shall approve a program if it is reasonably calculated to meet the equal employment opportunity obligations of the contractor and to qualify the average trainee for journeyman status in the classification concerned by the end of the training period. Furthermore, apprenticeship programs

registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau and training programs approved but not necessarily sponsored by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training shall also be considered acceptable provided it is being administered in a manner consistent with the equal employment obligations of Federal-aid highway construction contracts. Approval or acceptance of a training program shall be obtained from the State prior to commencing work on the classification covered by the program. It is the intention of these provisions that training is to be provided in the construction crafts rather than clerk-typists or secretarial-type positions. Training is permissible in lower level management positions such as office engineers, estimators, timekeepers, etc. where the training is oriented toward construction applications. Training in the laborer classification may be permitted provided that significant and meaningful training is provided and approved by the Division Office, FHWA.

Some offsite training is permissible as long as the training is an integral part of an approved training program and does not comprise a significant part of the overall training.

The contractor will be reimbursed 80 cents per hour of training given an employee on this contract is in accordance with an approved training program. As approved by the engineer, reimbursement will be made for training hours in excess of the number specified herein. This reimbursement will be made even though the contractor receives additional training program funds from other sources, provided such other source does not specifically prohibit the contractor from receiving other reimbursement. Reimbursement for offsite training indicated above may only be made to the contractor where he does one or more of the following and the trainees are concurrently employed on a Federal-aid project; contributes to the cost of the training, provides the instruction to the trainee or pays the trainee's wages during the offsite training period.

No payment shall be made to the contractor if either the failure to provide the required training, or the failure to hire the trainee as a journeyman, is caused by the contractor and evidences a lack of good faith on the part of the contractor in meeting the requirements of this Training Special Provision. It is normally expected that a trainee will begin his training on the project as soon as feasible after start of work utilizing the skill involved and remain on the project as long as training opportunities exist in his work classification or until he has completed his training program. It is not required that all trainees be on board for the entire length of the contract. A contractor will have fulfilled his responsibilities under this Training Special Provision if he has provided acceptable training to the number of trainees specified. The number trained shall be determined on the basis of the total number enrolled on the contract for a significant period.

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

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

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

**PAYMENT WILL BE MADE UNDER ITEM NUMBER:**

999-000 Trainee Hours at 80 Cents Per Hour

Payment of \$0.80 per hour will be made to the contractor for each hour of training completed on this project by a trainee. Progress payments on monthly estimates at \$0.80 per hour for each trainee hour will be permitted, if requested by contractor.

The definition of contract item (Pay Item) as set forth in Article 101.01 of the standard specifications will not apply to this Special Provision.

# ALABAMA DEPARTMENT OF TRANSPORTATION

DATE: November 14, 2017

Special Provision No. 22-FH0005

EFFECTIVE DATE: January 1, 2022

SUBJECT: Required Contract Provision for all Federal Aid Projects for Equal Employment Opportunity

Alabama Standard Specification, 2022 Edition, are hereby amended to include the following:

In compliance with Executive Order 11246, the following Standard Federal Equal Opportunity Construction Contract Specifications shall apply:

## **General Requirements**

(41 CFR 60-4.3)

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return. U.S. Treasury Department Form 941;
  - d. "Minority" includes:
    - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
    - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific islands); and
    - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract, in excess of \$10,000, the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a federal or federally-assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are as shown on Attachment No. 1. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
  - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant, and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
  - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
  - e. Develop on-the-job training opportunities and/or participate in training programs for the areas 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 co-operation 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 time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
  - h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
  - i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process.
  - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.
  - 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 nonsegregated, except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors, adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations that assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is

employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contract may be in violation of the Executive Order if a specific minority group of women is under-utilized).

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 the Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree 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).

### **Hometown Plans**

(41 CFR 60-4.5)

- (a) A contractor participating, either individually or through an association, in an approved Hometown Plan (including heavy highway affirmative action plans) shall comply with its affirmative action obligations under Executive Order 11246 by complying with its obligations under the plan: Provided, that each contractor or subcontractor participating in an approved plan is individually required to comply with the equal opportunity clause set forth in 41 CFR 60-1.4; to make a good faith effort to achieve the goals for each trade participating in the plan in which it has employees; and that the overall good performance by other contractors or subcontractors toward a goal in an approved plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan's goals and timetables. If a Contractor is not participating in an approved Hometown Plan, it shall comply with the Specifications set forth in §60-4.3 of this part and with the goals and timetables for the appropriate area as listed in the Notice required by 41 CFR 4.2 with regard to that trade. For the purposes of this part 60-4, the contractor is not participating in a Hometown Plan for a particular trade if it:
  - (1) Ceases to be signatory to a Hometown Plan covering that trade;
  - (2) Is signatory to a Hometown Plan for that trade but is not party to a collective bargaining agreement for that trade;
  - (3) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with labor organizations which are not or cease to be signatories to the same Hometown Plan for that trade;



- (4) Is signatory to a Hometown Plan for that trade and is party to a collective bargaining agreement with labor organization for that trade but the two have not jointly executed a specific commitment to minority and female goals and timetables and incorporated the commitment in the Hometown Plan for that trade;
  - (5) Is participating in a Hometown Plan for that trade which is no longer acceptable to the Office of Federal Contract Compliance Programs;
  - (6) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with a labor organization for that trade and the labor organization and the contractor have failed to make a good faith effort to comply with their obligations under the Hometown Plan for that trade.
- (b) Contractors participating in Hometown Plans must be able to demonstrate their participation and document their compliance with the provisions of the Hometown Plan.

### **Solicitations**

(41 CFR 60-4.2)

- (d) The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to §60-4.6 of this part (see 41 CFR-4.2 (a)):

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)

1. The Offeror's or Bidder's attention is called to the "Equal opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as shown on Attachment No. 1.  
 These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally-involved and nonfederally involved construction.  
 The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Employment Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.
3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is that shown on Attachment No. 1.

**Show Cause Notice**

(41 CFR 60-4.8)

If an investigation or compliance review reveals that a construction contractor or subcontractor has violated the Executive Order, any contract clause, specifications or the regulations in this chapter and if administrative enforcement is contemplated, the Director shall issue to the contractor or subcontractor a notice to show cause which shall contain the items specified in (i) - (iv) of 41 CFR 60-2.2 (c)(1) - If the Contractor does not show good cause within 30 days, or, in the alternative, fails to enter an acceptable conciliation agreement which includes where appropriate, make-up goals and timetables, back pay, and seniority relief for affected class members, the compliance agency shall follow the procedure in 41 CFR 60-1.26(b) : Provided that where a conciliation agreement has been violated, no show cause notice is required prior to the initiation of enforcement proceedings.

**Attachment No. 1****Goals & Timetables**

(41 CFR 60-4.2)

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

<b><u>FEMALE</u></b>		
<b>Area Covered – Statewide</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	6.9%

<b><u>MINORITY</u></b>		
<b>Area Covered – Etowah, Jefferson, Shelby, St. Clair &amp; Walker Counties</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	24.9%

<b>Area Covered – Autauga, Barbour, Bullock, Butler, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Henry, Houston, Lowndes, Macon, Montgomery, Perry, Pike &amp; Tallapoosa Counties</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	29.9%

<b>Area Covered – Tuscaloosa County</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	20.6%

<b>Area Covered – Russell County</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	29.6%

<b>Area Covered – Franklin, Lawrence &amp; Morgan Counties</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	11.2%

<b>Area Covered – DeKalb &amp; Jackson Counties</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	8.6%

<b>Area Covered – Baldwin &amp; Mobile Counties</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	25.9%

<b>Area Covered – Choctaw, Clarke, Conecuh, Escambia, Marengo, Monroe, Washington &amp; Wilcox Counties</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	26.4%

<b>Area Covered – Calhoun County</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	14.3%

<b>Area Covered – Bibb, Blount, Cherokee, Chilton, Clay, Cleburne, Cullman, Fayette, Greene, Hale, Lamar, Marion, Pickens, Randolph, Sumter, Talladega &amp; Winston Counties</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	20.7%

<b>Area Covered – Limestone, Madison &amp; Marshall Counties</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	12.0%

<b>Area Covered – Chambers &amp; Lee Counties</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	31.6%

<b>Area Covered – Colbert &amp; Lauderdale Counties</b>		
<u>Timetable</u>	<u>Trade</u>	<u>Goals %</u>
Until Further		
Notice	All	11.9%

**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](mailto: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](mailto: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 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](#).

### 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 journeyworkers 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 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).

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.

# Insert Applicable Davis-Bacon Wage Rates

Date: \_\_\_\_\_

Letting Date: \_\_\_\_\_

## BIDDER'S LIST OF QUOTERS

In accordance with 49 CFR Part 26.11, the Alabama Department of Transportation will establish its State Disadvantaged Business Enterprise (DBE) goal using Bidders' Lists of Quoters. These Bidders' Lists of Quoters will be used to determine the relative availability of DBE's and Non-DBE's. Each Bidder's List of Quoters is a compilation of quoters who have submitted quotes to the Bidder during the advertising period. Subsequent to notification as Apparent Low Bidder, the Bidder must submit an **updated** Form HR-DBE prior to award of contract. Form HR-DBE will accompany Form OE-110 (DBE Utilization Plan) if appropriate.

Each time Form HR-DBE is submitted to the Department, the Bidder shall list the quoters for the project, using additional sheets if necessary. The listing shall include EACH quoter's name, business location, telephone number and whether or not the quoter is an Alabama certified DBE. **FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RENDER THE BID NON-RESPONSIVE AND THE BID MAY BE REJECTED.**

The term "quoter" shall include all subcontractors, manufacturers, and suppliers of materials.

Providing the listing of quoters in compliance with these provisions shall not be a substitute for the requirements of Subcontractors Fair Practices Act, Chapter 18, Laws of 1988, Sections 13-4-31 through 13-4-43.

**BIDDER'S NAME:** \_\_\_\_\_ **PROJECT NUMBER:** \_\_\_\_\_ **COUNTY:** \_\_\_\_\_

Quoter's Name	Address	Telephone Number	DBE/Non-DBE

# Alabama Department of Transportation ALDOT Form DBE 10 Instructions

Revised 5-2015

## Block Number Instructions

1. ALDOT Project Number
2. County
3. Region
4. Prime Contractor For the Project
5. DBE for this Report
6. Date of Report
7. ALDOT Estimate Number
8. Work Period for this Estimate (Beginning Date - Ending Date)
9. Description of Work - Must include Pay Item No. and Description (Also denote if Partial such as Hauling, Stocking, Furnish & Tie, S.I.P. Forms, etc.)
10. Type of DBE, i.e. Contractor (C), Supplier (S), Manufacturer (M), or Brokerage/Fee (BF) work
11. Unit Price of Work
12. Units
13. Units of Work Accomplished this Period
14. Amount Performed for this Period (Block 11 times Block 13)
15. Units Performed to Date
16. Amount Performed to Date (Block 11 times Block 15)
17. Comments Pertinent to this DBE-10
18. Total of Amounts in Block 14
19. Total of Amounts in Block 16
20. Signature of Prime Contractor's Authorized Representative, Printed Name & Title and Date Signed

## Submittals:

- 1) Invoices are required for all supplier and manufacturer credit.
- 2) Tickets are required for all "Stocking the Plant" hauling.
- 3) In lieu of completing the form, the prime contractor may note "See attached" on the form and attach a similar form (i.e. subcontractor estimate) provided it has the same data. If the contractor chooses to do this, he will have to adjust the credit on the actual DBE-10 if the DBE is a supplier.

## Notes:

- 1) If data is entered electronically via Excel file, Blocks 14, 16, 18 and 19 will calculate amounts and totals based on unit entries.
- 2) The form format is for the contractor's convenience. Every effort is made to ensure accuracy, but the prime contractor is responsible for checking all calculations prior to submittal.
- 3) The worksheets in this workbook are protected (but not password protected) to allow you to tab through only the fields that require data entry. If you need to make changes to the worksheet you can unprotect the worksheets by going to the menu (Tools Protection UnProtect Sheet ). Just remember if you unprotect a worksheet, you will need to check the accuracy of the calculations to make certain the formulas were not altered or that the formulas work correctly.

### ALDOT FORM DBE-10

1. Project Number:			2. County:			3. Region:		
4. Prime Contractor:			5. DBE:					
6. Date:		7. ALDOT Estimate:				8. Estimate Period: From:		To:

9. Description of Work: (Pay Item No. & Description)		10. Type Firm (C/S/M/BF)	11. Unit Price	12. Units	13. Units Worked	14. Amount Performed this Period	15. Units Performed to Date	16. Amount Performed to Date
Pay Item No.	Item Description							

17. Comments:						18. Total:		19. Total:	
---------------	--	--	--	--	--	------------	--	------------	--

20. Signature of Authorized Representative:			Printed Name & Title			Date Signed		

**ALABAMA DEPARTMENT OF TRANSPORTATION**  
**Certification of Actual Payments to DBE Firms**

Project No.: \_\_\_\_\_

County: \_\_\_\_\_

1. The undersigned prime contractor on the above referenced Federal Aid Project No. hereby certifies that full payment was made, or will be made within seven (7) calendar days after final payment, to the DBE firm listed for work performed and/or materials furnished under this project's contract as follows:

DBE Firm Name: \_\_\_\_\_

was or will be paid \$ \_\_\_\_\_

Note: this amount does / does not include gross receipts tax and bond.  
(circle one) (circle if applicable)

This certification is made under Federal and State laws concerning false statements. Supporting documentation for this payment is subject to audit and should be retained for a minimum of three (3) years from the final acceptance date.

If the DBE Subcontractor/Supplier works for a Non-DBE Subcontractor under the Prime Contractor, the Non-DBE Subcontractor must also complete the form.

Prime Contractor	Non-DBE Subcontractor
By: _____ signature	_____ signature
Name: _____ please print	_____ please print
Title: _____	_____
Date: _____	_____

2. The undersigned subcontractor/supplier for the above named project hereby certifies that payments were received, or are due to be received as stipulated above.

\_\_\_\_\_  
DBE Subcontractor/Supplier

By: \_\_\_\_\_  
signature

Name: \_\_\_\_\_  
please print

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# CONTRACT

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_,  
(Day) (Month)  
Two Thousand \_\_\_\_\_, by and between the  
(Year written in words)  
\_\_\_\_\_ of \_\_\_\_\_, Alabama, party of the first part (hereinafter called the  
(City) (City)  
**Owner**)  
and \_\_\_\_\_ of  
(Name of Contractor)  
\_\_\_\_\_, party  
(Mailing Address)  
of the second part (hereinafter called the **Contractor**), WITNESSETH:

WHEREAS, the **Owner** desires the construction of  
\_\_\_\_\_  
[description of project]  
(hereinafter called the **Project**), and the **Contractor** desires to furnish and deliver all  
the material and to do and perform all the work and labor for the said **Project**;

NOW, THEREFORE, in consideration of the premises, the mutual covenants  
herein contained and the sum of one dollar (\$1.00) by each of the parties to the other  
in hand paid, the receipt whereof is hereby acknowledged, the parties hereto agree as  
follows:

1. The **Contractor** promises and agrees to furnish and deliver all the material  
and to do and perform all the work and labor required to be furnished and delivered,  
done and performed in and about the construction of the **Project** in the  
\_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_ County, Alabama, known as Federal Aid  
(City) (city) (County)  
Project Number \_\_\_\_\_, in strict and entire conformity with the provisions of  
the Contract, and the Notice to Contractors and the Proposal, and the Plans and  
Specifications (including Special Provisions) prepared by (or for) the **Owner**, the  
originals of which are on file with the **Owner**, and which said Plans and Specifications  
and the Notice to Contractors and the Proposal are hereby made a part of this  
Agreement as fully and to the same effect as if the same had been set forth at length in  
the body of this Agreement.

2. The **Owner** agrees and promises to pay to the **Contractor** for said Work, when  
completed in accordance with the Provisions of this Contract, the price as set forth in  
the said Proposal, amounting approximately to \_\_\_\_\_  
(Amount written  
in words) dollars (\$ \_\_\_\_\_),  
(Amount in numerals)  
payments to be made as provided in said Specifications upon presentation of the  
proper certificates of the **Owner** and upon the terms set forth in the said Specifications  
and pursuant to the terms of this Contract.

3. The said work shall be done in accordance with the laws of the State of  
Alabama under the direct supervision, and to the entire satisfaction of the **Owner**,  
subject at all times to the inspection and approval of the United States Secretary of  
Transportation, or his agents, and in accordance with the rules and regulations made

pursuant to the Federal Highway Act and Acts of the Federal Congress, amendatory and/or supplementary thereto.

4. The decision of the **Owner** upon any question connected with the execution of this Agreement or any failure or delay in the prosecution of the Work by the said **Contractor** shall be final and conclusive.

IN WITNESS WHEREOF, THE \_\_\_\_\_ OF \_\_\_\_\_, ALABAMA has  
(City) (city)  
caused these presents to be executed by its \_\_\_\_\_ and \_\_\_\_\_  
(Mayor) (Name of  
\_\_\_\_\_, the **Contractor**, has hereto set his  
Contractor)  
hand and seal this the day and year above written.

ATTEST: \_\_\_\_\_ OF \_\_\_\_\_, ALABAMA,  
(City) (city)

\_\_\_\_\_  
(City Clerk) By: \_\_\_\_\_  
(Mayor)

NAME OF CONTRACTOR: \_\_\_\_\_  
(Individual, Partnership, Corporation, or Joint Venture)

ALABAMA CONTRACTOR'S LICENSE NUMBER: \_\_\_\_\_

By: (X) \_\_\_\_\_  
Contractor's Signature

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Title

(X) \_\_\_\_\_  
Witness's Signature

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Title

By: (X) \_\_\_\_\_  
Contractor's Signature

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Title

(X) \_\_\_\_\_  
Witness's Signature

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Title

By: (X) \_\_\_\_\_  
Contractor's Signature

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Title

(X) \_\_\_\_\_  
Witness's Signature

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Title



**THIS FORM IS TO BE COMPLETED AND RETURNED WITH YOUR EXECUTED CONTRACT**

AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY

Statement Required To Be Submitted By Proposed Contractor Pursuant To Notice Of Requirement For Affirmative Action To Ensure Equal Employment Opportunity (Executive Order 11246) And Regulation In 41 CFR Part 60-4 On All Federal And Federally Assisted Contracts In Excess of \$10,000.

Project Number: \_\_\_\_\_

County: \_\_\_\_\_

Contractor: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
Street City State Zip

Telephone Number: \_\_\_\_\_  
A.C.

Employer Identification Number: \_\_\_\_\_

"Employer Identification Number" means the Federal Social Security Number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941.

Amount of Contract: \$ \_\_\_\_\_

Estimated Starting Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Contractor's Representative

**NOTE: If more than one contractor firm is involved, a copy of this statement shall be completed by each contractor and returned with the executed contract.**

**BOND**  
**FOR PERFORMANCE OF THE WORK**

STATE OF ALABAMA,  
\_\_\_\_\_ COUNTY.

KNOW ALL MEN BY THESE PRESENTS: That \_\_\_\_\_, as Principal,  
and, \_\_\_\_\_, as Surety, are held and firmly bound unto the  
\_\_\_\_\_ OF \_\_\_\_\_, ALABAMA, as Obligee, in the penal sum of  
\_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_), for the payment of which well and truly to be made, we hereby bind ourselves,  
our heirs, executors, administrators, successors and assigns.

PROVIDED, HOWEVER, that the condition of this obligation is such that whereas the above  
bound Principal has this day entered into a Contract with the said Obligee, for the construction of  
\_\_\_\_\_ in the City of \_\_\_\_\_, \_\_\_\_\_ County, Alabama, to-wit: known as Federal Aid Project  
No. \_\_\_\_\_ a copy of which said Contract is hereto attached.

NOW, THEREFORE, In the event the said Principal as such Contractor shall faithfully and  
promptly perform said Contract and all the conditions and requirements thereof, then this  
obligation shall be null and void and of no effect, otherwise to remain and be in full force and  
effect.

PROVIDED, further, that upon the failure, in any respect, of the said Principal to promptly  
and efficiently prosecute said work in accordance with the Contract, the above bound Surety  
shall, at its own expense, take charge of said work and complete the Contract, pursuant to the  
terms of the Contract, receiving, however, any balance of the funds in the hands of said Obligee  
due under said Contract. Said Surety may, if it so elects, by written direction given to the Obligee  
authorize the Obligee to advertise for bids to complete the said Contract at the expense of said  
Surety, and such Surety hereby agrees and binds itself to pay the expense of the completion of  
such work, less any funds in the hands of the Obligee remaining, under said Contract, to be due  
to said Principal.

In the event said Principal shall fail or delay the prosecution and completion of said work  
and said Surety shall also fail to act promptly as hereinbefore provided, then said Obligee may  
cause ten days notice of such failure to be given, either to said Principal or Surety, and at the  
expiration of said ten days, if said Principal or Surety do not proceed promptly to execute said  
contract, the Obligee shall have the authority to cause said work to be done, and when the same  
is completed and the cost thereof estimated, the said Principal and Surety shall and hereby agree  
to pay any excess in the cost of said work above the agreed price to be paid under said Contract.

Upon the completion of said Contract pursuant to its terms, if any funds remain due on said Contract, the same shall be paid to said Principal or Surety.

The said Principal and Surety further agree as part of this obligation to pay all such damages of any kind to person or property that may result from a failure in any respect to perform and complete said Contract.

The decision of said Obligee's designated representative upon any question connected with the execution of said Contract, or any failure or delay in the prosecution of the work by said Principal or Surety, shall be final and conclusive.

The Proposal, Specifications and the Contract hereinbefore referred to, and the Bond for the Payment of Labor, Materials, Feed-stuffs or Supplies executed under the provisions of Section 39-1-1, Code of Alabama 1975, as amended, are made a part of this obligation, and this instrument is to be construed in connection therewith.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, pursuant to the authority of the governing body of each of our respective parties.

NAME OF CONTRACTOR: \_\_\_\_\_  
(Individual, Partnership, Corporation, or Joint Venture)

By: (X) \_\_\_\_\_ (X) \_\_\_\_\_  
Contractor's Signature Witness's Signature  
\_\_\_\_\_  
Title/Address Title

By: (X) \_\_\_\_\_ (X) \_\_\_\_\_  
Contractor's Signature Witness's Signature  
\_\_\_\_\_  
Title/Address Title

By: (X) \_\_\_\_\_ (X) \_\_\_\_\_  
Contractor's Signature Witness's Signature  
\_\_\_\_\_  
Title/Address Title

\_\_\_\_\_  
NAME OF SURETY  
BY: \_\_\_\_\_  
ATTORNEY-IN-FACT  
Countersigned by Alabama Licensed Insurance  
Producer for Surety, if applicable:

**NOTICE TO INSURANCE PRODUCER:**  
Please print or write legibly your name and  
complete address below including  
PRODUCER'S COMPANY

\_\_\_\_\_  
Producer's Name License No.

\_\_\_\_\_  
Address

\_\_\_\_\_  
PRODUCER'S COMPANY

**BOND**  
**FOR PAYMENT OF**  
**LABOR, MATERIALS, FEED-STUFFS OR SUPPLIES**

STATE OF ALABAMA,  
\_\_\_\_\_ COUNTY.

KNOW ALL MEN BY THESE PRESENTS: That \_\_\_\_\_, as Principal, and, \_\_\_\_\_, as Surety, are held and firmly bound unto the \_\_\_\_\_ OF \_\_\_\_\_, ALABAMA, as Obligee, in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), for the payment of which well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns.

PROVIDED, HOWEVER, that the condition of this obligation is such that whereas the above bound Principal has this day entered into a Contract with the said Obligee, for the construction of \_\_\_\_\_ in the City of \_\_\_\_\_, \_\_\_\_\_ County, Alabama, to-wit: known as Federal Aid Project No. \_\_\_\_\_ a copy of which said Contract is hereto attached.

NOW, THEREFORE, In the event the said Principal as such Contractor shall promptly make payment to all persons supplying him with labor, material, feed-stuffs, or supplies for or in the prosecution of the work provided for in said Contract, then this obligation shall be null and void and of no effect, otherwise to remain and be in full force and effect.

PROVIDED, further, in the event that the said Principal as such Contractor shall fail to make prompt payment to all persons supplying him with labor, material, feed-stuffs, or supplies for or in the prosecution of the work provided for in such Contract, the above bound Surety shall be liable for the payment of such labor, material, feed-stuffs, or supplies and for the payment of reasonable attorney's fees incurred by successful claimants or plaintiffs in suits on said bond as provided in Section 39-1-1, Code of Alabama 1975, as amended.

PROVIDED, further, that said Contractor and Surety hereby agree and bind themselves to the mode of service described in Section 39-1-1, Code of Alabama 1975, as amended, and consent that such service shall be the same as personal service on said Contractor or Surety.

Upon the completion of said Contract pursuant to its terms, if any funds remain due on said Contract, the same shall be paid to said Principal or Surety.

The decision of said Obligee's designated representative upon any question connected with the execution of said Contract, or any failure or delay in the prosecution of the work by said Principal or Surety, shall be final and conclusive.

The Proposal, Specifications and the Contract hereinbefore referred to, and the Bond for the Performance Of The Work executed under the provisions of Section 39-1-1, Code of Alabama 1975, as amended, are made a part of this obligation, and this instrument is to be construed in connection therewith.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, pursuant to the authority of the governing body of each of our respective parties.

NAME OF CONTRACTOR: \_\_\_\_\_  
(Individual, Partnership, Corporation, or Joint Venture)

By: (X) _____ Contractor's Signature	(X) _____ Witness's Signature
_____	_____
Title/Address	Title
By: (X) _____ Contractor's Signature	(X) _____ Witness's Signature
_____	_____
Title/Address	Title
By: (X) _____ Contractor's Signature	(X) _____ Witness's Signature
_____	_____
Title/Address	Title

\_\_\_\_\_  
NAME OF SURETY

BY: \_\_\_\_\_  
ATTORNEY-IN-FACT

Countersigned by Alabama Licensed Insurance  
Producer for Surety, if applicable:

\_\_\_\_\_  
Producer's Name                      License No.

\_\_\_\_\_  
Address

**NOTICE TO INSURANCE PRODUCER:**  
Please print or write legibly your name and  
complete address below including  
PRODUCER'S COMPANY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
PRODUCER'S COMPANY