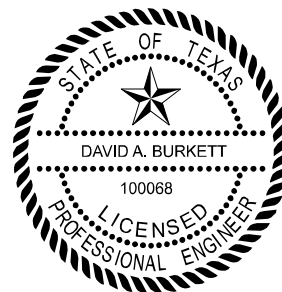


**SPECIFICATIONS AND
CONTRACT DOCUMENTS FOR**

**Bid Title: SHADY SHORES ROAD PROJECT
ITB Number: 26-2907**

**FOR
DENTON COUNTY
1 COURTHOUSE DRIVE, SUITE 2300
Denton, Texas 76208
(940) 349-3130
(940) 349-3131**

Date: May 19, 2026



David A. Burkett

05-19-2026

**DENTON COUNTY
SHADY SHORES ROAD PROJECT
ITB NUMBER 26-2907**

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PART I

CONTRACT DOCUMENTS

NOTICE TO BIDDERS

Sealed bids to Denton County will be received either by paper submission or electronically at Denton County's partner website, Bonfire at <https://dentoncounty.bonfirehub.com>, **PRIOR** to 2:00 p.m. on Thursday, June 18, 2026, for the furnishing of all plans, labor, materials, and equipment and the performing of all work required in the construction of the following project:

Shady Shores Road Project, ITB Number 26-2907

And other improvements incidental thereto, at which time and place the bids will be publicly opened and read aloud. **(NO LATE BIDS WILL BE ACCEPTED)**

Paper bids shall be submitted in sealed envelopes upon the blank form of bid furnished and shall be marked with the name of bid, bid number, and the name and address of the Bidder. If submitting electronically, do not submit by paper. Deliver paper bids to the Office of Purchasing at the following address prior to bid deadline.

Denton County Purchasing
1 Courthouse Drive, Suite 2300
Denton, Texas 76208

Bidders must submit, with their Bid, a Bid Bond in the amount of five percent (5%) of the maximum amount bid, payable without recourse to DENTON COUNTY, TEXAS, as guarantee that the Bidder will enter into a contract and execute bond and guarantee forms provided within ten (10) days after award of contract to their company. If submitting electronically, **the original Bid Bond must be received in the office of the Director of Purchasing for Denton County, located at 1 Courthouse Drive, Suite 2300, Denton, TX 76208, no later than the bid due date and time for the submission to be considered responsive.**

The successful Bidder must furnish Maintenance, Performance and Payment Bonds each in the amount of one hundred percent (100%) of the contract price from an approved Surety Company. The successful Bidder must also be able to show evidence that it is authorized to do business in the State of Texas prior to executing the contract.

An optional pre-bid conference will be held at 10:00 a.m. on Thursday, June 4, 2026 in the Denton County Purchasing Department Conference Room, located at 1 Courthouse Drive, Suite 2300, Denton, TX 76208. This meeting can also be attended virtually at <https://teams.microsoft.com/meet/232299063658189?p=98zllwXoehCKgXKsHo>.

The County reserves the right to reject any and all bids and to waive formalities. In case of ambiguity or lack of clearness in stating bid prices in the bid, the County reserves the right to consider and adopt the most advantageous construction thereof, or to reject any or all bids. Bid

unit price on quantity specified, extend and show total. In case of errors in extension, UNIT prices shall govern. Unreasonable or unbalanced unit prices will be considered sufficient cause for rejection of any bid or bids. No bid may be withdrawn within sixty (60) days after date on which bids are opened. Only original signatures will be accepted.

Bidders are expected to inspect the site(s) of the work and to inform themselves regarding local conditions under which the work is to be performed. The successful bidder must provide proof that he has performed work of similar nature and dollar amount within the past three (3) years. Attention is called to the provisions of the Act of the 43rd Legislature of the State of Texas and subsequent amendments concerning the wage scale and payment of prevailing wages specified. Prevailing wage rates will be established by Denton County for this project. All Bidders must comply with the rules and regulations for the Americans with Disabilities Act of 1990. Plans, Specifications and Contract documents may be examined without charge at the Denton County Purchasing Department, 1 Courthouse Drive, Suite 2300, Denton, Texas 76208. They will also be available at Denton County's Internet site <http://purchasing.dentoncounty.gov> or at our partner site, Bonfire <https://dentoncounty.bonfirehub.com>

The Owner has established \$20,936,569.00 as the estimated construction budget for all work including alternates as described in the Drawings, Technical Specifications, and other Contract Documents prepared by the Engineer.

Oral, written, or faxed modifications to bids will not be considered. Modifying or qualifying statements of any kind shall be on a separate sheet and submitted in the same envelope with the bid.

The County reserves the right to reject or accept any or all bids. The County reserves the right to waive any alleged breach of technicality.

Questions: All questions shall be posted to Denton County's on-line bidding service, (<https://dentoncounty.bonfirehub.com>), by the stated deadline. All questions and answers will be posted online at [Denton County Bonfire Portal](#). Bidders are responsible for ensuring all answers to questions are reviewed prior to bid submittal. Answers provided to posted questions address minor irregularities and are for clarification purposes only and do not revise or modify the specification requirements. Answers to questions that result in revisions to the specifications will be addressed by Addendum. No oral statement of any person shall modify or otherwise change, or affect the specifications.

Any addenda issued during the time allowed for the preparation of bids shall be covered in the bid and, in executing the contract, they shall become a part thereof. Failure of a Bidder to receive any addendum shall not release the Bidder from any obligations under his bid, provided said addendum was posted and distributed by [Denton County Bonfire Portal](#). Bidders are responsible for ensuring all addendums are reviewed prior to bid submittal. All addenda can be reviewed at [Denton County Bonfire Portal](#).

Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

No bid shall be withdrawn for sixty (60) days after opening of bids without the consent of OWNER. Owner reserves the right to reject any or all bids; to accept or reject any or all Alternates, to accept any combination of Alternates; to accept any bid considered advantageous; and to waive any informality or irregularity in any bid which, in his judgment, is in his own best interest.

DISCLOSURE OF CERTAIN RELATIONSHIPS: Chapter 176 of the Texas Local Government Code requires that any bidder or person considering doing business with a local government entity disclose in the Questionnaire Form CIQ, the bidder or person's affiliation or business relationship that might cause a conflict of interest with a local government entity. By law, this questionnaire must be filed with the records administrator of Denton County no later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed as defined in 176.006, Local Government Code. A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor. A copy of the law is available at: <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. The forms for reporting are available at: <http://www.ethics.state.tx.us/forms/CIQ.pdf>.

By submitting a response to this request, the bidder represents that it is in compliance with the requirements of Chapter 176 of the Texas Local Government Code. If required, send completed forms to the Denton County Clerk's Office located at 1450 E. McKinney, Suite 1103, Denton, TX 76209-4524.

DISCLOSURE OF INTERESTED PARTIES: In compliance with Section 2252.908 of the Texas Government Code, Denton County Commissioners Court may not enter into a contract with a business entity as a result of acceptance or award of this solicitation unless the business entity submits a disclosure of interested parties form as required by this statute. Notification will be given to the business entity recommended for award upon which the business entity will be required to submit the completed form prior to award.

A copy of this law is available at <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm>. The on-line form is available at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. The Definitions are included in Chapter 46, Ethics Commission Rules: <https://www.ethics.state.tx.us/tec/1295-Info.htm>.

PROHIBITION OF CONTRACT WITH CERTAIN COMPANIES: Vendors/Contractors/Providers must be in compliance with the provisions of §2252.152 and §2252.153 of the Texas

Government Code, which states in part, contracts with companies engaged in business with Iran, Sudan or Foreign Terrorist Organizations are prohibited. A governmental entity may not enter into a contract with any company listed on the Comptroller of the State of Texas website identified under Section 806.051, 807.051 or Section 2252.153, which do business with Iran, Sudan or any Foreign Terrorist Organization. By submitting a signed response to this solicitation, contractor verified to Denton County that it is not on any such list. Pursuant to Texas Government Code Chapter 2274, Contractor verifies the following: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

CHAPTER 2271 VERIFICATION: Denton County is legally prohibited from contracting for goods and services unless the contract contains written verification from the contractor that it does not and will not during the term of the contract boycott Israel as described in Texas Government Code §808.001(1). By submitting a response to this solicitation, the bidder is affirming compliance with Chapter 2271 of the Texas Government Code.

HISTORICALLY UNDERUTILIZED BUSINESS (HUB) CONTRACTING:

1. The goal of Denton County is to ensure all HUBs, as described in the Texas Government Code, Title 10 Subtitle D, Chapter 2161, and in compliance with UAR 2 CFR 200.321 have maximum opportunities to participate in the County's procurement in awarding of contracts and subcontracts.
2. Denton County will make a good faith effort to increase contract awards for the purchase of goods or services from the HUBs. HUB bidders are encouraged to participate in the county's purchasing and procurement process. While the County is oriented to adhere to good faith efforts, nothing in this effort shall be construed to establish set-asides or mandatory quotas.
3. The County and all prime contractors (if subcontracts are to be let) will take the affirmative steps listed below:
 - a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
 - b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
 - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business.

- d. Establishing delivery schedules, where the requirements permit, which encourage participation by small and minority business, and women's business enterprises.
- e. Using the services and assistance of the Small Business Administration, the Minority Business Development Agency of the Department of Commerce and the Texas Procurement and Support Services (TPASS) Centralized Master Bidders List HUB Directory.

DEBARMENT AND SUSPENSION: Bidder certifies that at the time of submission of its bid, Bidder was not on the federal government's list of suspended, ineligible or debarred contractors in the System for Award Management (SAM) and that Bidder has not been placed on this list between the time of its bid submission and the time of execution of the Contract. If Bidder is placed on this list during the term of the Contract, Bidder shall notify the Denton County Director of Purchasing. False certification or failure to notify may result in termination of the Contract for default in accordance with the OMB Guidelines at 2 CFR 180.

DENTON COUNTY

Scott Arledge, CPPO, CPPB
Director of Purchasing

ADVERTISEMENT DATES:

(1st Publication Date) May 23, 2026

(2nd Publication Date) May 30, 2026

(3rd Publication Date) June 6, 2026

-End Notice To Bidders-

SPECIAL INSTRUCTIONS TO BIDDERS

Shady Shores Road Project

Qualifications of Bidders

In order to be considered for award of this bid, bidders must be able to demonstrate that they are qualified by experience and capability to successfully construct the project within the Contract Time and for the Contract Amount. Apparent low bidder will be required to complete Part V forms for verification of responsibility. At a minimum, each bidder must demonstrate the following:

1. Firm experience in the construction of at least 3 separate projects involving multi-span bridges and retaining walls within the last 5 years.
2. Firm experience in the construction of at least 2 separate street reconstruction projects each with a contract value of comparable amount to this project.
3. At least 2 reference contacts (project management level) from municipal entities (i.e., city, county, TxDOT).
4. If any of the above construction is to be completed by a subcontractor, the subcontractor must meet the above requirements for the specific item.
5. The Prime Contractor for the project must be responsible for at least 50% of the work for this project, and all of the work completed by subcontractors must be equal to or less than 50% of the project.

Bidders who cannot meet the above minimum qualifications will not be considered for award. Documents necessary to show compliance with the above requirements must be provided by the apparent low bidder before a Recommendation of Award is presented to Denton County.

NONRESPONSIVE BID: The Owner will not accept a nonresponsive bid. A bid that has one or more of the deficiencies listed below is considered nonresponsive:

- The bid was not in the hands of the Letting Official at the time and location specified in the advertisement.
- A bid was submitted for the same project by a Bidder or Bidders and one or more of its partners or affiliates.
- The Bidder was not authorized to receive a proposal form under Article 2L.3, "Issuing Bid Documents",
- The Bidder failed to acknowledge receipt of all addenda issued.
- The proposal form was signed by a person who was not authorized to bind the Bidder or Bidders.
- The proposal guaranty did not comply with the requirements contained in this Item.
- The bid was in a form other than the official proposal form issued by the Owner.
- The Bidder modified the bid in a manner that altered the conditions or requirements for work as stated in the bid documents.
- The Bidder bid more than the maximum or less than the minimum number of allowable working days when working days was an item.
- The Bidder did not meet the requirements of the technical qualification.
- The Bidder did not include a signed State of Texas Child Support Business Ownership Form.
- The bidder does not meet the Owner's qualification requirements.

**BID AND UNIT PRICE BID FORM
SHADY SHORES ROAD PROJECT
ITB NUMBER 26-2907**

DENTON COUNTY, TEXAS

Date _____

TO: DENTON COUNTY
Purchasing Department
1 Courthouse Drive, Suite 2300
Denton, Texas 76208

FOR: SHADY SHORES ROAD PROJECT
ITB #26-2907

Pursuant to the foregoing "Notice to Bidders" the undersigned bidder, having thoroughly examined the Contract Documents, the site(s) of the project and understanding the amount of work to be done and the prevailing conditions, hereby bids to fully complete all of, the work and requirements (including furnishing all necessary superintendence, labor, machinery, equipment, tools and materials), as provided in the Plans, Specifications and Contract Documents and binds himself, upon acceptance of this bid, to execute a contract and bonds, and to furnish all required guarantees (according to the accompanying forms) and to complete the work within the required time and for the following prices to-wit:

Item No.	Spec. Item	Est. Quantity	Unit	Name of Pay Item	Unit Bid Price	Amount Bid
1	TxDOT 100 - 7002	47.00	STA	PREPARING ROW		
2	TxDOT 104 - 7001	302.00	SY	REMOV CONC (PAV)		
3	TxDOT 104 - 7006	167.00	SY	REMOV CONC (RIPRAP)		
4	TxDOT 104 - 7011	64.00	SY	REMOV CONC (DRIVEWAYS)		
5	TxDOT 104 - 7013	42.00	SY	REMOV CONC (SIDEWALK, RAMP OR SUP)		
6	TxDOT 104 - 7025	108.00	SY	REMOV CONC (RETAINING WALLS)		
7	TxDOT 105 - 7052	11946.00	SY	RMV (0"-12") TRT/UNTRT BASE & ASPH PAV		
8	TxDOT 110 - 7001	23666.00	CY	EXCAV (ROADWAY)		
9	TxDOT 132 - 7008	2156.00	CY	EMBANK (FNL)(DC)(TY C1)		
10	TxDOT 132 - 7010	6198.00	CY	EMBANK (FNL)(DC)(TY C2)		
11	TxDOT 160 - 7002	18029.00	SY	FURN & PLACE TOPSOIL (4")		
12	TxDOT 162 - 7002	7895.00	SY	BLOCK SODDING		

Item No.	Spec. Item	Est. Quantity	Unit	Name of Pay Item	Unit Bid Price	Amount Bid
13	TxDOT 164 - 7007	10134.00	SY	BROADCAST SEED (TEMP_WARM_COOL)		
14	TxDOT 164 - 7010	10134.00	SY	DRILL SEED (PERM_RURAL_CLAY)		
15	TxDOT 168 - 7001	2686.00	TGL	VEGETATIVE WATERING		
16	TxDOT 169 - 7001	10134.00	SY	SOIL RET BLKT(SL_MOD_CLAY_SHORT)		
17	TxDOT 247 - 7079	9513.00	SY	FL BS (CMP IN PLC)(TY D GR 1-2) (8")		
18	TxDOT 275 - 7001	15.00	TON	CEMENT		
19	TxDOT 275 - 7018	831.00	SY	CEMENT TRT (SUBGRADE)(8")		
20	TxDOT 310 - 7013	1827.00	GAL	PRIME COAT(MC-30 OR AE-P)		
21	TxDOT 344 - 7009	184.00	TON	SP MIXES SP-C PG64-22		
22	TxDOT 360 - 7006	8262.00	SY	CONC PVMT (CRCP) (12")		
23	TxDOT 402 - 7001	2316.00	LF	TRENCH EXCAVATION PROTECTION		
24	TxDOT 403 - 6001	7391.00	SF	TEMPORARY SPL SHORING		
25	TxDOT 416 - 7006	3593.00	LF	DRILL SHAFT (36 IN)		
26	TxDOT 420 - 7013	113.00	CY	CL C CONC (ABUT)(HPC)		
27	TxDOT 420 - 7023	255.00	CY	CL C CONC (CAP)(HPC)		
28	TxDOT 420 - 7039	63.00	CY	CL C CONC (COLUMN)(HPC)		
29	TxDOT 422 - 7002	66048.00	SF	REINF CONC SLAB (HPC)		
30	TxDOT 422 - 7014	177.00	CY	APPROACH SLAB (HPC)		
31	TxDOT 422 - 7022	19957.00	SF	BRIDGE SIDEWALK(HPC)		
32	TxDOT 423 - 7001	25764.00	SF	RETAINING WALL (MSE)		
33	TxDOT 425 - 7004	8505.00	LF	PRESTR CONC GIRDER (TX46)		
34	TxDOT 432 - 7007	166.00	CY	RIPRAP (CONC) (CL B) (4 IN)		
35	TxDOT 432 - 7013	14.00	CY	RIPRAP (MOW STRIP)(4 IN)		
36	TxDOT 432 - 7041	17970.00	CY	RIPRAP (STONE PROTECTION)(12 IN)		
37	TxDOT 442 - 7008	1345.00	LB	STR STL (MISC) (BS-EJCP)		
38	TxDOT 442 - 7008	1537.00	LB	STR STL (MISC) (BR_SM)		
39	TxDOT 450 - 7004	1300.00	LF	RAIL (TY T221)		
40	TxDOT 450 - 7005	1710.00	LF	RAIL (TY T221) (HPC)		
41	TxDOT 450 - 7032	1086.00	LF	RAIL (TY C221)		
42	TxDOT 450 - 7033	1721.00	LF	RAIL (TY C221) (HPC)		
43	TxDOT 454 - 7004	243.00	LF	SEALED EXPANSION JOINT (4 IN) (SEJ - M)		
44	TxDOT 464 - 7003	546.00	LF	RC PIPE (CL III)(18 IN)		
45	TxDOT 464 - 7005	2361.00	LF	RC PIPE (CL III)(24 IN)		
46	TxDOT 465 - 7002	5.00	EA	MANH (COMPL)(PRM)(48IN)		

Item No.	Spec. Item	Est. Quantity	Unit	Name of Pay Item	Unit Bid Price	Amount Bid
47	TxDOT 465 - 7003	1.00	EA	MANH (COMPL)(PRM)(60IN)		
48	TxDOT 465 - 7006	24.00	EA	JCTBOX(COMPL)(PJB)(4FTX4FT)		
49	TxDOT 465 - 7016	5.00	EA	INLET (COMPL)(PCO)(3FT)(BOTH)		
50	TxDOT 465 - 7030	3.00	EA	INLET (COMPL)(PCU)(3FT)(LEFT)		
51	TxDOT 465 - 7031	4.00	EA	INLET (COMPL)(PCU)(3FT)(RIGHT)		
52	TxDOT 465 - 7032	17.00	EA	INLET (COMPL)(PCU)(3FT)(BOTH)		
53	TxDOT 465 - 7045	1.00	EA	INLET (COMPL)(PMBD)(4FT)		
54	TxDOT 465 - 7158	7.00	EA	INLET(COMPL)(PAZD)(FG)(3FTX3FT-3FTX3FT)		
55	TxDOT 465 - 7160	2.00	EA	INLET(COMPL)(PAZD)(FG)(4FTX4FT-4FTX4FT)		
56	TxDOT 467 - 7467	2.00	EA	SET (TY II) (18 IN) (RCP) (3:1) (P)		
57	TxDOT 467 - 7325	6.00	EA	SET (TY II) (24 IN) (RCP) (3: 1) (P)		
58	TxDOT 496 - 6072	1808.00	SY	REMOVING ROCK RIP RAP		
59	TxDOT 496 - 7004	4.00	EA	REMOV STR (SET)		
60	TxDOT 496 - 7005	4.00	EA	REMOV STR (WINGWALL)		
61	TxDOT 496 - 7006	2.00	EA	REMOV STR (HEADWALL)		
62	TxDOT 496 - 7007	591.00	LF	REMOV STR (PIPE)		
63	TxDOT 496 - 7008	279.00	LF	REMOV STR (BOX CULVERT)		
64	TxDOT 500 - 7001	1.00	LS	MOBILIZATION		
65	TxDOT 502 - 7001	21.00	MO	BARRICADES, SIGNS AND TRAFFIC HANDLING		
66	TxDOT 503 - 7002	2.00	EA	PORTABLE CHANGEABLE MESSAGE SIGN		
67	TxDOT 506 - 7002	240.00	LF	ROCK FILTER DAMS (INSTALL) (TY 2)		
68	TxDOT 506 - 7003	260.00	LF	ROCK FILTER DAMS (INSTALL) (TY 3)		
69	TxDOT 506 - 7011	500.00	LF	ROCK FILTER DAMS (REMOVE)		
70	TxDOT 506 - 7020	312.00	SY	CONSTRUCTION EXITS (INSTALL) (TY 1)		
71	TxDOT 506 - 7024	312.00	SY	CONSTRUCTION EXITS (REMOVE)		
72	TxDOT 506 - 7039	3399.00	LF	TEMP SEDMT CONT FENCE (INSTALL)		
73	TxDOT 506 - 7040	870.00	LF	TEMP SDMT CONT FENCE (INLET PROTECTION)		
74	TxDOT 506 - 7041	4269.00	LF	TEMP SEDMT CONT FENCE (REMOVE)		
75	TxDOT 506 - 7044	380.00	LF	BIODEG EROSN CONT LOGS (INSTL) (12")		
76	TxDOT 506 - 7046	380.00	LF	BIODEG EROSN CONT LOGS (REMOVE)		

Item No.	Spec. Item	Est. Quantity	Unit	Name of Pay Item	Unit Bid Price	Amount Bid
77	TxDOT 529 - 7002	3871.00	LF	CONC CURB (TY II)		
78	TxDOT 530 - 7007	412.00	SY	DRIVEWAYS (CONC)(HES)		
79	TxDOT 531 - 7002	2563.00	SY	CONC SIDEWALKS (5")		
80	TxDOT 531 - 7009	2.00	EA	CURB RAMPS (TY 6)		
81	TxDOT 531 - 7010	4.00	EA	CURB RAMPS (TY 7)		
82	TxDOT 531 - 7011	4.00	EA	CURB RAMPS (TY 10)		
83	TxDOT 540 - 7002	50.00	LF	MTL W-BEAM GD FEN (STEEL POST)		
84	TxDOT 540 - 7005	2.00	EA	MTL BEAM GD FEN TRANS (THRIE-BEAM)		
85	TxDOT 542 - 7001	2326.00	LF	REMOVE METAL BEAM GUARD FENCE		
86	TxDOT 542 - 7002	4.00	EA	REMOVE TERMINAL ANCHOR SECTION		
87	TxDOT 544 - 7001	2.00	EA	GUARDRAIL END TREATMENT (INSTALL)		
88	TxDOT 544 - 7003	4.00	EA	GUARDRAIL END TREATMENT (REMOVE)		
89	TxDOT 545 - 7005	1.00	EA	CRASH CUSH ATTEN (INSTL)(L)(N)(TL2)		
90	TxDOT 560 - 7012	2.00	EA	RELOCATE EXISTING MAILBOX		
91	TxDOT 644 - 7001	18.00	EA	IN SM RD SN SUP&AM TY10BWG(1)SA(P)		
92	TxDOT 644 - 7063	5.00	EA	IN SM RD SN SUP&AM (RAIL MOUNT)		
93	TxDOT 644 - 7073	4.00	EA	REMOVE SM RD SN SUP&AM		
94	TxDOT 644 - 7078	3.00	EA	IN SRSS & AM (RAIL)(90MPH)(P MOUNT)		
95	TxDOT 644 - 7080	2.00	EA	IN SRSS & AM (RAIL)(90MPH)(T MOUNT)		
96	TxDOT 658 - 7003	15.00	EA	INSTL DEL ASSM (D-SW) SZ 1 (WFLX) GND		
97	TxDOT 658 - 7004	3.00	EA	INSTL DEL ASSM (D-SW) SZ 1(WFLX)GND(BI)		
98	TxDOT 658 - 7013	65.00	EA	INSTL DEL ASSM (D-SW) SZ 1(BRF)CTB(BI)		
99	TxDOT 658 - 7018	3.00	EA	INSTL DEL ASSM (D-SW) SZ 1(BRF)GF2		
100	TxDOT 658 - 7019	1.00	EA	INSTL DEL ASSM (D-SW) SZ 1(BRF) GF2 (BI)		
101	TxDOT 666 - 7036	228.00	LF	REFL PAV MRK TY I (W)24"(SLD)(100MIL)		
102	TxDOT 666 - 7347	18456.00	LF	PAVEMENT SLER 6"		
103	TxDOT 666 - 7352	228.00	LF	PAVEMENT SLER 24"		

Item No.	Spec. Item	Est. Quantity	Unit	Name of Pay Item	Unit Bid Price	Amount Bid
104	TxDOT 666 - 7411	9532.00	LF	REFL PAV MRK TY I (W)6"(SLD)(100MIL)		
105	TxDOT 666 - 7423	8924.00	LF	REFL PAV MRK TY I (Y)6"(SLD)(100MIL)		
106	TxDOT 672 - 7004	110.00	EA	REFL PAV MARKR TY II-A-A		
107	TxDOT 678 - 7002	18456.00	LF	PAV SURF PREP FOR MRK (6")		
108	TxDOT 678 - 7008	228.00	LF	PAV SURF PREP FOR MRK (24")		
109	TxDOT 678 - 7033	110.00	EA	PAV SURF PREP FOR MRK (RPM)		
110	TxDOT 700 - 7006	1500	LB	POTHOLE REPAIR (STANDARD)		
111	SP - 01	2	EA	PROJECT CONSTRUCTION SIGN		
112	SP - 02	1	LSUM	MAINTENANCE BOND		
The Bidder proposes to perform all the work required by the contractual document for the amount of _____ Dollars and _____ Cents (fill in amount in words)					TOTAL BASE	

The Department will sum the products of the quantities and the unit prices bid for the regular items in the bid form to determine the total bid amount for the base bid. The official total bid amount will be determined by the summation of the base bid plus a pre-determined order of additive alternate items, not to exceed the Department's budgeted amount for the Contract. An estimate of the budgeted amount may be shown on the plans. The Contract will identify the base bid work and additive alternate work to be performed. The Department makes no guarantee that the additive alternate work will be required.

Award will be made to Total Low Bid to be awarded based on available funding and as determined to be in the best interest of the County.

The undersigned Bidder hereby declares that he has visited the site(s) of work and has carefully examined the Contract Documents pertaining to the work covered by this bid. The Bidder further agrees to execute and file with the County a contract and bonds on the forms provided within ten (10) days after receipt of written notification of award of the contract and to begin the work to be performed under the contract within ten (10) days after receipt of written authorization to begin the work (Work Order), and to complete one hundred percent (100%) of the work within **612 Consecutive Calendar Days** after the effective starting date for the Project as specified in the "Work Order".

Enclosed with this bid is a Bid Bond in the amount of five (5%) percent of the total bid, which it is agreed shall be collected and retained by the County as liquidated damages (for delay and additional work caused thereby) in the event that this Bid is accepted by the County within ninety (90) days after the bids are received and the undersigned fails to execute the contract and required bonds for the County within ten (10) days after the Bid is accepted and the Contract awarded by the County. Otherwise, said bond shall be returned to the undersigned upon request.

Signed: _____

Name: _____
(Please type or print)

Company: _____

Address: _____

SEAL
(If Corporation)

Telephone: _____

Fax: _____

E-mail Address: _____

Federal ID Number _____

The undersigned bidder acknowledges receipt of the following Addenda: (If none is received, then write NONE across the blanks.)

Addendum No.1 Date Received: _____ By: _____

Addendum No.2 Date Received: _____ By: _____

Addendum No.3 Date Received: _____ By: _____

DENTON COUNTY

CONTRACT AGREEMENT

STATE OF TEXAS §
 § KNOWN ALL MEN BY THESE PRESENTS:
COUNTY OF DENTON §

THIS AGREEMENT, made and entered into this ____ day of _____, 2026, by and between DENTON COUNTY, (hereinafter referred to as "COUNTY" and _____ (hereinafter referred to as "CONTRACTOR"). In consideration of the mutual covenants hereinafter set forth, the County and Contractor agree as follows:

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the COUNTY, and under the conditions expressed in the bond bearing even date herewith, the said CONTRACTOR, hereby agrees with the COUNTY to commence and complete the construction of certain improvements described as follows:

**SHADY SHORES ROAD PROJECT, BID #26-2907
IN DENTON COUNTY, TEXAS**

This project consists of reconstruction of local roadway Shady Shores Road with bridges from 2 lanes to 2 lanes to elevate out of floodplain with drainage improvements and all extra work in connection therewith, under the terms as stated in the General Conditions of the Agreement and at his (or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said construction, in accordance with the conditions and prices stated the Bidder attached hereto, and in accordance with the Notice to Bidders and General Special Conditions of Agreement, Plans and other drawings (including or written explanatory matter thereof), and the Specifications and addenda thereof, as prepared by Denton County Public Works, herein entitled the ENGINEER, together with the CONTRACTOR'S written bid, the General Conditions of the Agreement, and the Performance and Payment Bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire contract.

The Contractor hereby represents and covenants that neither it nor any of its employees or representatives, has or shall have, directly or indirectly, any agreement or arrangement with any party that would constitute a conflict of interest in regard to the work being performed by the County during the terms of this agreement. Contractor will inform the County of other assignments undertaken on behalf of neighboring communities or governmental agencies that may constitute a conflict of interest.

The Contractor agrees Denton County will not be held liable for any personal or real property damages occurring from acts of agents during the tenure of said agreement.

The County agrees, to the extent provided by the laws and constitution of the State of Texas without establishment of a sinking fund, to indemnify and save Contractor harmless from any and against all losses, claims, demands, damages, and causes of action directly resulting from the negligent acts or omissions of the County, its officers, agents employees, or subcontractors.

Contractor agrees to indemnify and save County harmless from and against all losses, claims, demands, damages, and causes of action resulting from the negligent acts or omissions of the obligor, or otherwise reduce any other rights or obligations of indemnity which would otherwise reduce any other rights or obligations of indemnity which would otherwise exist as to any part or persons described in this paragraph.

Notwithstanding any of the above, the County shall not be liable for any indirect, remote, or consequential damages.

Denton County may terminate this contract at any time by giving written notice to the other of such termination and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. In that event, all finished or unfinished documents, and other materials, should be at the option of the County to become its property. If the contract is terminated as provided herein, the Contractor fee would be paid in an amount which bears the same ratio to the total compensation as the services actually performed bears to the total services of the Contractor covered by this contract.

The Contractor represents that it has or will secure at its own expense all personnel required to perform the services covered by this contract.

It is agreed that Denton County will provide all necessary project information, to include Standard Construction Details.

All materials prepared by the Contractor shall become the property of the County. The County shall have unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data, or other materials prepared under this contract.

The CONTRACTOR hereby agrees to commence within ten (10) days after receipt of written authorization to begin the work (Work Order), and to complete one hundred percent (100%) of the work **within 612 Consecutive Calendar Days** after the effective starting date for the Project as specified in the "Work Order", subject to such extensions of time as are provided by the General and Special Conditions.

Contractor certifies that the firm is an independent contractor, and none of its contractors, employees, agents, or independent workmen shall be deemed an employee of Denton County for any purpose whatsoever.

The COUNTY agrees to pay the CONTRACTOR in current funds the sum of \$_____, as shown in the bid, which forms a part of this contract, such payments to be subject to the General and Special Conditions of the Contract.

This agreement consists of this document, upon which the parties have affixed their signatures, and those documents specifically incorporated herein by reference. This agreement as so constituted is the entire agreement between the parties with respect to the subject matter hereof, and supersedes all other previous statement, communications, or agreements, whether oral or written. No modification, alteration, or waiver of any provision hereof shall be binding upon the parties unless evidenced in writing and signed by both parties.

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement in the year and date above written.

DENTON COUNTY
Party of the First Part
(County)

Party of the Second Part
(Contractor)

By: _____

By: _____
Print or Type Name

Title: _____
(President/Vice President)

ATTEST:

ATTEST:

By Authority of Commissioner's Court

Corporation Secretary

Print or Type Name

Print or Type Name

PERFORMANCE BOND

STATE OF TEXAS §
 §
COUNTY OF DENTON §

KNOW ALL PERSONS BY THESE PRESENTS: That _____ of the City of _____, County of _____, and State of Texas as principal, and _____ authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto Denton County, (County), in the penal sum of _____ Dollars (\$ _____) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

WHEREAS, the Principal has entered into a certain written contract with the County, dated the _____ day of _____, 2026 to construct:

**SHADY SHORES ROAD PROJECT, ITB #26-2907
IN DENTON COUNTY, TEXAS**

This project consists of reconstruction of local roadway Shady Shores Road with bridges from 2 lanes to 2 lanes to elevate out of floodplain with drainage improvements and all extra work which contract is hereby referred to and made part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform the said Contract and shall in all respects duly and faithfully observe and perform all and singular the covenants, conditions and agreements in and by said contract agreed and covenanted by the Principal to be observed and performed, and according to the true intent and meaning of said Contract and the Plans and Specifications hereto annexed, then this obligation shall be void; otherwise to remain in full force and effect:

"PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of (Article 5160 for Public Work) (Article 5472d for Private Work)* of the Revised Civil Statutes of Texas as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter or Article to the same extent as if it were copied at length herein."

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition of the terms of the contract, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in anyway affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder.

*Not applicable for federal work. See "The Miller Act," 40 U.S.C. S270.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 2026.

Principal

Surety

By _____

By _____

Title _____

Title _____

Address _____

Address _____

The name and address of the Resident Agent of Surety is:

PAYMENT BOND

STATE OF TEXAS §
 §
COUNTY OF DENTON §

KNOW ALL PERSONS BY THESE PRESENTS: That _____ of the City of _____, County of _____, and State of Texas as principal, and _____ authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto DENTON COUNTY (County), in the penal sum of _____ Dollars (\$ _____) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, by these presents:

WHEREAS, the Principal has entered into a certain written contract with the County, dated the _____ day of _____, 2026 to construct:

**SHADY SHORES ROAD PROJECT, BID #26-2907
IN DENTON COUNTY, TEXAS**

This project consists of reconstruction of local roadway Shady Shores Road with bridges from 2 lanes to 2 lanes to elevate out of floodplain with drainage improvements and all extra work which contract is hereby referred to and made part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION IS SUCH, that if the said Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work provided for in said contract, then, this obligation shall be voided; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Article 5160 of the Revised Civil Statutes of Texas as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Article to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications, or drawings accompanying the same, shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 2026.

Principal

Surety

By _____

By _____

Title _____

Title _____

Address _____

Address _____

The name and address of the Resident Agent of Surety is:

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

THAT _____, whose address is _____
_____, as PRINCIPAL, and _____ whose
address is _____ a CORPORATION
organized and existing under the laws of the State of Texas, and fully authorized to transact
business in the State of Texas, as Sureties, do hereby expressly acknowledge ourselves to be
held and bound to pay unto Denton County, hereinafter called COUNTY, the sum of
_____ (\$_____) which is one hundred
per cent (100%) of said contract amount in lawful money of the United States, for the payment
of which sum will and truly to be made unto said Denton County, and its successors, said
PRINCIPAL AND SURETIES do hereby bind ourselves, our heirs, executors, administrators, their
assigns and successors, jointly and severally, firmly by these presents. This bond shall
automatically be increased by the amount of any Change Order or Supplemental Agreement
which increases the Contract price, but in no event shall a Change Order or Supplemental
Agreement which reduces the Contract price decreases the sum of this Bond.

THIS obligation is conditioned, however, that whereas said _____ has
this _____ day of _____, 2026, entered into a written Contract with the
said COUNTY for Shady Shores Road Project in Denton County, which Contract and the Plans
and Specifications therein mentioned adopted by the COUNTY, are hereby expressly made a
part thereof as though the same were written and embodied herein.

WHEREAS, said Contract was entered into pursuant to the requirements of the COUNTY, and
WHEREAS, in said Contract, CONTRACTOR binds itself to use of materials and methods of
construction such that all improvements including but not limited to the construction of Shady
Shores Road Project will be initially completed free of perceptible defects and will remain in
good repair and condition and free of perceptible defects for and during the period of two (2)
years after the date of acceptance of the completed improvements by the COUNTY, and

WHEREAS, said CONTRACTOR binds itself to construct said improvements in such a manner and
obtain inspection approvals in proper sequence as are required to obtain acceptance by the
COUNTY and to repair or reconstruct the said improvements in whole or in part at any time
within said two (2) years period to such an extent as the COUNTY deems necessary to properly
correct all defects except those which have been caused by circumstances and conditions
occurring after the time of construction over which the CONTRACTOR had no control and which
are other than those arising from defect of construction by the CONTRACTOR; and,

WHEREAS, after the acceptance of the improvements by the COUNTY, said CONTRACTOR binds itself, upon receiving notice from the COUNTY of the need thereof to repair or reconstruct said improvements and if the CONTRACTOR fails to make the necessary corrections, within ten (10) days after being notified, the COUNTY may do or have done all said corrective work and shall have recovery hereon for all expenses thereby incurred.

WHEREAS, under the Plans and Specifications, and Contract, it is provided that the CONTRACTOR will maintain and keep in good repair the work herein contracted to be done and performed for a period of two (2) years from the date of acceptance; it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective material, work, or labor performed by said CONTRACTOR; and in case the said CONTRACTOR shall fail to do so, within ten (10) days after being notified, it is agreed that the COUNTY may do said work and supply such materials, and charge to same against the said CONTRACTOR, AND SURETIES, on this obligation, and said CONTRACTOR AND SURETIES hereon shall be subject to the liquidated damages mentioned in said contract.

NOW THEREFORE, if the said CONTRACTOR, shall keep and perform its said agreement to maintain said work and keep the same in repair for the said maintenance period of two (2) years, as provided, then these presents shall be null and void, and have no further effect, but if default shall be made by the said CONTRACTOR in the performance of his contract to so maintain and repair said work, then these presents shall have full force and effect, and said COUNTY shall have and recover from said CONTRACTOR and SURETIES damages in the premises, as provided, and it is further agreed that this obligation shall be a continuing one against the PRINCIPAL and SURETIES hereon, and that successive recoveries may be had thereon for successive breaches until the full amount shall have been exhausted; and it is further understood that the obligation herein to maintain said work shall continue throughout said maintenance period, and the same shall not be changed, diminished, or in any manner - affected from any cause during said time.

PROVIDED FURTHER, that if any legal action be filed upon this Bond, exclusive venue shall lie in Denton County, State of Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the term of the Contract or to the Work to be performed thereunder or the specifications accompanying the same shall in anyway affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident agent in Denton County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Texas Insurance Code

IN WITNESS WHEREOF, the said _____ has caused these presents to be executed by them; and the said _____ has caused these presents to be executed by its ATTORNEY-IN-FACT _____ and the said ATTORNEY-IN- FACT _____ has hereunto set his hand this the _____ day of _____, 2026.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 2026.

Principal

Surety

By _____

By _____

Title _____

Title _____

Address _____

Address _____

The name and address of the Resident Agent of Surety is:

**GENERAL CONDITIONS FOR
CONSTRUCTION CONTRACT
DENTON COUNTY**

**GENERAL CONDITIONS
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GENERAL CONDITIONS

1. CONTRACT DOCUMENTS:

It is understood and agreed that the Notice to Bidders, Instructions to Bidders, Bid and Unit Price Bid Form, Contract Agreement, County's Purchase Order, County's Commissioner's Court Resolution, Performance Bond, Payment Bond, General Conditions, Special Conditions, Project Specifications, North Central Texas Council of Government's Standard Specifications for Public Works, 2023 Edition, Texas Department of Transportation, 2024 Standard Specifications for Construction of Highways, Streets & Bridges, Plans, Addenda, Change Orders, and/or engineering data furnished by the Contractor and accepted by the County, are contract documents. Additionally, any other written instruments, correspondence, etc., bound in the volume of the contract documents or included by reference at the time of execution by the County and Contractor shall be "Contract Documents" whether specifically designated as such or otherwise.

It is the intent of the contract documents that they be read as a whole and that all portions of the contract be interpreted so as to give meaning to their terms. In the event of any conflict in the contract documents, handwritten provisions shall prevail over typewritten and typewritten provisions shall prevail over preprinted matter. Additionally, the following order of precedence shall govern among the various contract documents, with the first listed having precedence over any documents listed thereafter.

Scope of Work
Contract Agreement
County Commissioner's Court Resolution
Addenda to Contract Conditions, Specifications and/Plans
Special Conditions
General Conditions
Technical Specifications
Contract Conditions
Construction Plans
All other Contract Documents
General Design Standards
North Central Texas Council of Governments Public Works Construction Standards North Central Texas Amended Fifth Edition August 2023 (NCTCOG Specifications 2023)
Special Provisions to Standard Specifications for Public Works Construction
Texas Department of Transportation, 2024 Standard Specifications for Construction of Highways, Streets and Bridges.

The County reserves the right to let other contracts in connection with this work. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and execution of their work, and where required, shall properly connect and coordinate his work with theirs.

2. DEFINITIONS:

Words, phrases, or other expressions used in these contract documents shall have meanings as follows:

- (A) "Contract", or "contract documents" shall include the items enumerated above under CONTRACT DOCUMENTS.
- (B) "County", "Agency", or "Inspector" shall mean Denton County, named and designated in the Contract Agreement as "Party of the First Part". All notices, letters, and other communication directed to the County shall be addressed and delivered to:

Andy Eads, Denton County Judge
Denton County Commissioners Court
1 Courthouse Drive, Suite 3100
Denton, Texas 76208

- (C) "Contractor" shall mean the corporation, company, partnership, firm, or individual named and designated in the Contract Agreement as the "Party of the Second Part", who has entered into this contract for the performance of the work covered thereby, and its, his, or their duly authorized representatives or its successors to the contract.
- (D) "Subcontractor" shall mean and refer only to a corporation, partnership, or individual having a direct contract with the Contractor for performing work covered by these contract documents, or its successors to the contract.
- (E) "Engineer" shall be understood as referring to, the Engineer of the County, or Such other Engineer Supervisor or Project Manager as may be authorized by the County to represent the County during the contractor's construction of this work.
- (F) "Date of contract", or equivalent words, shall mean the date written on the County's Commissioner's Court Resolution, or the County's Purchase Order if a Commissioner's Court Resolution is not required, which shall also be the date written in the first paragraph of the Contract Agreement.
- (G) "Day" or "days", unless herein otherwise expressly DEFINE shall mean a calendar day or days of 24 hours each. "Working Day" or "Work day" is defined as Monday through Friday 7 am to 7 pm or Saturday 8 am to 6 pm, unless otherwise informed in writing by the engineer.
- (H) "The work" shall mean the equipment, supplies, materials, labor, and services to be furnished under the contract and the carrying out of all obligations imposed by the contract documents.

- (I) "Drawings" or "plans" shall mean all (a) drawings furnished by the County or Engineer as a basis for bids, (b) supplementary drawings furnished by the drawings and specifications, (c) drawings submitted by the successful bidder with his bid, provided such drawings are acceptable to the County, (d) drawings furnished by the County to the Contractor during the progress of the work, and (e) engineering data and drawings submitted by the Contractor during the progress of work.
- (J) Whenever in these contract documents the words "as ordered", "as directed", "as required", "as permitted", "as allowed", or words or phrases of like import are used, it shall be understood that the order, direction, requirements, permission, or allowance of the County is intended only to the extent of judging compliance with the terms of the contract; none of these terms shall imply that the County has any authority or responsibility for supervision of the Contractor's forces or construction operations, such supervision and the sole responsibility therefore being strictly reserved for the Contractor.
- (K) Similarly the words "approved", "reasonable", "suitable", "acceptable", "proper", "satisfactory", or words of like effect and import, unless otherwise particularly specified herein, shall mean approved, reasonable, suitable, acceptable, proper, or satisfactory in the judgment of the County, to the extent provided in "J" above.
- (L) Whenever in these contract documents the expression "it is understood and agreed" or an expression of like import is-used, such expression shall mean the mutual understanding and agreement of the parties executing the Contract Agreement.
- (M) "Official Acceptance" shall mean the County's written acceptance of all work performed under this Contract.

3. CONTRACTOR'S PRELIMINARY OBLIGATION:

It is the responsibility of the bidder to deliver his bid at the proper time and to the proper place. The bid shall be delivered in a manila envelope with the appropriate job name on the outside. The mere fact that a bid was dispatched by mail, express, or otherwise, will not be considered. The bidder must have his bid in the hands of the proper official before closing time. Bids received after the advertised closing time will not be considered and will be returned unopened.

The Contractor, as successful bidder, shall furnish the required payment and performance bond each in the amount of 100% of the contract price, a maintenance bond in the amount of 100% of the contract price, a valid power of-attorney proving the agent has the authority to execute the bonds for the surety, and certificates of insurance and an executed contract, within (10) days of notice of award. A certified copy

of the Corporate or Board Resolution authorizing said persons to sign and bind the firm must be included with each copy of the Contract. If such Contractor fails to enter into a contract or execute bonds as herein provided, the County may annul the award and award the contract to the bidder whose bid was next most acceptable and the Contractor shall execute contract and bond as herein provided. The bidder to whom the first award was made shall then forfeit the bid security submitted with his bid.

The official form of contract will be executed in seven copies. Two executed copies of the contract will be returned to the Contractor after the contracts and bonds have been approved and executed by the County. In addition to the two executed copies of the official contract, the Contractor will be furnished without charge five "field copies" of the plans and specifications and contract documents.

Additional sets may be obtained from the engineer at the cost of reproduction. These additional plans are to be stamped approved by the County before they can be used on the project.

4. LEGAL ADDRESSES:

All notices, letters, and other communications to the Contractor will be mailed or delivered to either the contractor's business address listed in the Bid or the contractor's office in the vicinity of the work, with delivery to either of these addresses being deemed as delivery to the Contractor. The addresses of the County appearing on page 30 are hereby designated as the place to which all notices, letters, and other communication to the County shall be mailed or delivered. Either party may change his address at any time by an instrument in writing delivered to the County and to the other party.

5. SCOPE AND INTENT OF CONTRACT DOCUMENTS:

The specifications and drawings are intended to supplement but not necessarily duplicate each other. Any work exhibited in the one and not the other shall be executed as if it had been set forth in both, so that the work will be constructed according to the complete design as determined by the County.

Should anything necessary for a clear understanding of the work be omitted from the specifications and drawings, or should the requirements appear to be in conflict, the Contractor shall secure written instructions from the County before proceeding with the work affected thereby. It is understood and agreed that the work shall be performed accordingly to the true intent of the contract documents.

6. INDEPENDENT CONTRACTOR:

The relationship of the Contractor to the County shall be that of an independent Contractor. The County shall not have the right to control the day to day activities of how the Contractor performs the work, being interested only in the results to be achieved.

7. ASSIGNMENT AND SUBCONTRACTING:

The Contractor shall not assign or subcontract the work, or any part thereof, without the previous written consent of the County, nor shall he assign by power of attorney or otherwise, any of the money payable under this contract unless written consent of the County has been obtained. No right under this contract, nor claim for any money due or to become due hereunder shall be asserted against the County, or person acting for the County, by reason of any so called assignment of this contract or any part thereof, unless such assignment has been authorized by the written consent of the County. In case the Contractor is permitted to assign money due or to become due under this contract, the instrument of assignment shall contain a clause subordinating the claim of the assignee to all prior liens for services rendered or materials supplied for the performance of the work.

Should any subcontractor fail to perform in a satisfactory manner the work undertaken by him, his subcontract shall be immediately terminated by the Contractor upon notice from the County. The Contractor shall be as of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him. Nothing contained in this contract shall create any contractual relationship between any subcontractor and the County.

It is the intent of these specifications that the Contractor shall perform the majority of the work with his own forces and under the management of his own organization. Specific portions of the work may be subcontracted only by subcontractors who have been listed in the bid and who are accepted by the County as provided in the General Conditions. All subcontractors shall be directly responsible to the Contractor and shall be under his general supervision. All work performed under subcontracts shall be subject to the same contract provisions as the work performed by the contractor's own forces.

8. DELINQUENT PROPERTY TAXES:

Denton County reserves the right to reject any bid submitted by a Vendor owing delinquent property taxes to Denton County.

9. ORAL STATEMENTS:

It is understood and agreed that the written terms and provisions of this agreement shall supersede all oral statements of representatives of the County, and oral statements shall not be effective or be construed as being apart of the contract.

10. REFERENCE STANDARDS AND LAWS AND REGULATIONS:

Reference to the standards of any technical society, organization, or association, or to codes of local or state authorities, shall mean the latest standard, code, specification, or tentative standard adopted and published at the date of taking bids, unless specifically stated otherwise.

The Contractor shall keep itself fully informed of, and shall observe and comply with, all laws, ordinances, and regulations which, in any manner, affect those engaged or employed on any work, or the materials and equipment used in any work or in any way affect the performance of any work, and of all orders and decrees of bodies or tribunals having jurisdiction or authority over work performed under the contract. If a discrepancy or inconsistency should be discovered between the contract and any such law, ordinance, regulation, order or decree, the Contractor shall immediately report the same in writing to the County. The Contractor shall be responsible for the compliance with the above provisions by subcontractors of all tiers.

Except as otherwise specified, the Contractor shall procure any pay for all permits and inspections and shall furnish any bonds, security or deposits required to permit performance of its work hereunder.

- (A) OSHA: All work and job site conditions shall, at all times, adhere to the requirements of the latest provisions of the Occupational Safety and Health Act.
- (B) REQUIREMENTS AND CODES: Wherever references are made in the contract to requirements or codes in accordance with which work is to be performed or tested, the addition or revision of the requirements or codes current on the date of this contract shall apply, unless otherwise expressly set forth. Unless otherwise specified, reference to such requirements or codes is solely for technical information.

This contract shall be governed by the Laws of the State of Texas and by such Federal laws as may be applicable.

The parties agree that all claims, disputes, and other matters in question between the Contractor and the County arising out of or pertaining to the contract documents or the breach thereof, shall, except as otherwise expressly provided, be decided solely in the Courts of the State of Texas, in the County of Denton.

Interest, if any, allowable on the claims of either party shall be at the current rate for judgments in the Courts of the State of Texas.

11. CONTRACTOR TO CHECK DRAWINGS AND SCHEDULES:

The Contractor shall check all dimensions, elevations, and quantities indicated on the drawings and schedules furnished to him by the County. The Contractor shall notify the County of any discrepancy between the drawings and the conditions at the site, or any error or omission in drawings, or in the layout as given by stakes, points, or instructions, which he may discover in the course of work. The Contractor will not be allowed to take advantage of any error or omission in the drawings or contract documents. Full

instructions will be furnished by the County should such error or omission be discovered, and the Contractor shall carry out such instructions as if originally specified.

12. FIGURED DIMENSIONS TO GOVERN:

Dimensions and elevations indicated on the drawings shall be accurately followed even though different from scaled measurements. No work indicated on the drawings, the dimensions of which are not indicated, shall be executed until necessary dimensions have been obtained from the County.

13. NO WAIVER OF RIGHTS:

Neither the inspection by the County or any of their officials, employees, or agents, nor any order by the County for payment of money, or any payment for or acceptance of possession taken by the County or its employees, nor any action of the County shall operate as a waiver of any provision of this contract, or of any power herein reserved to the County, or of any right to damages herein, provided nor shall any waiver of any breach in this contract be held to be a waiver of any other or subsequent breach.

14. CONTRACTOR'S SUPERINTENDENT AND EMPLOYEES:

The Contractor represents that it is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly licensed, equipped, organized, and financed to perform such work.

The Contractor shall act as an independent Contractor maintaining complete control over its employees and all of its subcontractors. The Contractor shall perform all work in an orderly and workmanlike manner, enforce strict discipline and order among its employees and assure strict discipline and order by its subcontractors.

Before starting work, the Contractor shall designate a competent, authorized representative to represent and act with full authority for the contract and shall inform the County in writing of the name, address, telephone number (day and night) of such representative, and of any change in such designation. This representative shall have authority to make binding and enforceable decisions in the name of the Contractor and to accept service of all notices which the County desires to serve or which are required by this contract to be served on the Contractor. As an alternate, such written notices may be mailed directly to the address of that party shown on the face of the Contract Agreement form. Such representative shall be present or be duly represented at the site of work at all times when work is actually in progress and, during period when work is suspended, arrangements acceptable to the County shall be made for any emergency work which may be required. The Contractor's authorized representative - shall be supported by competent assistants, as necessary, and the authorized representative and its assistants shall be satisfactory to the County. All requirements, instructions, and other communications given to the Contractor's authorized representative by the County shall be as binding as if given to the Contractor.

The Contractor shall employ only fully experienced and properly qualified persons to perform any work. The Contractor shall be responsible for maintaining satisfactory

conduct of its employees. The Contractor's site representative shall stay on the project until final completion of the work in accordance with the contract documents.

15. PROJECT INSPECTION:

The County may appoint such inspectors as the County deems proper to inspect the materials furnished and the work performed for compliance with the drawings and specifications. The Contractor shall furnish all reasonable assistance required by the County, or inspectors, for the proper inspection of the work. Should the Contractor object to any interpretation of the contract by any inspector, the Contractor may make written appeal to the County for a decision, but the County's decision shall be final.

Inspectors shall have the authority to reject work which is unsatisfactory, faulty, or defective or does not conform to the requirements of the drawings and specifications.

Inspection shall not relieve the Contractor from any obligation to construct the work strictly in accordance with the drawings and specifications. Work not so constructed shall be removed and replaced by the Contractor at his own expense.

16. RIGHT OF COUNTY TO TERMINATE CONTRACT:

If the work to be done under this contract is abandoned by the Contractor; or if this contract is assigned by him without the written consent of the County; or if the Contractor is adjudged bankrupt, or files for voluntary bankruptcy; or if a general assignment of his assets is made for the benefit of his creditors; or if a receiver is appointed for the Contractor of any of his property or if at any time in writing to the County determines that the performance of the work under this contract is being unnecessarily delayed, that the Contractor is violating any of the conditions of this contract, or that he is executing the same in bad faith or otherwise not in accordance with the terms of said contract; or if the work is not substantially completed within the time named for its completion or within the time to which such completion date may be extended; then the County may serve written notice upon the Contractor and his surety of the County's intention to terminate this contract. Unless within five (5) days after the serving of such notice, a satisfactory arrangement is made for continuance, this contract shall terminate. In the event of such termination, the surety shall have the right to take over and complete the work, provided that if the surety does not commence performance within 30 days, the County may take over and prosecute the work to completion, by contract or otherwise. The Contractor and his surety shall be liable to the County for all excess cost sustained by the County by reason of such prosecution and completion. The County may take possession of, and utilize in completing the work, all materials, equipment, tools, and plant on the site of the work, including such materials, etc., as may have been placed on the site by or at the direction of the Contractor.

The County may, at its option, terminate the performance of the work in accordance with this section, in whole, or from time to time in part, at any time by written notice thereof the Contractor, whether or not the Contractor is in default. Upon any such termination, Contractor shall waive any claims for damages, including loss of anticipated

profits, on account thereof, but as the sole right and remedy of the Contractor, the County shall pay Contractor in accordance with subparagraph (B) below, provided, however, that those provisions of the contract documents which by their very nature survive final acceptance under the contract documents shall remain in full force and effect after such termination.

- (A) Upon receipt of any such notice, the Contractor shall, unless the notice requires otherwise:
 - (1) Immediately discontinue work on the date and to the extent specified in the notice;
 - (2) Place no further order or subcontracts for materials, services, or facilities, other than as may be necessary or required for completion of work under the contract that is not terminated;
 - (3) Promptly make every reasonable effort to obtain cancellation upon terms satisfactory to the County of all order and subcontracts to the extent they relate to the performance of work terminated, or assign to the County those orders and subcontracts, and revoke agreements specified in such notice; and
 - (4) Assist the County, as specifically requested in writing, in the maintenance, protection and disposition of property acquired by the County under the contract.
- (B) Upon any such termination, the County will pay the Contractor an amount determined in accordance with the following (without duplication of any item):
 - (1) All amounts due and not previously paid to the Contractor for work completed in accordance with the contract prior to such notice, and for work thereafter completed as specified in such notice;
 - (2) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in subparagraph (A) (3) above;
 - (3) The reasonable cost incurred pursuant to subparagraph (A) (4) above; (4)
 - (4) Any other reasonable costs incidental to such termination of work.

The foregoing amounts will include a reasonable sum, under all of the circumstances, as profit for all work satisfactorily performed by the Contractor.

17. EQUAL OPPORTUNITY:

The Contractor is aware of, and is fully informed of, the Contractor's obligations under Executive Order 11246, and, where applicable, shall comply with the requirements of such order and all orders, rules and regulations promulgated thereunder unless exempted therefrom.

Without limitation of the foregoing, the Contractor's attention is directed to 41 CFR Section 60-1.4, and the clause therein entitled "Equal Opportunity Clause" which, by this reference, is incorporated herein.

The Contractor is aware of, and is fully informed of, the Contractor's responsibilities under Executive Order No.11701, "List of Job Openings for Veterans" and, where applicable, shall comply with the requirements of such order, and all orders, rules and regulations promulgated thereunder unless exempted therefrom.

Without limitation of the foregoing, the Contractor's attention is directed to 41 CFR 60- et seq. and the clause therein entitled "Affirmative Action Obligations of the Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era" which, by this reference is incorporated herein.

The Contractor certifies that segregated facilities, including, but not limited to, washrooms, work areas, locker rooms, are not, and will not, be maintained or provided for the Contractor's employees. Where applicable, the Contractor shall obtain similar certification from any of its subcontractors, vendors, or suppliers performing work under this contract.

The Contractor is aware of, and is fully informed of, the Contractor's responsibilities under the Rehabilitation Act of 1973, and, where applicable, shall comply with the provisions of the Act, and the regulations promulgated thereunder unless exempted therefrom.

Without limitation of the foregoing, the Contractor's attention is directed to 41 CFR Section 60-741 and the clause entitled "Affirmative Action Obligations of the Contractors and Subcontractors for Handicapped Workers" which, by this reference, is incorporated herein. Contractor must also comply with the rules and regulations as established by the Americans with Disabilities Act of 1990.

18. BEGINNING, PROGRESS, AND COMPLETION OF THE WORK; LIQUIDATED DAMAGES:

The time of completion is of the essence of this contract. Unless otherwise specified in these contract documents or advised by written order of the County, the Contractor shall begin work within 10 days after the date of contract. The work shall be prosecuted to completion in accordance with the schedule provided for below and shall be 100% completed within the contract time stated in the executed contract documents. Liquidated damages shall be assessed at the rate specified in TxDOT Specification 000-018L as included in this document.

A detailed construction schedule and monthly payment schedule shall be prepared by the Contractor and submitted to the County for review. The schedule shall contain a critical path for the various activities required to perform the work and the dates the activities will be started and completed in order to complete the work in accordance with the specified schedule requirements. The Contractor is responsible for determining the sequence and time estimates of the detailed construction activities. However, the County reserves the right to require the Contractor to modify any portion of the schedule the County determines to be impractical or unreasonable; as required to coordinate the Contractor's activities with those of other Contractors, if any, engaged in work for the County on the site; to avoid undue interference with the County's operations; and to assure completion of the work by the date or dates stipulated. Upon

acceptance by the County of the Contractor's detailed construction schedule, the Contractor will be responsible for maintaining such schedule.

If at any time the Contractor's work is behind schedule, he shall immediately put into effect definite procedures for getting the work back on schedule. The procedures shall be subject to review and modification by the County. The Contractor will not be allowed extra compensation for costs incurred by him because of accelerated operations required to maintain the schedule.

19. HINDRANCES AND DELAYS:

The Contractor expressly agrees that the period of time stated in the executed Contract Document, to complete all work includes allowance for all hindrances and delays incident to the work. The Contractor further agrees that no claims shall be made for hindrances and delays from any cause during the performance of the work, except as specifically provided for in the articles SUSPENSION OF WORK and EXTENSIONS OF TIME in these General Conditions.

20. SUSPENSION OF WORK:

The County reserves the right to suspend and reinstate execution of the whole or any part of the work without invalidating the provisions of the contract. Orders for suspension or reinstatement of work will be issued by the County to the Contractor in writing. The time for completion of the work will be extended for a period equal to the time lost by reason of the suspension.

Extra costs and expenses which are caused by work suspensions ordered by the County will be paid by the County to the Contractor.

21. EXTENSIONS OF TIME:

Should the Contractor be delayed in the final completion of the work by any act or neglect of the County, or of any employee of either, or by any other Contractor employed by the County, or by strike, fire, regulatory agencies or other cause outside of the control of the Contractor and which, in the opinion of the County, could have been neither anticipated nor avoided, then an extension of time sufficient to compensate for the delay, as determined by the County, will be granted by the County; provided that the Contractor gives the County notice in writing within 10 days of the cause of delay in each case and demonstrates that he has used all reasonable means to minimize the delay, and that the delay has caused an adverse impact on the critical path schedule for completion of the work.

Extensions of time will not be granted for delays caused by unfavorable weather, unsuitable ground conditions, inadequate construction force, or the failure of the Contractor to place orders for equipment or materials sufficiently in advance to insure delivery when needed.

Failure of County furnished equipment and materials to arrive as scheduled, or failure of other construction Contractors to meet their schedule, shall not be justification for an

extension of time, except where such failure causes, in the opinion of the County, an actual delay in the Contractor's work.

22. EXTRA OR CHANGE ORDER WORK:

If a modification increases the amount of the work, and the added work or any part thereof is a type and character which can properly and fairly be classified under one or more unit price items of the Bid, then the added work or part thereof shall be paid for according to the amount actually done and at the applicable unit price. Otherwise, such work shall be paid for as hereinafter provided.

Claims for extra work will not be paid unless the work covered by such claims was authorized in writing by the County. The Contractor shall not have the right to prosecute or maintain an action in court to recover for extra work unless the claim is based upon a written order from the County. Payments for extra work will be based on agreed lump sums or on agreed unit prices whenever the County and the Contractor agree upon such prices before the extra work is started; otherwise, payments for extra work will be based on actual field cost plus the specified percentage allowance.

For the purpose of determining whether proposed extra work will be authorized, or for determining the payment method for extra work, the Contractor shall submit to the County, upon request, detailed cost estimate for proposed extra work. The estimate shall indicate itemized quantities and charges for all elements of direct cost. Charges for the Contractor's subcontractor's extra profit, extra general superintendence, extra field office expense, and extra overheads shall be indicated as a percentage addition to the total estimated net cost. Unless otherwise agreed upon by the Contractor and the County, such percentage additions shall be 15 percent for the extra work performed by the Contractor's own forces or 20 percent for extra work performed by a subcontractor.

When payment for extra work is based on actual field cost, the Contractor will be paid the actual field cost plus an allowance of 15 percent if the extra work is performed by the Contractor's own forces or 20 percent if the extra work is performed by a subcontractor. The allowance will be paid as full compensation for the Contractors and subcontractors extra profit, extra general superintendence, extra field office expense, extra overheads, and all other elements of extra cost not defined herein as actual field cost.

The actual field cost shall include only those extra costs for labor and materials expended in direct performance of the extra work. The form in which actual field cost records are kept, the construction methods, and the type and quantity of equipment used shall be acceptable to the County.

Construction equipment which the Contractor has on the job site and which is of a type and size suitable for use in performing the extra work shall be used. The hourly rental charges for equipment shall not exceed one-half of one percent of the latest applicable

Associated Equipment Distributors published monthly rental rates and shall apply to only the actual time the equipment is used in performing the extra work.

When extra work requires the use of equipment which the Contractor does not have on the job site, the Contractor shall obtain the occurrence of the County before renting or otherwise acquiring additional equipment. The rental charges for the additional equipment shall not exceed the latest applicable Associated Equipment Distributors published rental rates.

23. DECREASED WORK:

If a modification decreases the amount of work to be done, such decrease shall not constitute the basis for a claim for damages or anticipated profits on work affected by such decrease. Where the value of omitted work is not covered by applicable unit prices, the County shall determine on an equitable basis the amount of (a) credit due the County for contract work not done as a result of an authorized change, (b) allowance to the Contractor for any actual loss incurred in connection with the purchase, delivery, and subsequent disposal of materials or equipment required for use on the work as planned and which could not be used in any part of the work as actually built, and (c) any other adjustment of the contract amount where the method to be used in making such adjustment is not clearly defined in the contract documents.

Unless otherwise agreed, upon by the County and the Contractor, the credit due the County for reductions in the amount of work to be done shall be the estimated field cost of the deleted work plus an overhead allowance of:

Ten percent of the estimated field cost if the work was to have been done by the Contractor's own forces, or;

Fifteen percent of the estimated field cost if the work was to be done by a subcontractor.

Field cost referred to Move shall include the category of costs listed as actual field costs, in the article entitled EXTRA WORK.

24. PROTECTION OF WORK AND PROPERTY:

The Contractor shall be responsible for and shall bear any and all risk of loss of, or damage to work in progress, all materials delivered to the site, and all materials, tools, and equipment until completion and final acceptance of the work to be performed under this contract.

The Contractor shall promptly take all precautions which are necessary and adequate against any conditions created during the progress of the Contractor's activities hereunder which involve a risk of bodily harm to persons or a risk of damage to any property. Contractor shall continuously inspect all work, materials and equipment to discover and determine, and shall be solely responsible for discovery, determination and correction of any conditions which involve a risk of bodily harm to persons or damage to property.

The Contractor shall comply with all applicable safety laws, standards, codes and regulations in the jurisdiction where the work is being performed specifically but without limiting the generality of the foregoing and regardless of any exemptions provided by law, with all rules, regulations and standards adopted pursuant to the Occupational Safety and Health Act of 1970.

The Contractor will preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site of work which is not to be removed and which does not unreasonably interface with the construction work. Care will be taken in removing trees authorized for removal to avoid damage to vegetation to remain in place.

The Contractor will protect from damage all existing improvements, utilities, roads, and bridges at or near the site of work and will repair or restore any damage to such facilities resulting from failure to comply with the requirements of this contract of the failure to exercise reasonable care in the performance of the work. Under no circumstances will county or township roads and bridges be subject to greater than normal highway truck loadings.

The Contractor shall provide and maintain such temporary work as is required for the protection of the public and those employed in or about the work site, including all signs, guards, barricades, night lights and any other temporary protection as may be necessary. Contractor shall provide and maintain such temporary work as is required for protection of finished work, including building paper, boxing, planking, protective coating, and such other protection as may be deemed necessary by the County. All such work shall be returned to original condition by the Contractor on completion of the contract.

Whenever necessary to maintain proper temperatures for performance of work, or to protect or to close in work in place, Contractor shall provide and maintain temporary enclosures as directed by the County for all openings or exterior surfaces that are not enclosed with finishing materials.

The Contractor shall protect all the work including buildings, structures, equipment, excavations, trenches, etc. from water damage including damage by rainwater, ground water, backing-up of drains, downspouts of sewers and shall construct and maintain all necessary drainage and do all pumping required to protect or to perform the work. Contractor shall provide protection to any equipment in place, as required to prevent damage by moisture. Contractor, in general, shall at all times carefully protect the work, materials, and equipment against damage from the weather, and comply with the directions of the County in order to avoid any adverse effect on the project from weather conditions.

The Contractor assumes all liability for its failure to comply with the provisions of this Article. The Contractor shall include this Article in its entirety in all subcontracts for any work at the project site.

Upon the failure of the Contractor or its subcontractors to comply with any of the requirements of the Article, the County shall have the authority to stop any operations of the Contractor or its subcontractors affected by such failure until such failure is remedied. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time or for increased costs or damages by the Contractor or its subcontractors.

25. SAFETY:

The Contractor shall at all times conduct all operations under the Contractor in a manner to avoid the risk of bodily harm to persons or risk of damage to any property. The Contractor shall promptly take all precautions which are necessary and adequate against any conditions which involve a risk of bodily harm to persons or a risk of damage to any property. The Contractor shall continuously inspect all work, materials and equipment to discover and determine any such conditions and shall be solely responsible for discovery, determination and correction of any such conditions. The Contractor shall designate an employee as safety supervisor who is acceptable to the County.

The Contractor shall comply with all applicable laws, regulations and standards. The Contractor shall coordinate with other Contractors and subcontractors on safety matters and shall promptly comply with any specific safety directions given to the Contractor by the County.

The Contractor shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazard, promulgating safety regulations and notifying the County and users of adjacent properties and utilities.

The Contractor shall maintain a Safety Program with detail commensurate with the work to be performed. Such review shall not relieve the Contractor of its responsibility for safety, nor shall it be construed as limiting in any manner the Contractor's obligation to undertake any action which may be necessary or required to establish and maintain safe working conditions at the site.

The Contractor shall maintain accurate accident and injury reports. The Contractor shall hold regular scheduled meetings to instruct its personnel on safety practices. The Contractor shall furnish safety equipment and enforce the use of such equipment by its employees.

All equipment furnished and installed on this project shall be manufactured and installed in accordance with the applicable parts of the Williams-Steiger Occupational Safety and Health Act of 1970, and its subsequent amendments and revisions. All work shall be performed in accordance with the regulations and requirements of the above noted Act, revisions and amendments.

EXCAVATION SAFETY PROCEDURE

In a municipality or in the extraterritorial jurisdiction of a municipality as provided by the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), on construction projects in which excavation will exceed a depth of five feet, the bid document and the contract must include detailed plans and specifications for excavation safety systems.

Prior to execution of a contract the Contractor will be required to submit an excavation safety plan for the project. This excavation safety plan must be designed and sealed by a professional engineer registered in the State of Texas with professional experience in soil mechanics. The Contractor is responsible for obtaining borings and soil analysis as required for plan design. The excavation safety plan shall be designed in conformance with Occupational Safety and Health Administration (OSHA) Standards and Regulations.

After review of the excavation safety plan, the County Engineer will forward the reviewed plan to the appropriate county construction division for use in inspection. Plans for construction will not be released by the County Engineer until this plan is reviewed. Changes in the excavation safety plan after initiation of construction may not be cause for extension of time or change order, and will require the same review process. Contractor accepts sole responsibility for compliance with all applicable safety requirements. The review is only for general conformance with OSHA Safety Standards. Release of the excavation safety plan by the County Engineer does not relieve Contractor from any property damage or bodily injury (including death) that arises from use of the excavation safety plan, from Contractor's negligence in performance of contract work, or from city's failure to note exceptions to the excavation plan. The safety plan shall remain the sole responsibility and liability of the Contractor. A separate pay item for an excavation and support system shall be included in the bid documents.

Contractors have three ways to meet OSHA standards for excavation safety. They are as follows:

1. Minimum angle of repose for sloping of the sides of excavations.
2. Utilization of trench box.
3. Shoring, sheeting and bracing methods.

Contractors electing to utilize the minimum angle of repose must submit:

1. Soil classification according to the unified soil classification system including water content and plasticity indexes, and a minimum angle of slope excavation.
2. A detailed plan of the excavation area and the impact on existing right-of-way and infrastructure.
3. Waiver of claim for delay of cost.

Contractors electing to utilize a trench box must submit:

1. Physical dimensions, materials, position in the trench, expected loads, and the strength of the box.
2. Waiver of claim for delay cost.

Contractors electing to utilize shoring, sheeting and bracing must submit:

1. Dimensions and materials of all uprights, stringers, crossbracing and spacing required to meet OSHA requirements.
2. Waiver of claim for delay cost.

26. TAXES, PERMITS AND LICENSES:

The Contractor shall obtain and pay for all licenses, permits, and inspections required for the work.

The Contractor shall pay all appropriate sales taxes, excluding materials permanently retained by Denton County franchise taxes, income taxes, gross receipts taxes, and other business or occupation taxes imposed upon the Contractor.

27. PATENTS:

Royalties and fees for patents covering materials, articles, apparatus, devices, equipment, or processes used in the work, shall be included in the contract amount. The Contractor shall satisfy all demands that may be made at any time for such royalties or fees and he shall be liable for any damages or claims for patent infringements. The Contractor shall, at his own cost and expense, defend all suits or proceedings that may be instituted against the County for alleged infringement of any patents involved in the work and, in case of an award of damages, the Contractor shall pay such award. Final payment to the Contractor by the County will not be made while any such suit or claim remains unsettled. In the event the Contractor is found to have infringed a patent, the Contractor shall either replace the part or process with a non-infringing part or process approved by the County, or secure the right to use the infringing part or process. Either choice shall be at the Contractor's expense.

28. MATERIALS AND EQUIPMENT:

Unless specifically provided otherwise in each case, all materials and equipment furnished for permanent installation in the work shall conform to applicable standard specifications and shall be new, unused, and undamaged when installed or otherwise incorporated in the work. No such material or equipment shall be used by the Contractor for any purpose other than that intended or specified, unless such use is specifically authorized by the County in each case. All required tests in connection with acceptance of source of materials shall be made at the Contractor's expense by a properly equipped laboratory of established reputation whose work and testing facilities are acceptable to the County. Any change in origin or method of reparation or manufacture of a material be routinely tested will require new tests. Reports of all tests shall be furnished to the County in as many copies as required.

29. GUARANTEE:

Contractor shall guarantee that all products are in accordance with the manufacturer's guarantees, warranties, or Policies. Any replacement of defective material or materials will be made in accordance with such guarantee or warranty policies but, in any case, responsibility ends with the replacement of the defective part or parts, and no responsibility will be assumed for unauthorized repair or replacement of said equipment. Nor any expense will be incurred due to failure of said equipment excepting replacement of its defective part or parts by the manufacturer and in accordance with said manufacturer's policies.

Contractors warranty against defects in material and workmanship shall extend two (2) years from the date of final payment.

30. INSURANCE:

The Contractor shall secure and maintain throughout the duration of this contract insurance of such types and in such amount as may be necessary to protect himself and the interest of the County against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, it shall be acceptable to the County but regardless of such acceptance it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate coverage shall not relieve him of any contractual responsibility or obligation.

Satisfactory certificates of insurance shall be filed with the County prior to starting any construction work on this contract. The certificates shall state that 30 days advance written notice will be given to the County before any policy covered thereby is changed or canceled.

The Contractor shall comply with all Federal, State and local laws and ordinances relating to Social Security, Unemployment Insurance, Pensions, etc.

30.1 WORKMEN'S COMPENSATION INSURANCE COVERAGE:

(A) Definitions:

Certificate of coverage ("certificate") -copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entities' employees providing services on a project, for the duration of the project.

Duration of the project -includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity. **Persons providing services on the project ("subcontractor" in §406.096)** - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, County-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- (B) The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011 (44) for all employees of the contractor providing services on the project, for the duration of the project.
- (C) **The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.**
- (D) If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- (E) The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- (F) The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

- (G) The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- (H) The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- (I) The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any **coverage agreements, which** meets the statutory requirements of Texas Labor Code, §401.011 (44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of certificate of coverage ends during the duration of the project;
 - (4) obtain from each other person with whom it contracts, and provide to the contractor:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - (7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- (J) By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all

employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions. ,

- (K) The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

30.2 CONTRACTOR'S LIABILITY INSURANCE:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor and each subcontractor, at their own expense, shall, during the term of the contract, purchase and maintain the hereinafter stipulated minimum insurance with companies duly authorized to do business in the State of Texas and satisfactory to DENTON COUNTY. Certificates of each policy, together with a statement by issuing company to the extent that said policy shall not be canceled without thirty (30) days prior notice being given DENTON COUNTY, shall be delivered to DENTON COUNTY before any work is started:

- (A) Commercial General Liability (CGL) Insurance, including independent contractor's liability, completed operations and contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of this contract, fully insuring CONTRACTOR'S (or subcontractor's) liability for injury to or death of DENTON COUNTY employees and third parties, extended to include personal injury liability coverage, for damage to property of third parties, with the following limits:

- (1) Heavy Construction: demolition, road repair/construction, utility construction.

General Aggregate	\$2 million
Products Completed/ Operations Aggregate	\$2 million
Personal & Advertising Liability	\$ 1 million
Each Occurrence	\$ 1 million
Fire Damage	\$ 50,000
Medical Expense	\$ 5,000

- (2) Light Construction: cleaning of drainage ditches, parks construction (e.g. ballfields, playgrounds), construction of fences and screening walls, minor utility construction.

General Aggregate	\$600,000
Products Completed/ Operations Aggregate	\$600,000
Personal & Advertising Liability	\$ 300,000
Each Occurrence	\$ 300,000
Fire Damage	\$ 25,000
Medical Expense	\$ 5,000
General Aggregate	\$600,000

The policy shall include broad form property damage coverage extended to apply to completed operations, XCU exclusions removed where applicable. Explosion, Collapse and Underground (XCU) is normally provided as a single unit. Some underwriters will scratch one or two for consideration in the premium. Contractors using explosives shall be required to have the X (explosion) coverage while those who excavate shall have the U (underground) coverage. Contractors constructing buildings shall have C (collapse) coverage. The above mentioned contractors must have the appropriate coverage even if it means obtaining all three (XCU). The completed operations coverage must be maintained for a minimum of one (1) year after final completion and acceptance of the work, with evidence of same filed with COUNTY. Where work is being performed in connection with an existing facility owned or leased by DENTON COUNTY, the policy shall include fire legal liability of not less than \$100,000 per occurrence.

- (B) Comprehensive Automobile and Truck liability insurance, covering owned, hired and non-owned vehicles, with minimum limits of \$1,000,000 combined single limit (CSL) for heavy construction or \$300,000 combined single limit for light construction, each occurrence, for bodily injury including death and property damage, such insurance to include coverage for loading and unloading hazards.
- (C) Employers Liability \$500,000

30.3 COUNTY'S AND CONTRACTOR'S PROTECTIVE LIABILITY (OCP) INSURANCE:

This coverage is purchased by the contractor on behalf of the County for a specific project. The OCP affords protection to the County for liability arising out of the contractor's or subcontractor's negligence on a County project. The coverage is almost identical to the Commercial General Liability (CGL) policy. The OCP will be required for any contract when the CGL insurance will not list Denton County as an "additional named insured", but will list the County as an "additional insured". The limits shall be the same as the per occurrence limits on the CGL.

30.4 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS:

- (A) Each insurance policy to be furnished by CONTRACTOR shall include the following conditions by endorsement to the policy:

- (1) Each policy shall require thirty (30) days prior to the cancellation of any material change in coverage, a notice thereof shall be given to DENTON COUNTY by Certified Mail;
 - (2) the term 'DENTON COUNTY' aka "COUNTY" shall include all authorities, boards, bureaus, commissions, divisions, departments and office of the COUNTY and the individual members, employees and agents thereof in their official capacities, and/or while action of behalf of the COUNTY and
 - (3) the policy phrase "other insurance" shall not apply to the COUNTY where the COUNTY is an additional named insured on the policy.
- (B) Concerning insurance to be furnished by CONTRACTOR, it is a condition precedent to acceptability thereof that:
- (1) Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONTRACTOR. The COUNTY'S decision thereon shall be final; and
 - (2) all policies are to be written through companies duly authorized to transact that class of insurance in the State of Texas. The companies affording coverage will be checked through the A.M. Best Guide. An "A-" rating or better is required along with being licensed to do business in the State of Texas.
 - (3) Denton County shall be an additional named insured on the Commercial General Liability policy. If the Carrier will list the County as additional insured only, then the Contractor shall, at his own expense, obtain an County's and Contractor's Protective Liability policy which has the County as an additional insured. Denton County shall be the Certificate Holder.
- (C) CONTRACTOR agrees to the following:
- (1) CONTRACTOR hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against the COUNTY, it being the intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies:
 - (2) companies issuing the insurance policies and CONTRACTOR shall have no recourse against the COUNTY for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of the CONTRACTOR:
 - (3) approval, disapproval or failure to act by the COUNTY regarding any insurance supplied by the CONTRACTOR (or any subcontractors) shall not relieve the CONTRACTOR of full responsibility for liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency or denial of liability by the insurance company exonerate the CONTRACTOR from liability.

- (4) Should any person sustain bodily injury or property damage within the At limits of this project, the Contractor of his Insurance Agent shall investigate and report immediately his findings in writing to DENTON COUNTY. DENTON COUNTY, in its sole discretion, may elect at any time to file for coverage directly under the County's and Contractor's Protective Liability Policy.

- (D) Any of such insurance policies required under this section may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby.
 - (1) Subcontractors shall have their own insurance policy with the same provisions required for Contractors, or be listed as additional insured on the General Contractor's Liability policy.
 - (2) A Certificate of Insurance Sample is shown herein. The following information must appear on or with the certificate of insurance submitted
 - by the Contractor or Subcontractor: .
 - (a) Thirty (30) day notice of cancellation by Certified Mail.
 - (b) Full name of insurance company and A.M. Best Guide Rating.
 - (c) Statement which waives subrogation rights for loss or damage to the extend same or covered by insurance.
 - (d) List of all subcontractors which are additional insureds on the prime contractors policy.
 - (e) Furnish subcontractors Certificate of Insurance which are not covered as additional insureds on the prime contractors policy.

31. DEFENSE OF SUITS:

In case any action in court is brought against the County, or any officer or agent of the County, for the failure, omission, or neglect of the Contractor to perform any of the covenants, acts, matters, or things by this contract undertaken; or for injury or damage caused by the alleged negligence of the Contractor or his subcontractors or his or their agents, or in connection with any claim based on lawful demands of subcontractors, workmen, materialmen, or suppliers the Contractor shall indemnify and save harmless the County and his officers and agents, from all losses, damages, costs, expenses, judgments, or decrees arising out of such action.

32. PATENT INDEMNITY:

The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the County harmless from loss on account thereof, except that the County shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified. But, if the Contractor has reason to believe that the design, process, or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the County.

33. INDEMNITY AND RELEASE:

The Contractor is solely responsible for and shall defend, indemnify, and hold the County or any of his representatives or employees free and harmless from any and all losses, expenses, damages, demands, claims, judgments or liability howsoever caused or arising out of or in connection with injuries (including death) or damages to any and all persons, employees and/or property in any way sustained or alleged to have been sustained in connection with, or by reason of, the performance of the work by the Contractor, its agents or employees. Said indemnity and hold harmless agreement shall also apply to claims arising from accidents to Contractor, its agents or employees, whether occasioned by Contractor or its employees, the County or his employees, or by any other person or persons. However, Contractor is not hereby agreeing and specifically does not agree to indemnify those parties covered by this indemnification in regard to costs, losses, expenses, liabilities, damages and claims which result from their own negligence or willful misconduct.

34. FINAL PAYMENT AND RELEASE:

Acceptance by the Contractor of last payment shall be a release to the County and every officer and agent thereof, from all claims and liability hereunder for anything done or furnished for, or relating to the work, or for any act or neglect of the County or of any person relating to or affecting the work.

35. INSPECTION:

The County shall have the right, without extra charge therefore, to inspect all materials and equipment supplied under this contract at any time, including the place of manufacture, either during performance of the work, on final inspection, or during any applicable warranty period. The County or its designated representative shall have the right to reject equipment, materials and work not complying with the requirements of this contract. The County shall notify the Contractor in writing that such equipment, material or work is rejected. Thereupon, rejected work shall be satisfactorily corrected, rejected equipment shall be satisfactorily repaired or replaced with satisfactory equipment, and rejected material shall be satisfactorily replaced with satisfactory material, all in accordance with the contract, and the Contractor shall promptly segregate and remove rejected materials and equipment from the premises. All such correcting, repairing, replacing, and removing shall be by and at the expense of the Contractor.

The County will perform inspections in such a manner so as not to delay the work unreasonably, and the Contractor shall perform its work in such a manner as not to delay inspection unreasonably.

36. FINAL INSPECTION:

When the work has been completed and at a time mutually agreeable to the County and Contractor, the County will make a final inspection of the work as to the acceptability and completeness of the work.

37. CLAIMS FOR LABOR AND MATERIALS:

The Contractor shall pay all subcontractors and other persons furnishing labor or materials for the work from the contract amount. The Contractor is aware of, and is fully informed of the Contractor's responsibility under article 601f V.T.C.S. pertaining to payments for goods and services contracted for by State agencies or political subdivisions, applies to construction contracts. The Contractor shall be responsible for payment to vendors and subcontractors in accordance with article 601f V.T.C.S. No third party shall have any contractual privity with the County. The Contractor shall indemnify and save harmless the County from all claims for labor and materials furnished under this contract. When requested by the County, the Contractor shall submit satisfactory evidence that all persons, firms, or corporations who have done work or furnished materials under this contract, for which the County may become legally liable, have been fully paid or satisfactorily secured. In case such evidence is not furnished or is not satisfactory, an amount will be retained money due the Contractor which in addition to any other sums that may be retained will be sufficient, in the opinion of the County, to liquidate all such claims. Such sum will be retained until the claims as aforesaid are fully settled or satisfactorily secured.

Before final acceptance of the work by the County, the Contractor shall submit to the County in duplicate a notarized affidavit stating that all subcontractors, vendors, persons, or firms who have furnished labor or materials for the work have been fully paid and that all taxes have been paid. A statement from the surety shall also be submitted consenting to the making of the final payment.

38. ESTIMATES AND PAYMENTS:

On or about the first day of each month the Contractor shall make an estimate of the value of the work completed and of unused materials stored on the site. The Contractor and the County shall review the estimate prior to submitting the formal invoice to the County. The estimated cost of repairing, replacing, or rebuilding any part of the work or replacing materials which do not conform to the drawings and specifications will be deducted from the estimated value by the County.

The Contractor shall furnish to the County such detailed information as he may request to aid in the preparation of monthly estimates. After each estimate has been found acceptable, the County will pay to the Contractor on or about the 25th day of the month. The Contractor shall be responsible for payment to vendors and subcontractors in accordance with article 601 f V. T.C.S.

After official acceptance of the work, the County will prepare a final estimate of the work done under this contract. Preparation of the final estimate will not be made until the affidavit and statement required in the article entitles CLAIMS FOR LABOR AND MATERIALS have been received. The County will, within 30 days thereafter, pay the

entire balance due after deducting all amounts to be retained under any provision of this contract.

39. LIENS:

Neither the Contractor, nor any of his subcontractors, workmen or suppliers shall have the right of lien against the work performed under this contract, or any property of the County to secure payment for labor and materials.

40. STATE LAW:

This contract is performable in the State of Texas and shall be governed by the laws of the State of Texas. Venue on any suit hereunder shall be in Denton County, Texas.

41. COMPLIANCE REQUIREMENTS:

PROHIBITION AGAINST BOYCOTTING OF ISRAEL

By its execution of this Agreement, Contractor verifies that it does not and will not during the term of this Agreement boycott Israel as described in Texas Government Code §808.001(1).

PROHIBITION OF CONTRACTS WITH CERTAIN COMPANIES

By its execution of this Agreement, Contractor verifies that it is not on a list prepared and maintained by the State Comptroller of Texas under Texas Government Code §2252.153 or §2271.002.

42. DISPUTE OR CLAIMS PROCEDURE:

The dispute resolution policy promotes a cooperative attitude between the Engineer, Contractor, and Contractor's subcontractors working through the Contractor. Emphasis is placed on resolving issues while they are still current, at the Owner's office, and in an informal manner. Open sharing of information is encouraged by all parties involved so the information provided completely and accurately reflects the issues and facts. If information is not shared, decisions may be limited to relying on the documentation that is available for review.

The Owner's goal is to have a dispute settled by the Engineer before elevating it as a claim to the Owner.

If a dispute cannot be resolved, initiate the Contract claim procedure by submitting a claim to the Owner.

The Contractor, or subcontractor through the Contractor, will file a Contract claim request and a detailed report that provides the basis for the claim. The detailed report will include relevant facts of the claim, cost or other data supporting the claim, a description of any additional compensation requested, and documents supporting the claim.

The claim must include the following certification: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Owner is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

File a claim after completion of the Contract or when required for orderly performance of the Contract. For a claim resulting from enforcement of a warranty period, file the claim no later than 1 yr. after expiration of the warranty period. For all other claims, file the claim no later than 1 yr. after the date the Owner issues notice to the Contractor that they are in default, the date the Owner terminates the Contract, or the date of final acceptance of the Contract. It is the Contractor's responsibility to submit requests in a timely manner.

43. PROGRESS PAYMENTS:

The Engineer will prepare a monthly estimate of the amount of work performed, including materials in place. Incomplete items of work may be paid at an agreed upon percentage approved by the Engineer. Payment of the monthly estimate is determined at the Contract item prices less any withholdings or deductions in accordance with the Contract. Progress payments may be withheld for failure to comply with the Contract.

44. FAILURE TO COMPLETE WORK ON TIME:

The time established for the completion of the work is an essential element of the Contract. If the Contractor fails to complete the work within the number of working days specified, working days will continue to be charged. Failure to complete the Contract, callout work, or a work order within the number of working days specified, including any approved additional working days, will result in liquidated damages for each working day charged over the number of working days specified. The dollar amount specified in the Contract will be deducted from any money due or to become due the Contractor for each working day the Contract, callout work, or work order remains incomplete. This amount will be assessed not as a penalty but as liquidated damages. The amount assessed for non-site-specific Contracts will be based on the estimated amount for each work order unless otherwise shown in the Contract. The amount assessed for each callout will be as specified in the Contract.

The wage rates listed herein are those predetermined by the Secretary of Labor and State Statute and listed in the United States Department of Labor's (USDOL) General Decisions dated 01-02-2026 and are the minimum wages to be paid accordingly for each specified classification. To determine the applicable wage rate zone, a list entitled "TEXAS COUNTIES IDENTIFIED BY WAGE RATE ZONES" is provided in the contract. Any wage rate that is not listed in the USDOL's general decision, must be requested by the contractor through the completion of an Additional Classification and Wage Rate Request and be submitted for approval. A blank cell indicates that the classification and wage rate are not listed on the USDOL's general decision and therefore must be requested by the contractor through the completion of an Additional Classification and Wage Rate Request, IMPORTANT NOTICE FOR STATE PROJECTS: only the controlling wage rate zone applies to the contract, Effective 01-02-2026,

Table 1 - Wage Rates,

CLASS. #	CLASSIFICATION DESCRIPTION	ZONE TX46 *(TX20250046)	ZONE TX51 *(TX20250051)	ZONE TX55 *(TX20250055)	ZONE TX291 *(TX20250291)	ZONE TX292 *(TX20250292)	ZONE TX293 *(TX20250293)	ZONE TX294 *(TX20250294)	ZONE TX295 *(TX20250295)	ZONE TX296 *(TX20250296)	ZONE TX297 *(TX20250297)	ZONE TX298 *(TX20250298)	ZONE TX299 *(TX20250299)	ZONE TX300 *(TX20250300)
1106	Asphalt Raker	\$18,97	\$15,02	\$18,76	\$19,40	\$18,20	\$16,28	\$19,87	\$19,53	\$17,40	\$15,22	\$19,58	\$20,41	\$19,02
1124	Concrete Finisher, Paving and Structures	\$20,92	\$19,13	\$21,11	\$20,61	\$18,72	\$17,99	\$22,48	\$20,66	\$21,16	\$18,15	\$20,77	\$20,79	\$20,04
1139	Electrician	\$23,70			\$30,54		\$25,73	\$36,10	\$32,38				\$31,46	
1143	Telecommunication Technician							\$23,14						
1145	Traffic Signal/Light Pole Worker	\$25,43			\$21,99									
1150	Flagger	\$13,50	\$14,56	\$15,30	\$15,52	\$15,00		\$14,80	\$13,99	\$14,59	\$15,81	\$14,82	\$16,63	\$15,16
1151	Form Builder/Setter, Structures	\$21,78	\$18,59	\$19,31	\$20,63	\$20,18	\$19,37	\$22,50	\$20,05	\$19,82	\$18,26	\$22,09	\$19,93	\$19,89
1160	Form Setter, Paving & Curb	\$20,39	\$17,31	\$18,50	\$19,18			\$20,89	\$18,25	\$18,16	\$17,56	\$19,44	\$19,32	\$20,25
1172	Laborer, Common	\$17,76	\$14,88	\$16,80	\$17,52	\$17,12	\$15,16	\$18,01	\$16,72	\$16,63	\$15,22	\$18,10	\$17,12	\$16,69
1175	Laborer, Utility	\$18,51	\$16,79	\$17,91	\$19,05	\$17,46	\$16,73	\$19,32	\$18,80	\$18,42	\$16,75	\$18,10	\$19,11	\$18,40
1187	Mechanic	\$27,08	\$23,80	\$25,11	\$26,15	\$28,00	\$23,84	\$27,44	\$24,13	\$25,51	\$22,98	\$25,47	\$23,38	\$23,35
1194	Servicer	\$21,29	\$20,03		\$23,75	\$21,51	\$17,87	\$24,86	\$20,94		\$19,11	\$21,31	\$20,33	\$20,75
1196	Painter, Structures				\$23,76					\$27,93				\$26,40
1202	Piledriver												\$21,48	
1205	Pipelayer	\$17,76	\$15,48		\$19,23		\$17,11	\$22,46	\$19,97	\$19,40	\$15,22	\$18,10	\$20,03	\$17,56
1300	Asphalt Distributor Operator	\$22,68	\$19,62	\$23,09	\$24,07	\$23,76	\$21,93	\$24,40	\$22,69	\$23,20	\$24,54	\$23,46	\$23,26	\$23,99
1303	Asphalt Paving Machine Operator	\$20,34	\$15,99	\$20,95	\$22,12	\$22,45	\$19,02	\$22,52	\$21,26	\$19,14	\$17,58	\$21,32	\$22,67	\$20,70
1305	Broom or Sweeper Operator	\$17,76	\$15,22	\$17,75	\$18,09	\$17,12		\$18,01	\$17,58	\$16,63	\$16,92	\$18,10	\$17,63	\$17,30
1306	Crawler Tractor Operator	\$20,95	\$20,27	\$20,00	\$20,92				\$19,82	\$23,23		\$22,51	\$20,33	\$20,83
1315	Concrete Paving, Curing, Float, Texturing Machine Operator								\$23,12				\$22,62	
1318	Concrete Pavement Finishing Machine Operator	\$20,00		\$24,85	\$22,81			\$24,07	\$23,11				\$22,18	
1329	Joint Sealer						\$15,16							
1333	Concrete Saw Operator	\$25,25		\$20,69	\$25,97			\$20,34	\$25,50				\$21,57	\$22,93
1341	Small Slipform Machine Operator							\$25,09						
1342	Crane Operator, Lattice Boom 80 Tons or Less	\$24,25	\$29,80	\$25,57	\$26,47			\$29,90	\$24,33			\$24,40	\$25,74	\$26,15
1343	Crane Operator, Lattice Boom Over 80 Tons				\$28,87			\$33,55	\$23,75	\$34,20			\$23,85	\$31,28
1344	Crane Operator, Hydraulic 80 Tons or less				\$29,24			\$23,37	\$31,32	\$27,22	\$27,88	\$28,75	\$27,09	\$24,75
1345	Crane Operator, Hydraulic Over 80 Tons									\$30,25				\$31,44
1346	Loader/Backhoe Operator	\$20,99	\$16,37	\$20,20	\$20,32	\$18,00	\$17,92	\$23,22	\$20,42	\$19,01	\$16,93	\$21,03	\$21,37	\$19,94
1347	Excavator Operator, 50,000 pounds or less	\$25,59	\$18,99		\$22,93	\$22,91	\$19,70	\$25,08	\$21,05	\$19,69	\$21,86	\$24,67	\$21,53	\$22,25
1348	Excavator Operator, Over 50,000 pounds		\$19,29	\$20,36	\$22,90			\$25,34	\$22,80	\$22,05	\$25,35		\$22,24	\$22,47
1360	Foundation Drill Operator, Crawler Mounted							\$29,25					\$22,25	
1363	Foundation Drill Operator, Truck Mounted				\$24,28			\$29,86	\$25,95		\$27,81	\$32,17	\$26,04	\$24,05
1369	Front End Loader Operator, 3 CY or Less	\$19,42	\$15,59	\$18,40	\$20,33	\$18,28	\$17,42	\$20,93	\$18,58	\$18,80	\$17,47	\$19,06	\$19,72	\$19,34
1372	Front End Loader Operator, Over 3 CY	\$19,52	\$16,41	\$17,25	\$20,20	\$19,83	\$18,26	\$22,56	\$19,55	\$18,71	\$18,12	\$20,11	\$20,34	\$20,00
1380	Milling Machine Operator	\$20,98	\$18,47	\$19,48	\$21,73	\$18,49	\$23,02	\$20,94	\$19,99	\$22,53	\$19,21	\$20,37	\$21,65	\$19,88
1384	Reclaimer/Pulverizer Operator	\$21,17			\$19,05	\$23,25		\$22,17	\$18,15	\$18,83				\$19,67
1390	Motor Grader Operator, Fine Grade	\$27,00	\$21,55	\$23,01	\$26,56	\$26,38	\$20,04	\$27,09	\$24,43	\$26,88	\$22,98	\$26,74	\$23,91	\$24,96
1393	Motor Grader Operator, Rough	\$23,50	\$18,78	\$19,00	\$22,95	\$23,69		\$24,90	\$21,43	\$23,06	\$19,60	\$23,08	\$21,20	\$21,04
1396	Pavement Marking Machine Operator	\$20,62		\$16,80	\$22,00	\$18,99		\$22,35	\$22,96		\$19,26	\$23,48	\$17,12	\$17,50
1402	Roller Operator, Asphalt	\$17,76	\$14,88	\$18,35	\$20,24	\$17,12		\$20,35	\$18,34	\$17,27	\$16,83	\$18,76	\$19,79	\$18,13
1405	Roller Operator, Other	\$17,76	\$14,88	\$16,80	\$17,52	\$17,12		\$18,60	\$17,09	\$16,90	\$15,38	\$18,10	\$18,93	\$16,94
1411	Scrapper Operator	\$20,00	\$14,88		\$17,52		\$18,33	\$21,54	\$17,71		\$15,33	\$19,49		\$17,21
1413	Off Road Hauler				\$17,52			\$23,70	\$16,90			\$18,10	\$17,12	
1428	Agricultural Tractor Operator				\$19,14				\$19,97				\$23,21	
1445	Directional Drilling Operator				\$25,19									
1446	Directional Drilling Locator				\$21,39		\$16,50							
1500	Reinforcing Steel Worker	\$22,94	\$19,62	\$24,99	\$22,46			\$20,57	\$23,50	\$22,24	\$22,76	\$20,91	\$25,70	\$22,34
1509	Structural Steel Worker												\$22,64	
1513	Sign Erector				\$17,52			\$18,01						

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1515	Spreader Box Operator	\$18,50		\$19,28	\$19,31			\$23,59	\$18,52	\$20,63	\$23,00	\$18,31	\$17,84	\$19,96
1520	Work Zone Barricade Servicer	\$17,76	\$15,81	\$16,80	\$17,75	\$17,12		\$18,01	\$16,89	\$17,52	\$16,49	\$18,10	\$17,37	\$17,66
1600	Truck Driver, Single Axle	\$21,59	\$17,93	\$19,19	\$19,70	\$18,24	\$15,16	\$20,60	\$19,22	\$17,99	\$19,02	\$22,02	\$21,93	\$19,20
1606	Truck Driver, Single or Tandem Axle Dump Truck	\$20,87	\$18,50	\$21,94	\$20,91	\$21,14	\$16,58	\$22,64	\$20,30	\$20,30	\$18,63	\$21,04	\$18,60	\$19,19
1607	Truck Driver, Tandem Axle Tractor with Semi-Trailer	\$21,52	\$19,81	\$20,66	\$21,71	\$21,97		\$23,22	\$20,32	\$22,08	\$23,00	\$21,91	\$20,17	\$19,52
1609	Truck Driver Lowboy-Float	\$23,01	\$27,10	\$23,18	\$25,96			\$25,57	\$23,97	\$22,90	\$25,75	\$23,22	\$25,94	\$22,60
1612	Truck Driver Transit-Mix		\$18,00					\$21,97						
1615	Boom Truck Operator				\$27,82									
1706	Welder		\$21,35		\$23,38		\$17,34	\$23,72				\$22,00	\$20,97	

Notes:

*Represents the USDOL wage decision,

Any worker employed on this project shall be paid at the rate of one and one half (1-1/2) times the regular rate for every hour worked in excess of forty (40) hours per week,

For reference, the titles and descriptions for the classifications listed here are detailed further in the Associated General Contractors (AGC) of Texas' Standard Job Classifications and Descriptions for Highway, Heavy, Utilities, and Industrial Construction in Texas posted on the AGC's Web site for any contractor,

Texas Counties Identified By

Wage Rate Zones: 46, 51, 55, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300

Table 2 Counties by Zone.

County Name	Zone	County Name	Zone	County Name	Zone	County Name	Zone
Anderson	295	Donley	298	Karnes	300	Reagan	298
Andrews	298	Duval	297	Kaufman	294	Real	298
Angelina	295	Eastland	298	Kendall	291	Red River	295
Aransas	296	Ector	46	Kenedy	297	Reeves	292
Archer	46	Edwards	292	Kent	298	Refugio	300
Armstrong	46	El Paso	293	Kerr	300	Roberts	298
Atascosa	291	Ellis	294	Kimble	298	Robertson	291
Austin	299	Erath	295	King	298	Rockwall	294
Bailey	298	Falls	295	Kinney	292	Runnels	298
Bandera	291	Fannin	295	Kleberg	300	Rusk	55
Bastrop	291	Fayette	300	Knox	298	Sabine	295
Baylor	298	Fisher	298	Lamar	295	San Augustine	295
Bee	300	Floyd	298	Lamb	298	San Jacinto	299
Bell	291	Foard	298	Lampasas	291	San Patricio	296
Bexar	291	Fort Bend	299	LaSalle	297	San Saba	298
Blanco	300	Franklin	295	Lavaca	300	Schleicher	298
Borden	298	Freestone	295	Lee	300	Scurry	298
Bosque	295	Frio	297	Leon	295	Shackelford	298
Bowie	55	Gaines	298	Liberty	299	Shelby	295
Brazoria	299	Galveston	299	Limestone	295	Sherman	298
Brazos	291	Garza	298	Lipscomb	298	Smith	55
Brewster	292	Gillespie	300	Live Oak	300	Somervell	295
Briscoe	298	Glasscock	298	Llano	300	Starr	297
Brooks	297	Goliad	296	Loving	298	Stephens	298
Brown	298	Gonzales	300	Lubbock	46	Sterling	298
Burleson	291	Gray	298	Lynn	298	Stonewall	298
Burnet	300	Grayson	294	Madison	295	Sutton	292
Caldwell	291	Gregg	55	Marion	295	Swisher	298
Calhoun	296	Grimes	295	Martin	298	Tarrant	294
Callahan	46	Guadalupe	291	Mason	300	Taylor	46
Cameron	51	Hale	298	Matagorda	300	Terrell	292
Camp	295	Hall	298	Maverick	297	Terry	298
Carson	46	Hamilton	295	McCulloch	298	Throckmorton	298
Cass	295	Hansford	298	McLennan	291	Titus	295
Castro	298	Hardeman	298	McMullen	297	Tom Green	46
Chambers	299	Hardin	299	Medina	291	Travis	291
Cherokee	295	Harris	299	Menard	298	Trinity	295
Childress	298	Harrison	55	Midland	46	Tyler	295
Clay	46	Hartley	298	Milam	295	Upshur	55
Cochran	298	Haskell	298	Mills	298	Upton	298
Coke	298	Hays	291	Mitchell	298	Uvalde	297
Coleman	298	Hemphill	298	Montague	298	Val Verde	292
Collin	294	Henderson	295	Montgomery	299	Van Zandt	295
Collingsworth	298	Hidalgo	51	Moore	298	Victoria	296
Colorado	300	Hill	295	Morris	295	Walker	295
Comal	291	Hockley	298	Motley	298	Waller	299
Comanche	298	Hood	295	Nacogdoches	295	Ward	298
Concho	298	Hopkins	295	Navarro	295	Washington	295
Cooke	298	Houston	295	Newton	295	Webb	51
Coryell	291	Howard	298	Nolan	298	Wharton	300
Cottle	298	Hudspeth	292	Nueces	296	Wheeler	298
Crane	298	Hunt	294	Ochiltree	298	Wichita	46
Crockett	292	Hutchinson	298	Oldham	298	Wilbarger	298
Crosby	46	Irion	46	Orange	299	Willacy	297
Culberson	292	Jack	295	Palo Pinto	295	Williamson	291
Dallam	298	Jackson	300	Panola	295	Wilson	291
Dallas	294	Jasper	295	Parker	294	Winkler	298
Dawson	298	Jeff Davis	292	Parmer	298	Wise	294
Deaf Smith	298	Jefferson	299	Pecos	292	Wood	295
Delta	294	Jim Hogg	297	Polk	295	Yoakum	298
Denton	294	Jim Wells	300	Potter	46	Young	298
DeWitt	300	Johnson	294	Presidio	292	Zapata	297
Dickens	298	Jones	46	Rains	295	Zavala	297
Dimmit	297			Randall	46		

DENTON COUNTY, TEXAS

DISCLOSURE OF INTEREST PARTIES

Effective January 1, 2016, Denton County, must comply with the "Disclosure of Interest Parties, mandated by Texas HB 1295, as implemented by the Texas Ethics Commission. Briefly stated, all contracts requiring an action or vote by the governing body of the entity or agency before the contract may be signed (regardless of the dollar amount) or has a value of at least \$1 million will require the on-line completion of Form 1295 "Certificate of Interested Parties", per Texas Government Code Statute §2252.908. Form 1295 is also required for any and all contract amendments, extensions or renewals. A sample copy (for illustration purpose only) of a completed electronic form is provided with this solicitation. All business entities are required to complete and file electronically with the Texas Ethics Commission using the online filing application.

Step 1: Business Entity completes Form 1295 in electronic format on the Texas Ethics Commission website (https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm).

Step 2: Upon receipt of a completed Interested Parties Disclosure Form, Texas Ethics Commission issues a Certification of Filing to the Business Entity and the Business Entity download(s), print, sign(s) and notarize(s) Form 1295. An authorized agent of the business entity will need to sign the printed copy of the form and have the form notarized.

Step 3: At the time of submission of the solicitation to Denton County the Business Entity must submit the completed notarized Form 1295 with the Certification of Filing with their contract (i.e.: bid, rfp, rfq, soq, etc.) to Denton County. Upon receipt, Denton County may proceed with the award and/or execution of the contract.

Step 4: Not later than the 30th day after the date the contract has been signed by all parties, Denton County must notify the Texas Ethics Commission (in electronic format) of the receipt of (1) Form 1295, and (2) the Certification of Filing.

Step 5: Not later than the 7th business day after receipt of the above notice, Texas Ethics Commission makes the disclosure available to the public by posting the disclosure on its website.

Definitions:

- (a) "Contract" includes an amended, extended, or renewed contract.
- (b) "Business entity" includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency.
- (c) "Controlling interest" means: (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.
- (d) "Interested party" means: (1) a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts; or (2) a person who actively participates in facilitating a

contract or negotiating the terms of a contract with a governmental entity or state agency, including a broker, intermediary, adviser, or attorney for the business entity.

(e) "Intermediary," for purposes of this rule, means, a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

- (1) receives compensation from the business entity for the person's participation;
- (2) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
- (3) is not an employee of the business entity.

To obtain additional information on HB 1295, to learn more about Texas Ethics Commission process to create a new account or to complete an electronic version of Form 1295 for submission with a signed contract, please go to the following website: <https://www.ethics.state.tx.us/tec/1295-Info.htm> Instructional Videos for Business Entities on how to file online can be found at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY

CERTIFICATION OF FILING
 Certification Number:
 2016-9999

Date Filed:
 01/19/2016
 Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business. ABC Company ← Your Company Name and Location
 City, Texas, United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed. Denton County Purchasing Department ← Governmental Entity Name

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary
Jane Doe	City, Texas, United States	X	
Jane Doe	City, Texas, United States		X

Must file online at
www.ethics.state.tx.us/File
 SAMPLE ONLY

5 Check only if there is NO Interested Party.

6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

 Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20 _____, to certify which, witness my hand and seal of office.

 Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
Print or type	<input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) [Ⓢ] _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> _____	<input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate 4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									

OR

Employer identification number									

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of _____	Date [Ⓢ] _____
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page

³ for detail

3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note. ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

Limited Liability Company (LLC). If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note. You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.
4. **Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).
5. **Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
Individual	The individual
Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹ The actual owner ¹
Sole proprietorship or disregarded entity owned by an individual	The owner ³ The grantor [*]
Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i) (A))	
For this type of account:	Give name and EIN of:
Disregarded entity not owned by an individual	The owner
A valid trust, estate, or pension trust	Legal entity ⁴ The corporation
Corporation or LLC electing corporate status on Form 8832 or Form 2553	
Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
Partnership or multi-member LLC	The partnership
A broker or registered nominee	The broker or nominee
Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i) (B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2. ***Note.** Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

PART II

STANDARD SPECIFICATIONS

PART II - STANDARD SPECIFICATIONS

All road construction must comply with Texas Department of Transportation, 2024 Standard Specifications for Construction of Highways, Streets and Bridges. If there is any conflict in the contract language, TxDOT Items 1-9L, Special Specifications, and Special Provisions will prevail. All other construction and General Specifications shall comply with the North Central Texas Council of Government Public Works Construction Standards, Fifth Edition 2017. These specifications shall govern and shall constitute the technical specifications except as herein amended or supplemented. These specifications will be referred to as the Standard Specifications and are included herein by reference, although they will not be physically bound with the other contract documents.

THE CONTRACTOR SHALL HAVE ONE COPY OF THESE SPECIFICATIONS ON THE PROJECT SITE AT ALL TIMES.

STANDARD SPECIFICATIONS: ADOPTED BY THE TEXAS DEPARTMENT OF TRANSPORTATION SEPTEMBER 1, 2024.
STANDARD SPECIFICATIONS AND PARENTHETICAL () REFERNCES ARE INCORPORATED INTO THE CONTRACT BY REFERENCE.

ITEM 100	PREPARING RIGHT OF WAY
ITEM 104	REMOVING CONCRETE
ITEM 105	REMOVING TREATED AND UNTREATED BASE AND ASPHALT PAVEMENT
ITEM 110	EXCAVATION
ITEM 132	EMBANKMENT
ITEM 134	BACKFILING PAVEMENT EDGES*
ITEM 160	TOPSOIL
ITEM 162	SODDING FOR EROSION CONTROL
ITEM 164	SEEDING FOR EROSION CONTROL
ITEM 166	FERTILIZER*
ITEM 168	VEGETATIVE WATERING
ITEM 169	SOIL RETENTION BLANKETS
ITEM 210	ROLLING*
ITEM 247	FLEXIBLE BASE
ITEM 260	LINE TREATMENT (ROAD-MIXED)
ITEM 310	PRIME COAT
ITEM 341	DENSE-GRADED HOT-MIX ASPHALT
ITEM 344	SUPERPAVE MIXTURES
ITEM 360	CONCRETE PAVEMENT
ITEM 400	EXCAVATION AND BACKFILL FOR STRUCTURES
ITEM 402	TRENCH EXCAVATION PROTECTION
ITEM 403	TEMPORARY SPECIAL SHORING*
ITEM 405	FOUNDATION TEST LOAD*
ITEM 416	DRILLED SHAFT FOUNDATIONS
ITEM 420	CONCRETE STRUCTURES
ITEM 422	CONCRETE SUPERSTRUCTURES
ITEM 423	RETAINING WALLS
ITEM 425	PRECAST PRESTRESSED CONCRETE STRUCTURAL MEMBERS
ITEM 427	SURFACE FINISHES FOR CONCRETE*

- ITEM 432 RIPRAP
- ITEM 438 CLEANING AND SEALING JOINTS*
- ITEM 440 REINFORCEMENT FOR CONCRETE*
- ITEM 442 METAL FOR STRUCTURES*
- ITEM 445 GALVANIZING*
- ITEM 450 RAILING
- ITEM 454 BRIDGE EXPANSION JOINTS
- ITEM 464 REINFORCED CONCRETE PIPE
- ITEM 465 JUNCTION BOXES, MANHOLES, AND INLETS
- ITEM 467 SAFETY END TREATMENT
- ITEM 496 REMOVING STRUCTURES
- ITEM 500 MOBILIZATION
- ITEM 502 BARRICADES, SIGNS, AND TRAFFIC HANDLING
- ITEM 506 TEMPORARY EROSION, SEDIMENTATION, AND ENVIRONMENTAL CONTROLS
- ITEM 529 CONCRETE CURB, GUTTER, AND COMBINED CURB AND GUTTER
- ITEM 530 INTERSECTIONS, DRIVEWAYS, AND TURNOUTS
- ITEM 531 SIDEWALKS
- ITEM 540 METAL BEAM GUARD FENCE
- ITEM 542 REMOVING METAL BEAM GUARD FENCE
- ITEM 544 GUARDRAIL END TREATMENTS
- ITEM 560 MAILBOX ASSEMBLIES
- ITEM 644 SMALL ROADSIDE SIGN ASSEMBLIES
- ITEM 656 FOUNDATIONS FOR TRAFFIC CONTROL DEVICES*
- ITEM 658 DELINEATOR AND OBJECT MARKER ASSEMBLIES
- ITEM 666 RETROREFLECTORIZED PAVEMENT MARKINGS
- ITEM 668 PREFABRICATED PAVEMENT MARKINGS AND RUMBLE STRIPS
- ITEM 672 RAISED PAVEMENT MARKERS
- ITEM 678 PAVEMENT SURFACE PREPARATION FOR MARKINGS*

NOTE: ITEMS UNDER STANDARD SPECIFICATIONS SHOWN WITH ASTERISK ARE NOT DIRECT PAYMENT ITEMS BUT ARE SUBSIDIARY TO OTHER PAY ITEMS.

PART III

TECHNICAL SPECIFICATIONS

Part III - Technical Specifications/Line Item Descriptions

FOR: Shady Shores Road Project, Denton County, Texas

Technical Specifications:

General

The work, as proposed, is to be complete and fully acceptable to Denton County. The only compensation will be from the unit-priced items listed in the bid. The CONTRACTOR shall verify all quantities and resolve any disputed quantities before signing the contract. After signing the contract, payment quantities will only be revised by approved change order or revisions to the plans. All work not specifically called for, but required to complete the work in accordance with Denton County requirements, should be considered incidental to payments items. CONTRACTOR shall be responsible for erosion and sediment control of on-site materials during construction. The controls shown on the plans are considered minimum requirements. Each contractor will be responsible for the maintenance of these control measures, as well as installation of special control measures, and temporary seeding and mulching needed to facilitate the progress of the work while the site is under his/her control. Said work shall be considered incidental to their respective construction, unless specific pay items are listed below. Contractors shall notify the engineer immediately if the controls are not functioning properly and sediment is leaving the site. The contractor shall also be responsible for removal of all temporary erosion and sediment control devices upon completion of the project.

NON PAY ITEMS:

TxDOT Spec Item 134:

Backfill pavement edges using Type B (on-site) material. Backfilling pavement edges will not be paid for directly, but will be considered subsidiary to the various bid items.

Start backfilling pavement edges as soon as possible after the surface course is placed. Backfill and compact the pavement edges to produce a smooth surface adjacent to the pavement with no vertical edges.

Access to Private Property

Contractor shall coordinate with Denton County personnel and property owners to arrange access beyond the fences. Denton County personnel will be identified at the preconstruction meeting. Property owners shall be notified 5 business days prior to any access to their property. Contractor shall endeavor to limit construction days to a minimum on private property. Contractor shall preserve and protect fences per construction documents.

All work must be constrained to the right-of-way (ROW) or any indicated work zones. The contractor shall not use for any purpose the private property outside of the ROW or work zone without express written permission of the property owner(s). The contractor shall provide a copy of this letter(s) prior to using private property. In addition, any private property utilized shall be restored to the same or better condition, and the contractor shall provide the County with signed approval from the property owner(s) that the area has been restored to satisfactory condition. This letter(s) shall be required before final payment is authorized.

PAY ITEMS:

SP-01: Project Construction Sign

Two project signs shall be placed at each end of the project as specified in the plans. These two signs shall be placed prior to beginning work and maintained until the end of the project. No payment shall be made to the Contractor for maintenance of these signs or for their removal at the conclusion of the project. Letter size and format shall conform to dimensions shown on sign drawing.

Payment will be at the contract unit price for each Project Sign installed and shall include all material, labor, and equipment necessary to complete the work as described above and shown in the plans.

SP-02: Maintenance Bond

Contractor shall provide a maintenance bond to the Owner for a term of two (2) years from date of Final Acceptance by the Owner. Payment for the bond will be provided as a Lump Sum (LS) to the contractor once the bond is provided to Denton County. The amount of this maintenance bond shall be \$50,000.

The unit of measurement shall be lump sum (LS).

PART IV

SPECIAL CONDITIONS

PART IV – SPECIAL CONDITIONS

Protection Of Existing Improvements & Maintenance Of Utilities And Access

The Contractor shall protect existing above and below ground improvements including but not limited to utilities, fences, roadways, and existing buildings. The Contractor shall be solely responsible for any damage resulting from his operation. The Contractor shall be responsible for coordinating with all affected parties prior to interrupting service or removal of improvements called for in the plans or specifications. Traffic must remain open at all times.

Watering

Watering of earthwork placed in fill areas may be necessary to achieve the specified moisture density requirement, and to germinate/sustain grass cover in areas to receive a vegetative cover after grading is complete. The contractor shall be responsible for obtaining water for construction. No additional payment will be made to the contractor for water.

Cleanup For Final Acceptance

The contractor shall make final cleanup of all of the parts of the work before final acceptance by the Owner or their representative. This cleanup shall include removal of all objectionable rocks, asphalt and or concrete debris and other construction material as seen fit by the Owner or their representative. Final work shall commence no later than 10 days after final construction completion of the project.

Waste Material

Any waste materials not useable on the project shall become the property of the Contractor and shall be disposed of in a legal manner.

Construction Staking

The contractor is responsible for construction staking of this project. The owner will provide control for the contractor.

Protection of Utilities

Contractor shall be responsible for contacting DIG-TESS and for field locating existing utilities and improvements prior to construction. The plans show the locations of known surface and subsurface structures. However, the Owner assumes no responsibility for failure to show them in their exact location. It is mutually agreed that such failure shall not be considered sufficient basis for claims for additional compensation for extra work or for increasing the pay quantities in any manner whatsoever, unless the obstruction encountered is such as to necessitate changes in the lines or grades, or requires the building of special work, provisions for which are not made in the plans and bid, in which case the provisions in these specifications for extra work shall apply.

It will be the responsibility of the contractor to protect all existing public and private utilities throughout the construction of this project. Contractor shall contact the appropriate utility companies for line locations prior to commencement of construction and shall assume full liability to those companies for any damages caused to their facilities.

Construction Methods

As per Texas House Bill 1569, as of September 1, 1989, it shall be the responsibility of the Contractor to provide and maintain a viable trench safety system. Construction plans for trench safety systems shall be provided by the Contractor and shall be sealed by a Professional Engineer registered in the State of Texas.

PART V

SPECIAL PROVISIONS

**Special Provision to Item 400
Excavation and Backfill for Structures**

Item 400, "Excavation and Backfill for Structures" of the Standard Specifications is amended with respect to the clauses cited below. No other clauses or requirements of this Item are waived or changed.

Article 400.2., "Materials", is supplemented by the following.

Unless otherwise shown on the plans, use sand backfill with 70-100% passing the No. 10 sieve. The Plasticity Index (PI) is determined in accordance with [Tex-106-E](#) and must not exceed 6. At all pipe joints backfilled with sand, the Contractor must install a filter fabric designed to prevent the migration of sand into the pipes as approved by the Engineer. Filter fabric must meet the requirements of [DMS-6200](#), Type I.

Unless otherwise shown on the plans, the gravel must conform to Aggregate Grade No. 1, 2, 3 or 4 requirements shown in Table 4 of Article 421.2.

Section 400.4.4., "Sand Backfill" and Section 400.4.5., "Structural Excavation (Special)." are added.

4.4. Sand Backfill. Sand Backfill will be measured by the cubic yard. When shown on the plans, the excavation must be backfilled to the elevations shown with sand. The sand backfill will be measured in accordance with the backfill diagram shown on the plans.

4.5. Structural Excavation (Special). Structural Excavation (Special) for Gravel Bedding will be measured by the cubic yard.

Section 400.5.1., "Structural Excavation", is supplemented by the following.

When the plans specify or when the Engineer directs the use of gravel bedding material, excavation below the footing grades will be measured and paid for as "Structural Excavation (Special)". The unit price bid for "Structural Excavation (Special)" will be full compensation for furnishing, hauling and placing gravel bedding material and for all labor, equipment, tools and incidentals necessary to complete the work.

Section 400.5.6., "Sand Backfill", is added.

5.6. Sand Backfill. The unit price bid for "Sand Backfill" will be full compensation for excavation and furnishing sand backfill and filter fabric, hauling, placing and compacting the sand backfill and filter fabric; and materials, equipment, labor, tools and incidentals.

**Special Provision to Item 502
Barricades, Signs, and Traffic Handling**

Item 502, "Barricades, Signs, and Traffic Handling," of the Standard Specifications is amended with respect to the clauses cited below. No other clauses or requirements of this Item are waived or changed.

Article 3., "Measurement," is voided and replaced by the following.

"Barricades, Signs, and Traffic Handling" will be measured by the each. A location will equate to a plan quantity of one each. Total measurement for the project will be the sum of all roadway locations.

Section 4.1.1., "Initiation of Payment," is voided and replaced by the following.

Payment for this Item will begin on the first estimate corresponding to the completion of the initial location.

Section 4.1.2., "Paid Months," is voided and replaced by the following.

Paid Each. Payment by the each will be made on the monthly estimate corresponding to completion of each location provided the barricades, signs, and traffic handling devices have been installed and maintained in accordance with the TCP for all required operations to complete each location.

If, within the timeframe established by the Engineer, the Contractor fails to provide or properly maintain signs and barricades in compliance with the Contract requirements, as determined by the Engineer, the Contractor will be considered in noncompliance with this Item. No payment will be made for the months in question, and the total final payment quantity will be reduced by the number of months the Contractor was in noncompliance.

Section 4.1.4., "Total Payment Quantity," is voided and replaced by the following:

The quantity paid under this Item will not exceed the total quantity shown on the plans, except as modified by change order and as adjusted by Section 4.1.2., "Paid Each." An overrun of the plans quantity for this Item will not be allowed for approving designs, testing, material shortages, closed construction seasons, and curing periods; establishment, performance, and test and maintenance periods; failure to complete the work in the days allotted; or delays caused directly or indirectly by requirements of the Contract.

**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:

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).

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

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

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

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

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

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

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

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

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

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

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

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

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

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

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

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

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

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

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

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

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

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

10. Assurances Required:

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

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

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

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

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

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

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

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

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

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

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

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

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

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

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

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

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

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

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

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

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

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

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.*

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

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

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/WHDLegacy/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.

CONTRACTOR'S ASSURANCE

(Subcontracts-Federal Aid Projects)

By signing this proposal, the contractor is giving assurances that all subcontract agreements will incorporate the Standard Specification and Special Provisions to Section 9.9., Payment Provisions for Subcontractors, all subcontract agreements exceeding \$2,000 will incorporate the applicable Wage Determination Decision, and all subcontract agreements will incorporate the following:

Special Provision	Certification of Nondiscrimination in Employment
Special Provision	Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)
Special Provision	Standard Federal Equal Employment Opportunity
Construction	Construction Specifications (Executive Order 11246)
Form FHWA 1273	Required Contract Provisions Federal-aid Construction Contracts (Form FHWA 1273 must also be physically attached to subcontracts and all lower-tier subcontracts)
Special Provision	Nondiscrimination (Include provisions of Sections 3.1 – 3.6 in all subcontracts and agreements for materials)
Special Provision	Cargo Preference Act Requirements in Federal-Aid Contracts
Special Provision	Disadvantaged Business Enterprise in Federal-Aid Contracts

CERTIFICATION TO NOT BOYCOTT ENERGY COMPANIES

Pursuant to Texas Government Code §809.051, the Department must include a provision requiring a written verification affirming that the Contractor does not boycott energy companies, as defined in Government Code §809.001, and will not boycott energy companies during the term of the contract. This provision applies to a contract that:

- 1) is with a Contractor that is not a sole proprietorship,
- 2) is with a Contractor with 10 or more full-time employees, and
- 3) has a value of \$100,000 or more.

By signing the contract, the Contractor certifies that it does not boycott energy companies and will not boycott energy companies during the term of this contract. "Boycott" means taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (1) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (2) does business with a company described by (1).

Violation of this certification may result in action by the Department.

CERTIFICATION TO NOT BOYCOTT ISRAEL

Pursuant to Texas Government Code §2271.002, the Department must include a provision requiring a written verification affirming that the Contractor does not boycott Israel, as defined in Government Code §808.001, and will not boycott Israel during the term of the contract. This provision applies to a contract that:

- 1) is with a Contractor that is not a sole proprietorship,
- 2) is with a Contractor with 10 or more full-time employees, and
- 3) has a value of \$100,000 or more.

By signing the contract, the Contractor certifies that it does not boycott Israel and will not boycott Israel during the term of this contract. "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Violation of this certification may result in action by the Department.

CERTIFICATION REGARDING DISCLOSURE OF PUBLIC INFORMATION

Pursuant to Subchapter J, Chapter 552, Texas Government Code, contractors executing a contract with a governmental body that results in the expenditure of at least \$1 million in public funds must:

- 1) preserve all contracting information* as provided by the records retention requirements applicable to Texas Department of Transportation (TxDOT) for the duration of the contract,
- 2) on request of TxDOT, promptly provide any contracting information related to the contract that is in the custody or possession of the entity, and
- 3) on completion of the contract, either:
 - a. provide, at no cost to TxDOT, all contracting information related to the contract that is in the custody or possession of the entity, or
 - b. preserve the contracting information related to the contract as provided by the records retention requirements applicable to TxDOT

The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

By entering into Contract, the Contractor agrees to:

- provide, or make available, to TxDOT and any authorized governmental investigating or auditing agency all records, including electronic and payment records related to the contract, for the same period provided by the records retention schedule applicable to TxDOT, and
- ensure that all subcontracts include a clause requiring the same.

* As defined in Government Code §552.003, "Contracting information" means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

- 1) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;
- 2) solicitation or bid documents relating to a contract with a governmental body;
- 3) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;
- 4) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and
- 5) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

CERTIFICATION TO NOT DISCRIMINATE AGAINST FIREARM ENTITIES OR FIREARM TRADE ASSOCIATIONS

Pursuant to Texas Government Code §2274.002, the Department must include a provision requiring a written verification affirming that the Contractor:

- 1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Government Code §2274.001, and
- 2) will not discriminate against a firearm entity or firearm trade association during the term of the

contract. This provision applies to a contract that:

- 1) is with a Contractor that is not a sole proprietorship,
- 2) is with a Contractor with 10 or more full-time employees, and
- 3) has a value of \$100,000 or more.

By signing the contract, the Contractor certifies that it does not discriminate against a firearm entity or firearm trade association as described and will not do so during the term of this contract. "Discriminate against a firearm entity or firearm trade association" means, with respect to the entity or association, to: (1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association. "Discriminate against a firearm entity or firearm trade association" does not include: (1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; (2) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Violation of this certification may result in action by the Department.

CHILD SUPPORT STATEMENT

Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

Prohibition on Certain Telecommunications Equipment or Services

The Federal Register Notice issued the Final Rule and states that the amendment to 2 CFR 200.216 is effective on August 13, 2020. The new 2 CFR 200.471 regulation provides clarity that the telecommunications and video surveillance costs associated with 2 CFR 200.216 are unallowable for services and equipment from these specific providers. [OMB's Federal Register Notice](#) includes the new 2 CFR 200.216 and 2 CFR 200.471 regulations.

Per the Federal Law referenced above, use of services, systems, or services or systems that contain components produced by any of the following manufacturers is strictly prohibited for use on this project. Therefore, for any telecommunications, CCTV, or video surveillance equipment, services or systems cannot be manufactured by, or have components manufactured by:

- Huawei Technologies Company,
- ZTE Corporation (any subsidiary and affiliate of such entities),
- Hyatera Communications Corporation,
- Hangzhou Hikvision Digital Technology Company,
- Dahua Technology Company (any subsidiary and affiliate of such entities).

Violation of this requirement will require replacement of the equipment at the contractor's expense.

Item 9L

Measurement and Payment



1. MEASUREMENT OF QUANTITIES

The Engineer will measure all completed work using United States standard measures, unless otherwise specified.

- 1.1. **Linear Measurement.** Unless otherwise specified, all longitudinal measurements for surface areas will be made along the actual surface of the roadway and not horizontally. No deduction will be made for structures in the roadway with an area of 9 sq. ft. or less. For all transverse measurements for areas of base courses, surface courses, and pavements, the dimensions to be used in calculating the pay areas will be the neat dimensions and will not exceed those shown on the plans, unless otherwise directed.
- 1.2. **Volume Measurement.** Transport materials measured for payment by volume in approved hauling vehicles. Display a unique identification mark on each vehicle. Furnish information necessary to calculate the volume capacity of each vehicle. The Engineer may require verification of volume through weight measurement. Use body shapes that allow the capacity to be verified. Load and level the load to the equipment's approved capacity. Loads not hauled in approved vehicles may be rejected.
- 1.3. **Weight Measurement.** Transport materials measured for payment by weight or truck measure in approved hauling vehicles. Furnish certified measurements, tare weights, and legal gross weight calculations for all haul units. Affix a permanent, legible number on the truck and on the trailer to correspond with the certified information. Furnish certified weights of loaded haul units transporting material if requested.

The material will be measured at the point of delivery. The cost of supplying these volume and weight capacities is subsidiary to the pertinent Item. For measurement by the ton, in the field, provide measurements in accordance with Item 520, "Weighing and Measuring Equipment," except for Items where ton measurements are measured by standard tables.

The Engineer may reject loads and suspend hauling operations for overloading.

- 1.3.1 **Hauling on Routes Accessible to the Traveling Public.** For payment purposes on haul routes accessible to the traveling public:
- If the gross vehicle weight is less than the maximum allowed by state law, including applicable yearly weight tolerance permit, the net weight of the load will be determined by deducting the tare weight of the vehicle from the gross weight.
 - If the gross vehicle weight is more than the maximum allowed by state law, including applicable yearly weight tolerance permit, the net weight of the load will be determined by deducting the tare weight of the vehicle from the maximum gross weight allowed.
- 1.3.2 **Hauling on Routes Not Accessible to the Traveling Public.** For payment purposes on haul routes that are not accessible to the traveling public where advance permission is obtained in writing from the Engineer:
- If the gross vehicle weight is less than the maximum allowed by the Engineer, including applicable yearly weight tolerance permit, the net weight of the load will be determined by deducting the tare weight of the vehicle from the gross weight.
 - If the gross vehicle weight is more than the maximum allowed by the Engineer, the net weight of the load will be determined by deducting the tare weight of the vehicle from the maximum gross weight allowed.

2. PLANS QUANTITY MEASUREMENT

Plans quantities may or may not represent the exact quantity of work performed or material moved, handled, or placed during the execution of the Contract. The estimated bid quantities are designated as final payment quantities, unless revised by the governing specifications or this Article.

If the quantity measured as outlined under "Measurement" varies by more than 5% (or as stipulated under "Measurement" for specific Items) from the total estimated quantity for an individual Item originally shown in the Contract, an adjustment may be made to the quantity of authorized work done for payment purposes.

When quantities are revised by a change in design approved by the Owner, by change order, or to correct an error on the plans, the plans quantity will be increased or decreased by the amount involved in the change, and the 5% variance will apply to the new plans quantity.

If the total Contract quantity multiplied by the unit bid price for an individual Item is less than \$250 and the Item is not originally a plans quantity Item, then the Item may be paid as a plans quantity Item if the Engineer and Contractor agree in writing to fix the final quantity as a plans quantity.

For Contracts with callout work and work orders, plans quantity measurement requirements are not applicable.

3. ADJUSTMENT OF QUANTITIES

The party to the Contract requesting the adjustment will provide field measurements and calculations showing the revised quantity. When approved, this revised quantity will constitute the final quantity for which payment will be made. Payment for revised quantity will be made at the unit price bid for that Item, except as provided for in Article 4L.4., "Changes in the Work."

4. SCOPE OF PAYMENT

Payment of the Contract unit price is full compensation for all materials, equipment, labor, tools, and supplies necessary to complete the Item of work under the Contract. Until final acceptance in accordance with Article 5L.12., "Final Acceptance," assume liability for completing the work according to the plans and specifications and any loss or damage arising from the performance of the work or from the action of the elements, infringement of patent, trademark, or copyright, except as provided elsewhere in the Contract.

The Owner will only pay for material incorporated into the work in accordance with the Contract. Payment of progress estimates will in no way affect the Contractor's obligation under the Contract to repair or replace any defective parts in the construction or to replace any defective materials used in the construction and to be responsible for all damages due to defects if the defects and damages are discovered on or before final inspection and acceptance of the work.

5. PROGRESS PAYMENTS

The Engineer will prepare a monthly estimate of the amount of work performed, including materials in place. Incomplete items of work may be paid at an agreed upon percentage approved by the Engineer. Payment of the monthly estimate is determined at the Contract item prices less any withholdings or deductions in accordance with the Contract. Progress payments may be withheld for failure to comply with the Contract.

It is the Owner's intent to pay a Contractor for work through the last working day of the month; however, the use of early cut-off dates for monthly estimates and MOH is a project management practice to manage workload at the local level. Approval for using early cut-off dates is at the Owner's discretion. The earliest cut-off date for pay applications is the 25th of the month.

6. PAYMENT FOR MATERIAL ON HAND (MOH)

If payment for MOH is desired, request compensation for the invoice cost of acceptable nonperishable materials that have not been used in the work before the request, and that have been delivered to the work location or are in acceptable storage places. Nonperishable materials are those that do not have a shelf life or whose characteristics do not materially change when exposed to the elements. Include only materials that have been sampled, tested, approved, or certified, and are ready for incorporation into the work. Only materials that are completely constructed or fabricated on the Contractor's order for a specific Contract and are so marked and on which an approved test report has been issued are eligible. Payment for MOH may include the following types of items: concrete traffic barrier, precast concrete box culverts, concrete piling, reinforced concrete pipe, and illumination poles. Any repairs required after fabricated materials have been approved for storage will require the Engineer's approval before being made and will be made at the Contractor's expense. Include only those materials and products, when cumulated under an individual item or similar bid items, that have an invoice cost of at least \$1,000 in the request for MOH payment. (E.g., for MOH eligibility, various sizes of conductor are considered similar bid items and may be cumulated to meet the threshold; for small roadside signs, the sign supports, mounting bolts, and the sign face are considered one bid item or similar bid items for more than one pay item for sign supports.) Requests for MOH are to be submitted at least 2 days before but not later than the estimate cut-off date unless otherwise agreed. If there is a need to request MOH after the established cut-off date, the Owner can make accommodation as the need arises. This needed accommodation is to be the exception, though, and not the rule.

For Contracts with callout work and work orders, payment for MOH will only be made for materials authorized for purchase by the work order or by written approval of the Engineer.

If the request is acceptable, the Engineer will include payment for MOH in a progress payment. Payment for MOH does not constitute acceptance of the materials. Payment will not exceed the actual cost of the material as established by invoice, or the total cost for the associated item less reasonable placement costs, whichever is less. Materials for which the Contractor does not have a paid invoice within 60 days will not be eligible for payment and will be removed from the estimate. Payment may be limited to a portion of the invoice cost or unit price if shown elsewhere in the Contract. Payment for precast products fabricated or constructed by the Contractor for which invoices or freight bills are not available may be made based on statements of actual cost.

Submit the request on forms provided by the Owner. These forms may be electronically reproduced, provided they are in the same format and contain all the required information and certifications. Continue to submit monthly MOH forms until the total value of MOH is \$0.

By submitting a request for MOH payment, the Contractor expressly authorizes the Owner to audit MOH records and to perform process reviews of the record-keeping system. If the Owner determines noncompliance with any of the requirements of this provision, the Owner may exclude payment for any or all MOH for the duration of the Contract.

Maintain all records relating to MOH payment until final acceptance. Provide these records to the Engineer upon request.

7. PAYMENT FOR EXTRA WORK AND FORCE ACCOUNT METHOD

Payment for extra work directed, performed, and accepted will be made in accordance with Article 4L.4., "Changes in the Work." Payment for extra work may be established by agreed unit prices or by Force Account Method.

Agreed unit prices are unit prices that include markups and are comparable to recent bid prices for the same character of work. These unit prices may be established without additional breakdown justification.

When using Force Account Method, determine an estimated cost for the proposed work and establish labor and equipment rates and material costs. Maintain daily records of extra work and provide copies of these

records daily, signed by the Contractor's representative, for the Owner's verification. Request payment for the extra work no later than the 10th day of the month following the month in which the work was performed. Include copies of all applicable invoices. If the extra work to be performed has an estimated cost of less than \$10,000, submit for approval and payment an invoice of actual cost for materials, equipment, labor, tools, and incidentals necessary to complete the extra work. When added work requires mobilization that is exclusive to the added work, mobilization may be added to the force account invoice for payment.

- 7.1. **Markups.** Payment for extra work may include markups as compensation for the use of small tools, overhead expense, and profit.
- 7.1.1. **Labor.** Compensation will be made for payroll rates for each hour that the labor and foremen or others approved by the Engineer are actually engaged in the work. In no case will the rate of wages be less than the minimum shown in the Contract for a particular category. An additional 25% of this sum will be paid as compensation for overhead, superintendence, profit, and small tools.
- 7.1.2. **Insurance and Taxes.** An additional 55% of the labor cost, excluding the 25% compensation provided in Section 9L.7.1.1., "Labor," will be paid as compensation for labor insurance and labor taxes including the cost of premiums on non-project-specific liability (excluding vehicular) insurance, workers compensation insurance, Social Security, unemployment insurance taxes, and fringe benefits.
- 7.1.3. **Materials.** Compensation will be made for materials associated with the work based on actual delivered invoice costs, less any discount. An additional 25% of this sum will be paid as compensation for overhead and profit.
- 7.1.4. **Equipment.** Payment will be made for the established equipment hourly rates for each hour that the equipment is involved in the work. An additional 15% of this sum will be paid as compensation for overhead and profit not included in the rates.

Transportation cost for mobilizing equipment will be included if the equipment is mobilized from an offsite location.

- 7.1.4.1. **Contractor-Owned Equipment.** For Contractor-owned machinery, trucks, power tools, or other equipment, use the FHWA rental rates found in Equipment Watch multiplied by the regional adjustment factor and the rate adjustment factor to establish hourly rates. Use the rates in effect for each section of Equipment Watch at the time of use.

If a rate has not been established for a particular piece of equipment in Equipment Watch, the Engineer will allow a reasonable hourly rate. This price will include operating costs.

Payment for equipment will be made for the actual hours used in the work. The Owner reserves the right to withhold payment for low production or lack of progress. Payment will not be made for time lost for equipment breakdowns, time spent to repair equipment, or time after equipment is no longer needed.

If equipment is used intermittently while dedicated solely to the work, payment will be made for the duration the equipment is assigned to the work but no more than 8 hr. will be paid during a 24-hr. day, nor more than 40 hr. per week, nor more than 176 hr. per month, except when time is computed using a 6-day or 7-day workweek. When using a 6-day workweek, no more than 8 hr. will be paid during a 24-hr. day, nor more than 48 hr. per week, nor more than 211 hr. per month. When using a 7-day workweek, no more than 8 hr. will be paid during a 24-hr. day, nor more than 56 hr. per week, nor more than 246 hr. per month.

- 7.1.4.2. **Equipment Not Owned by the Contractor.** For equipment rented from a third party not owned by the Contractor, payment will be made at the invoice daily rental rate for each day the equipment is needed for the work. The Owner reserves the right to limit the daily rate to comparable FHWA rental rates found in Equipment Watch multiplied by the regional adjustment factor and the rate adjustment factor. When the invoice specifies that the rental rate does not include fuel, lubricants, repairs, and servicing, the Equipment Watch hourly operating cost for each hour the equipment is operated will be added.

When the invoice specifies equipment operators as a component of the equipment rental, payment will be made at the invoice rate for each operator for each day the equipment is needed for the work.

7.1.4.3. Standby Equipment Costs. Payment for standby equipment will be made in accordance with Section 9L.7.1.4., "Equipment." The 15% markup will be paid when standby is associated with extra work but will not be paid when standby is associated with damages.

7.1.4.3.1. Contractor-Owned Equipment. For Contractor-owned equipment:

- Standby will be paid at 50% of the monthly Equipment Watch rate after the regional and age adjustment factors have been applied. Operating costs will not be allowed. Calculate the standby rate as follows.

$$\text{Standby rate} = (\text{FHWA hourly rate} - \text{operating costs}) \times 50\%$$

- If an hourly rate is needed, divide the monthly Equipment Watch rate by 176.
- No more than 8 hr. of standby will be paid during a 24-hr. day period, nor more than 40 hr. per week.
- Standby costs will not be allowed during periods when the equipment would have otherwise been idle.

7.1.4.3.2. Equipment Not Owned by the Contractor. For equipment rented from a third party not owned by the Contractor:

- Standby will be paid at the invoice daily rental rate, excluding operating cost, which includes fuel, lubricants, repairs, and servicing. The Owner reserves the right to limit the daily standby rate to comparable FHWA rental rates found in Equipment Watch multiplied by the regional adjustment factor and the rate adjustment factor.
- Standby will be paid for equipment operators when included on the invoice and equipment operators are actually on standby.
- Standby costs will not be allowed during periods when the equipment would have otherwise been idle.

7.1.5. Subcontracting. An additional 5% of the actual invoice cost will be paid to the Contractor as compensation for administrative cost and profit.

7.1.6. Law Enforcement Personnel. An additional 5% of the actual invoice cost will be paid as compensation for administrative costs and profit.

7.1.7. Railroad Flagger. An additional 5% of the actual invoice cost will be paid as compensation for administrative cost and profit.

7.1.8. Bond Cost. An additional 1% of the total compensation provided in Article 9.7., "Payment for Extra Work and Force Account Method," will be paid for the increase in bond.

8. RETAINAGE

The Owner will not withhold retainage on the Contractor. The Contractor may withhold retainage on subcontractors in accordance with state and federal regulations.

9. PAYMENT PROVISIONS FOR SUBCONTRACTORS

For the purposes of this Article only, the term subcontractor includes suppliers, and the term work includes materials provided by suppliers at a location approved by the Engineer.

These requirements apply to all tiers of subcontractors. Incorporate the provisions of this Article into all subcontract or material purchase agreements.

Pay subcontractors for work performed within 10 days after receiving payment from the Owner.

Pay any retainage on a subcontractor's work within 10 days after satisfactory completion of all the subcontractor's work. Completed subcontractor work includes vegetative establishment, test, maintenance, performance, and other similar periods that are the responsibility of the subcontractor.

For the purpose of this Section, satisfactory completion is accomplished when:

- the subcontractor has fulfilled the Contract requirements of both the Owner and the subcontract for the subcontracted work, including the submittal of all information required by the Contract and the Owner, and
- the work done by the subcontractor has been inspected, approved, and paid by the Owner.

Provide a certification of prompt payment to certify that all subcontractors and suppliers were paid from the previous month's payments and retainage was released for those whose work is complete. Submit the certification in the manner prescribed by the Owner each month and the month following the month when final acceptance occurred.

The inspection and approval of a subcontractor's work does not eliminate the Contractor's responsibilities for the work as defined in Article 7L.17., "Contractor's Responsibility for Work."

10. FINAL PAYMENT

When the Contract has been completed, all work has been approved, final acceptance has been made in accordance with Article 5L.12., "Final Acceptance," and Contractor submittals have been received, the Engineer will prepare a final estimate for payment showing the total quantity of work completed and the money owed the Contractor. The final payment will reflect the entire sum due, less any sums previously

Special Provision to Item 000

Nondiscrimination



1. DESCRIPTION

All recipients of federal financial assistance are required to comply with various nondiscrimination laws, including Title VI of the Civil Rights Act of 1964, as amended (Title VI). Title VI forbids discrimination against anyone in the United States on the grounds of race, color, or national origin by any agency receiving federal funds.

The Owner, as a recipient of federal financial assistance, and under Title VI and related statutes, ensures that no person will on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment in accordance with 42 USC 2000d-3), color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any of Owner's programs or activities.

2. DEFINITION OF TERMS

Where the term "Contractor" appears in the following six nondiscrimination clauses, the term "Contractor" is understood to include all parties to Contracts or agreements with the Owner.

3. NONDISCRIMINATION PROVISIONS

During the performance of this Contract, the Contractor agrees as follows.

- 3.1. **Compliance with Regulations.** The Contractor must comply with the Regulations pertinent to nondiscrimination in federally assisted programs of the United States Department of Transportation 49 CFR 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- 3.2. **Nondiscrimination.** The Contractor, regarding the work performed during the Contract, must 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 must not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- 3.3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, the Contractor must notify each potential subcontractor or supplier of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- 3.4. **Information and Reports.** The Contractor must provide all information and reports required by the Regulations or directives issued pursuant thereto, and must permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the Recipient or the Owner to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor must so certify to the Owner, or the Texas Department of Transportation as appropriate, and must set forth what efforts it has made to obtain the information.
- 3.5. **Sanctions for Noncompliance.** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the Owner must impose such Contract sanctions as it or the Owner may

determine to be appropriate, including, but not limited to actions defined in Article 5.1., “Authority of Engineer.”

- 3.6. **Incorporation of Provisions.** The Contractor must include the provisions of Sections 3.1–3.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor must take such action with respect to any subcontract or procurement as the Owner may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the Owner to enter into such litigation to protect the interests of the Owner, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Special Provision to Item 000

Certification of Nondiscrimination in Employment



1. GENERAL

By signing this proposal, the Bidder certifies that it has participated in a previous Contract or subcontract subject to the equal opportunity clause, as required by Executive Order (EO) 10925, 11114, or 11246, or if it has not participated in a previous Contract of this type, or if it has had previous Contracts or subcontracts and has not filed, it will file with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity (EEO), all reports due under the applicable filing requirements.

Note—The above certification is required by the EEO Regulations of the Secretary of Labor [41 CFR 60-1.7(b)(1)], and must be submitted by Bidders and proposed subcontractors only in connection with Contracts and subcontracts that are subject to the equal opportunity clause. Contracts and subcontracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only Contracts or subcontracts of \$10,000 or less are exempt.)

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

Proposed prime Contractors and subcontractors that have participated in a previous Contract or subcontract subject to the EO and 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 FHWA or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

Special Provision 000

Cargo Preference Act Requirements in Federal Aid Contracts



1. DESCRIPTION

All recipients of federal financial assistance are required to comply with the U.S. Department of Transportation's Cargo Preference Act requirements, 46 CFR 381, "Use of United States-Flag Vessels."

This requirement applies to material or equipment that is acquired specifically for a federal-aid highway project. It is not applicable to goods or materials that come into inventories independent of an FHWA-funded Contract.

When oceanic shipments are necessary for materials or equipment acquired for a specific federal-aid construction project, the Contractor agrees to:

- use privately owned United States-flag commercial vessels to ship at least 50% 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;
- furnish a legible copy of a rated, onboard commercial ocean bill of lading in English for each shipment of cargo described in Paragraph (b)(1) of 46 CFR 381, Section 7, "Federal Grant, Guaranty, Loan and Advance of Funds Agreements," 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, to both the Engineer (through the prime Contractor in the case of subcontractor bills of lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and
- insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Contract.

Special Provision to Item 000

Schedule of Liquidated Damages



The dollar amount of daily contract administration Liquidated Damages per Working Day is **\$1000.00**

Special Provision to Item 2L

Instructions to Bidders



Item 2, "Instructions to Bidders" of the Standard Specifications is amended with respect to the clauses cited below. No other clauses or requirements of this Item are waived or changed.

Article 7., "Nonresponsive Bid," is voided and replaced by the following.

The Owner will not accept a nonresponsive bid. A bid that has one or more of the deficiencies listed below is considered nonresponsive:

- the bid was not in the hands of the Letting Official at the time and location specified in the advertisement,
- a proposal form was submitted for the same project by a Bidder or Bidders and one or more of its partners or affiliates
- the Bidder was not authorized to receive a proposal form under Article 2.3., "Issuing Proposal Forms,"
- the Bidder failed to acknowledge receipt of all addenda issued,
- the proposal form was signed by a person who was not authorized to bind the Bidder or Bidders,
- the proposal guaranty did not comply with the requirements contained in this Item,
- the bid was in a form other than the official proposal form issued by the Owner,
- the Bidder modified the bid in a manner that altered the conditions or requirements for work as stated in the proposal form,
- the Bidder bid more than the maximum or less than the minimum number of allowable working days shown on the plans when working days was an item,
- a typed proposal form does not contain the information in the format shown on the "Example of Bid Prices Submitted by Computer Printout" on the proposal form,
- the Bidder did not meet the requirements of the technical qualification,
- the Bidder failed to submit a DBE commitment as specified in Article 2.14., "Disadvantaged Business Enterprise (DBE),"
- the Bidder failed to participate in the DHS E-Verify system as specified in Article 2.15., "Department of Homeland Security (DHS) E-Verify System," or
- the apparent low bid is mathematically and materially unbalanced.
- The bidder is not prequalified by TxDOT

Special Provision to Item 3L

Award and Execution of Contract



Item 3L, "Award and Execution of Contract," of the Standard Specifications is amended with respect to the clauses cited below. No other clauses or requirements of this Item are waived or changed.

Section 1.2., "Rejection," is voided and replaced by the following.

10.1.

Rejection. The Owner will reject the Contract if:

- collusion may have existed among the Bidders. Collusion participants will not be allowed to bid future proposals for the same Contract,
- the lowest bid is higher than the Owner's estimate, and re-advertising for bids may result in a lower bid,
- the low bid contains a bid error that satisfies the requirements and criteria in Article 2.12., "Consideration of Bid Errors," or
- rejection of the Contract is in the best interest of the Owner.

Special Provision to Item 6L

Control of Materials



Item 6L, "Control of Materials" of the Standard Specifications is amended with respect to the clauses cited below. No other clauses or requirements of this Item are waived or changed.

Section 1.1. "Buy America," and Section 1.2., "Buy America Exceptions," are voided and replaced by the following.

- 10.2. **Buy America.** Comply with the latest provisions of Build America, Buy America Act (BABA Act) and applicable CFR, which restrict funds being made available from Federal financial assistance programs unless all the iron products, steel products, manufactured products, and construction materials used in the project are manufactured in the United States. Use iron or steel products, manufactured products, or construction materials manufactured in the United States for all permanently installed materials and products except when defined in Section 1.1.5., "Buy America Exceptions."

A material is solely classified based on its status at the time it is brought to the work site as either an iron or steel product, construction material, manufactured product, or excluded material. Refer to the Buy America Material Classification Sheet found at <https://www.txdot.gov/business/resources/materials/buy-america/buy-america-material-classification-sheet.html> for additional clarification on material classification.

Texas Department of Transportation's MPLs include Gold Star listings for certain manufacturers, construction materials, or products. Gold Star items are manufacturers, materials, or products that have submitted a Buy America certification (as listed on an MPL) to be in compliance with the Buy America requirements. For items identified as a Gold Star manufacturer, material, or product: the only Material Sourcing documentation as stated in Table 1 BABA Submissions is required.

**Table1
BABA Submission Requirements**

Classification	Form 1818^{2&3} (notarized original Form D-9 USA-1)	Material Sourcing Documentation⁴	Form 2806^{5&6}	De Minimis Tracking Log⁷
Iron or Steel Products	✓	✓		✓
Construction Material		✓	✓	✓
Manufactured Product ¹		✓	✓	✓
<ol style="list-style-type: none"> 1. For ITS enclosures and precast concrete products as stated under Manufactured Products, submission requirements for Iron and Steel Products and Manufactured Products apply. Reinforcing Steel or items covered by TxDOT's Gold Star Program do not require a Form 1818 submission. 2. For miscellaneous steel exceptions may be allowed to submit a notarized certification letter in lieu of submitting Form 1818, as approved by the Owner. There are no exceptions for iron or steel products required to be furnished in accordance with item 441, "Steel Structures", or requested otherwise. Items covered by TxDOT's Gold Star Program do not require a Form 1818. 3. Item 450 aluminum metal railing and Item 610 aluminum roadway illumination poles, will require Form 1818 to be submitted when requested by the Owner. 4. For materials that are BABA compliant and are on TxDOT's Material Producer List (MPL). Material Sourcing Documentation is documentation, along with any necessary attachments, that connects the Material's source to project. Provide additional documentation at the request of the Owner. 5. Form 2806 is required to be submitted for products and materials to certify BABA compliance when an MPL does not exist for the corresponding material. 6. Form 2806 is required for materials that are not listed as BABA compliant on the associated MPL. 7. De Minimis Tracking Log is required for materials that are not BABA compliant and must be submitted in advance when de minimis waiver is being pursued. De Minimis Tracking Log must track non-compliant iron or steel products separately from non-compliant construction materials and manufactured products. Contact the Owner when either thresholds in 6.1.1.5, "Buy America Exceptions" is reached. Non-compliant items above the de minimis threshold will require removal and replacement with BABA compliant item, or not paid for as determined by the Engineer. 				

10.2.0.1. **Materials Excluded from Buy America.** Excluded Materials mean cement and cementitious material; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. Excluded Materials do not require domestic sourcing or Buy America certification.

Materials combined as an unsettled mixture delivered to a work site without final form, for incorporation into a project, such as hot mix asphalt, or wet concrete mixtures, are not a manufactured product and are considered excluded from Buy America.

10.2.0.2. **Iron or Steel Product.** Iron or steel products means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.

Predominantly of iron or steel or a combination of both means the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

For iron or steel products, manufacturing includes any process that modifies the chemical content, physical shape or size, or final finish of a product. The manufacturing process begins with initial melting and mixing and continues through fabrication (e.g., cutting, drilling, welding, bending.) and coating (e.g., paint, galvanizing, epoxy).

10.2.1. **Construction Materials.** Construction materials are classified as articles, materials, or supplies that consist of only one of the items listed in bullets below. Minor additions of articles, materials, supplies, or binding agents (as determined by the plans or the Engineer) to any of the items listed does not change the classification of a construction material.

- non-ferrous metals,

- plastic and polymer-based products (including polyvinyl chloride, composite building materials, and polymers used in fiber optic cables),
- glass (including optic glass),
- fiber optic cable (including drop cable),
- optical fiber,
- lumber,
- engineered wood, or
- drywall.

Each construction material has specific certification requirements stated below which constitute Buy America Compliance. Provide additional documentation as requested.

For non-ferrous metals, certification requires all manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.

For plastic and polymer-based products (including polyvinyl chloride, composite building materials, and polymers used in fiber optic cables), certification requires all manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

For glass (including optic glass), certification requires all manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

For fiber optic cable (including drop cable), certification requires all manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

For optical fiber, certification requires all manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

For lumber, certification requires all manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.

For engineered wood, certification requires all manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

For drywall, certification requires all manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

10.2.1.1.

Manufactured Product means articles, materials, or supplies that have been processed into a specific form and shape, or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. Manufactured products may include components that are iron or steel products, excluded materials, or construction materials. Any product classified as an iron or steel product, excluded material, or construction material is not a manufactured product. In addition, mixtures of excluded materials, such as asphalt or concrete mixtures, delivered to a work site without final form for incorporation into a project are not a manufactured product and are considered excluded.

Manufactured products are required to be Manufactured in the United States. For manufactured products, submit per submission table above.

Manufactured in the United States (for Manufactured Products) means the final assembly occurred in the United States of America.

Precast Concrete products classified as a manufactured product (not predominantly of iron and steel) are to be Manufactured in the United States and require iron or steel components to comply with manufacturing requirements for Iron or Steel Products stated in Section 6.1.1.2.

Intelligent Transportation Systems and other electronic hardware systems classified as a manufactured product are to be Manufactured in the United States and must require iron or steel cabinets or other enclosures of such systems to comply with manufacturing requirements for Iron or Steel Products stated in Section 6.1.1.2

Component means an article, material, or supply, whether manufactured or unmanufactured, incorporated directly into a manufactured product or where applicable, an iron or steel product.

10.2.1.2.

Buy America Exceptions. Use of iron or steel products, construction materials, and manufactured products manufactured in the United States is required unless the material meets an exception below.

- A waiver exists exempting the material from Buy America compliance.
- The total value of the non-compliant products (other than iron or steel products) is no more than the lesser of \$1,000,000 or 5% of Total Applicable Costs for the project. Total Applicable Cost means the actual cost of all materials requiring Buy America compliance including iron, steel, or other materials that are within the scope of existing waivers. Contractor must provide documentation showing under threshold in advance for Engineer's consideration.
- The total value of foreign iron or steel products, including delivery, does not exceed 0.1% of the total Contract cost or \$2,500, whichever is greater. The Contractor must provide documentation showing under threshold in advance for the Engineer's consideration.
- Foreign iron or steel products may be allowed when the Contract contains an alternate item for a foreign source iron or steel product and the Contract is awarded based on the alternate item.
- The materials are temporarily installed or are supplies, tools, and equipment not incorporated into the project. Temporarily installed means the materials and products must be removed at the end of the project or may be removed at the Contractor's convenience with the Engineer's approval.

SECTION S – SPECIAL PROVISIONS: STATE / FEDERAL REQUIREMENTS

- S1. Buy America (23 CFR 635.410)
- S2. Change Orders (23 CFR 635.120)
- S3. Child Support Documentation (Family Code 231.006)
- S4. Claims (23 CFR 635.124)
- S5. Differing Site Conditions (23 CFR 635.109) (23 USC 112 (e))
- S6. Blank
- S7. Title IV
- S8. Equipment Rental Rates (48 CFR 31.205-36)
- S9. FHWA Final Rule on Temporary Traffic Control Devices (23 CFR 630, Subpart K) (23 CFR 630.1008(d))
- S10. Lobbying Certification (49 CFR 20)
- S11. Local Hiring Preference (23 CFR 635.117)
- S12. Non-Collusion Provision (23 CFR 635.112(f))
- S13. Non-Discrimination Against Persons with Disabilities (49 CFR 27.7)
- S14. Non-Resident Bidder and Texas Preference (23 CFR 635.110(b))(23 CFR 635.110(f)(1))
- S15. Non-Segregated Facilities (23 CFR 633, Subpart A)
- S16. Patented/Proprietary Products (23 CFR 635.411)
- S17. Prequalification (23 CFR 635.110)
- S18. Prison Produced Materials (23 CFR 635.417)
- S19. Publicly-Owned Equipment (23 CFR 635.106)
- S20. Safety: Accident Prevention (OSHA) (23 CFR 635.108)
- S21. State or Local Preference (23 CFR 635.409)
- S22. Subcontracting (23 CFR 635.116)
- S23. Termination of Contract (23 CFR 635.125)
- S24. Time Extensions (23 CFR 635.121)
- S25. Trench Safety (Health & Safety Code: 756.022, 756.023)
- S26. Contractor's Assurance
- S27. Warranties and Warranty Clauses (23 CFR 635.413)
- S28. Miscellaneous Forms for Federal Aid Construction Contracts To Be Submitted With Proposal
 - Child Support Statement
 - DBE Program Commitment Agreement Form
 - Certification Regarding Lobbying
 - Disclosure of Lobbying Activities
 - Affidavit of Non-Collusion
 - Certificate of Non-Segregated Facilities
 - Certification of Absence of Suspension, Debarment, Voluntary Exclusion or Determination of Ineligibility

- Certification of Interest in Other Bid Proposal for This Work
- Business Ownership (To Be Completed With Contracts)

S1. BUY AMERICA

Title 23 - Highways

§635.410 Buy America requirements.

(a) The provisions of this section shall prevail and be given precedence over any requirements of this subpart which are contrary to this section. However, nothing in this section shall be construed to be contrary to the requirements of §635.409(a) of this subpart.

(b) No Federal-aid highway construction project is to be authorized for advertisement or otherwise authorized to proceed unless at least one of the following requirements is met:

(1) The project either: (i) Includes no permanently incorporated steel or iron materials, or (ii) if steel or iron materials are to be used, all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes which protect or enhance the value of the material to which the coating is applied.

(2) The State has standard contract provisions that require the use of domestic materials and products, including steel and iron materials, to the same or greater extent as the provisions set forth in this section.

(3) The State elects to include alternate bid provisions for foreign and domestic steel and iron materials which comply with the following requirements. Any procedure for obtaining alternate bids based on furnishing foreign steel and iron materials which is acceptable to the Division Administrator may be used. The contract provisions must (i) require all bidders to submit a bid based on furnishing domestic steel and iron materials, and (ii) clearly state that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and iron materials unless such total bid exceeds the lowest total bid based on furnishing foreign steel and iron materials by more than 25 percent.

(4) When steel and iron materials are used in a project, the requirements of this section do not prevent a minimal use of foreign steel and iron materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.

(c)(1) A State may request a waiver of the provisions of this section if;

(i) The application of those provisions would be inconsistent with the public interest; or

(ii) Steel and iron materials/products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality.

(2) A request for waiver, accompanied by supporting information, must be submitted in writing to the Regional Federal Highway Administrator (RFHWA) through the FHWA Division Administrator. A request must be submitted sufficiently in advance of the need for the waiver in order to allow time for proper review and action on the request. The RFHWA will have approval authority on the request.

(3) Requests for waivers may be made for specific projects, or for certain materials or products in specific geographic areas, or for combinations of both, depending on the circumstances.

(4) The denial of the request by the RFHWA may be appealed by the State to the Federal Highway Administrator (Administrator), whose action on the request shall be considered administratively final.

(5) A request for a waiver which involves nationwide public interest or availability issues or more than one FHWA region may be submitted by the RFHWA to the Administrator for action.

(6) A request for waiver and an appeal from a denial of a request must include facts and justification to support the granting of the waiver. The FHWA response to a request or appeal will be in writing and made available to the public upon request. Any request for a nationwide waiver and FHWA's action on such a request may be published in the FEDERAL REGISTER for public comment.

(7) In determining whether the waivers described in paragraph (c)(1) of this section will be granted, the FHWA will consider all appropriate factors including, but not limited to, cost, administrative burden, and delay that would be imposed if the provision were not waived.

(d) Standard State and Federal-aid contract procedures may be used to assure compliance with the requirements of this section.

[48 FR 53104, Nov. 25, 1983, as amended at 49 FR 18821, May 3, 1984; 58 FR 38975, July 21, 1993]

S2. CHANGE ORDERS

Title 23: Highways
PART 635—CONSTRUCTION AND MAINTENANCE
Subpart A—Contract Procedures

§635.120 Changes and extra work.

(a) Following authorization to proceed with a project, all major changes in the plans and contract provisions and all major extra work shall have formal approval by the Division Administrator in advance of their effective dates. However, when emergency or unusual conditions justify, the Division Administrator may give tentative advance approval orally to such changes or extra work and ratify such approval with formal approval as soon thereafter as practicable.

(b) For non-major changes and non-major extra work, formal approval is necessary but such approval may be given retroactively at the discretion of the Division Administrator. The STD should establish and document with the Division Administrator's concurrence specific parameters as to what constitutes a non-major change and non-major extra work.

(c) Changes in contract time, as related to contract changes or extra work, should be submitted at the same time as the respective work change for approval by the Division Administrator.

(d) In establishing the method of payment for contract changes or extra work orders, force account procedures shall only be used when strictly necessary, such as when agreement cannot be reached with the contractor on the price of a new work item, or when the extent of work is unknown or is of such character that a price cannot be determined to a reasonable degree of accuracy. The reason or reasons for using force account procedures shall be documented.

(e) The STD shall perform and adequately document a cost analysis of each negotiated contract change or negotiated extra work order. The method and degree of the cost analysis shall be subject to the approval of the Division Administrator.

(f) Proposed changes and extra work involved in nonparticipating operations that may affect the design or participating construction features of a project, shall be subject to review and concurrence by the Division Administrator.

S3. CHILD SUPPORT DOCUMENTATION

Sec. 231.006. INELIGIBILITY TO RECEIVE STATE GRANTS OR LOANS OR RECEIVE PAYMENT ON STATE
CONTRACTS.

- (a) A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to:
- (1) receive payments from state funds under a contract to provide property, materials, or services; or
 - (2) receive a state-funded grant or loan.
- (a-1) Repealed by Acts 2007, 80th Leg., R.S., Ch. 972, Sec. 65(1), eff. September 1, 2007.
- (b) A child support obligor or business entity ineligible to receive payments under Subsection (a) remains ineligible until:
- (1) all arrearages have been paid;
 - (2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or
 - (3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) as part of a court-supervised effort to improve earnings and child support payments.
- (c) A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application.
- (d) A contract, bid, or application subject to the requirements of this section must include the following statement:
- "Under Section [231.006](#), Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."
- (e) If a state agency determines that an individual or business entity holding a state contract is ineligible to receive payment under Subsection (a), the contract may be terminated.
- (f) If the certificate required under Subsection (d) is shown to be false, the vendor is liable to the state for attorney's fees, the costs necessary to complete the contract, including the cost of advertising and awarding a second contract, and any other damages provided by law or contract.
- (g) This section does not create a cause of action to contest a bid or award of a state grant, loan, or contract. This section does not impose a duty on the Title IV-D agency to collect information to send to the comptroller to withhold a payment to a business entity. The Title IV-D agency and other affected agencies are encouraged to develop a system by which the Title IV-D agency may identify a business entity that is ineligible to receive a state payment under Subsection (a) and to ensure that a state

payment to the entity is not made. This system should be implemented using existing funds and only if the Title IV-D agency, comptroller, and other affected agencies determine that it will be cost-effective.

(h) This section does not apply to a contract between governmental entities.

(i) The Title IV-D agency may adopt rules or prescribe forms to implement any provision of this section.

(j) A state agency may accept a bid that does not include the information required under Subsection (c) if the state agency collects the information before the contract, grant, or loan is executed.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 82, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 28, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 437, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1015, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 972 (S.B. 228), Sec. 45, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 972 (S.B. 228), Sec. 65(1), eff. September 1, 2007.

S4. CLAIMS

Title 23 - Highways

PART 635 – CONSTRUCTION AND MAINTENANCE

Subpart A - Contract Procedures.

§635.124 Participation in contract claim awards and settlements.

(a) The eligibility for and extent of Federal-aid participation up to the Federal statutory share in a contract claim award made by a State to a Federal-aid contractor on the basis of an arbitration or mediation proceeding, administrative board determination, court judgment, negotiated settlement, or other contract claim settlement shall be determined on a case-by-case basis. Federal funds will participate to the extent that any contract adjustments made are supported, and have a basis in terms of the contract and applicable State law, as fairly construed. Further, the basis for the adjustment and contractor compensation shall be in accord with prevailing principles of public contract law.

(b) The FHWA shall be made aware by the STD of the details of the claim at an early stage so that coordination of efforts can be satisfactorily accomplished. It is expected that STDs will diligently pursue the satisfactory resolution of claims within a reasonable period of time. Claims arising on exempt non- NHS projects should be processed in accordance with the State's approved Stewardship Plan.

(c) When requesting Federal participation, the STD shall set forth in writing the legal and contractual basis for the claim, together with the cost data and other facts supporting the award or settlement. Federal-aid participation in such instances shall be supported by a STD audit of the actual costs incurred by the contractor unless waived by the FHWA as unwarranted. Where difficult, complex, or novel legal issues appear in the claim, such that evaluation of legal controversies is critical to consideration of the award or settlement, the STD shall include in its submission a legal opinion from its counsel setting forth the basis for determining the extent of the liability under local law, with a level of detail commensurate with the magnitude and complexity of the issues involved.

(d) In those cases where the STD receives an adverse decision in an amount more than the STD was able to support prior to the decision or settles a claim in an amount more than the STD can support, the FHWA will participate up to the appropriate Federal matching share, to the extent that it involves a Federal-aid participating portion of the contract, provided that:

(1) The FHWA was consulted and concurred in the proposed course of action;

(2) All appropriate courses of action had been considered; and

(3) The STD pursued the case diligently and in a professional manner.

(e) Federal funds will not participate:

(1) If it has been determined that STD employees, officers, or agents acted with gross negligence, or participated in intentional acts or omissions, fraud, or other acts not consistent with usual State practices in project design, plan preparation, contract administration, or other activities which gave rise to the claim;

(2) In such cost items as consequential or punitive damages, anticipated profit, or any award or payment of attorney's fees paid by a State to an opposing party in litigation; and

(3) In tort, inverse condemnation, or other claims erroneously styled as claims "under a contract."

(f) Payment of interest associated with a claim will be eligible for participation provided that the payment to the contractor for interest is allowable by State statute or specification and the costs are not a result of delays caused by dilatory action of the State or the contractor. The interest rates must not exceed the rate provided for by the State statute or specification.

(g) In cases where STD's affirmatively recover compensatory damages through contract claims, cross-claims, or counter claims from contractors, subcontractors, or their agents on projects on which there was Federal-aid participation, the Federal share of such recovery shall be equivalent to the Federal share of the project or projects involved. Such recovery shall be credited to the project or projects from which the claim or claims arose.

S5. DIFFERING SITE CONDITIONS

Title 23: Highways
PART 635—CONSTRUCTION AND MAINTENANCE
Subpart A—Contract Procedures

§635.109 Standardized changed condition clauses.

(a) Except as provided in paragraph (b) of this section, the following changed conditions contract clauses shall be made part of, and incorporated in, each highway construction project approved under 23 U.S.C. 106:

(1) *Differing site conditions.* (i) During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.

(ii) Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.

(iii) No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.

(iv) No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the STD's at their option.)

(2) *Suspensions of work ordered by the engineer.* (i) If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

(ii) Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.

(iii) No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.

(iv) No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(3) *Significant changes in the character of work.* (i) The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are

necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.

(ii) If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.

(iii) If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.

(iv) The term "significant change" shall be construed to apply only to the following circumstances:

(A) When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or

(B) When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

(b) The provisions of this section shall be governed by the following:

(1) Where State statute does not permit one or more of the contract clauses included in paragraph (a) of this section, the State statute shall prevail and such clause or clauses need not be made applicable to Federal-aid highway contracts.

(2) Where the State transportation department has developed and implemented one or more of the contract clauses included in paragraph (a) of this section, such clause or clauses, as developed by the State transportation department may be included in Federal-aid highway contracts in lieu of the corresponding clause or clauses in paragraph (a) of this section. The State's action must be pursuant to a specific State statute requiring differing contract conditions clauses. Such State developed clause or clauses, however, must be in conformance with 23 U.S.C., 23 CFR and other applicable Federal statutes and regulations as appropriate and shall be subject to the Division Administrator's approval as part of the PS&E.

(c) In the case of a design-build project, STDs are strongly encouraged to use "suspensions of work ordered by the engineer" clauses, and may consider "differing site condition" clauses and "significant changes in the character of work" clauses which are appropriate for the risk and responsibilities that are shared with the design-builder.

[56 FR 37004, Aug. 2, 1991; 57 FR 10062, Mar. 23, 1992, as amended at 67 FR 75925, Dec. 10, 2002]

23 U.S.C.
United States Code, 2011 Edition
Title 23 - HIGHWAYS
CHAPTER 1 - FEDERAL-AID HIGHWAYS
Sec. 112 - Letting of contracts

§112. Letting of contracts

(E) Prenotification; confidentiality of data.—A recipient of funds requesting or using the cost and rate data described in subparagraph (D) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency which is not part of the group of agencies sharing cost data under this paragraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

S6. LEFT INTENTIONALLY BLANK

S7. TITLE VI ASSURANCES/COMPLIANCE POLICY

TITLE VI ASSURANCES/COMPLIANCE POLICY

The County, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Pursuant to Title VI requirements, any entity or person that enters into a contract with Dallas County including, but not limited to prime contractors, sub-contractors, and sub-recipients, may not discriminate on the basis of race, color, national origin, age, sex, disability, or religion in their selection and retention of subcontractors (including consultants), in connection with any federally funded program or activity (including any program or activity undertaken/funded by a Dallas County Division/Department that receives federal funds).

This solicitation packet contains information concerning Dallas County's Title VI Assurances/Compliance Policy (Appendix A) and Bidders/Contractor responsibilities.

TITLE VI ASSURANCES/COMPLIANCE - APPENDIX A

A. *Assurances*

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 the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** 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 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 forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential 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 Nondiscrimination 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 a contractor's noncompliance with the Nondiscrimination 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. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the 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 a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

B. Nondiscrimination Authorities

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 nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination 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 U.S.C. § 4 71, Section 4 7123), 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 Nondiscrimination 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).

C. *Representations/Warranties*

The Contractor also makes the following representations and warranties to Dallas County:

1. It has taken the steps necessary to effectuate Title VI requirements.
2. Disadvantaged business enterprises are afforded equal opportunity to submit bids/proposals as sub-contractors or sub-consultants and will not be discriminated against on the grounds of race, color, sex, age, disability, religion, veteran status, or national origin in consideration of a selection or award.
3. Neither contractor or any subcontractors or sub-recipients that will participate in activities to be funded as a result of this contract/bid/solicitation, are listed on the debarred list due to violations of Title VI or VII of the Civil Rights Act of 1964, nor are any proposed parties to this contract, or any subcontract resulting therefrom, aware of any pending action which might result in such debarment or disqualification.

D. *Title VI Complaints*

Any person, contractor, or subcontractor who believes that they have been subjected to an unlawful discriminatory practice under Title VI will be notified of their right to file a formal complaint within one hundred eighty (180) days following the alleged discriminatory action or the date the person(s) became aware of the alleged act(s) of discrimination. Any such complaint must be filed in writing or in person with the Dallas County Title VI Coordinator:

Dallas County Human Resources
 c/o: Dallas County Director of Human Resources and Title VI Coordinator
 1201 Elm St., 23rd Floor,
 Dallas, TX 75202
 (214) 653-7638 (phone)
 (214) 653-7608 (fax)

A copy of Dallas County Title VI Non-Discrimination Plan and Documents, and complaint forms, may be obtained at http://www.dallascounty.org/department/HR/title_vi.html or at the address above.

A complainant may also contact the Federal Coordination and Compliance Office, Civil Rights Division at the Title VI Hotline: 888-TITLE-06 (888-848-5306) or send a letter to: U.S. Department of Justice Civil Rights Division Federal Coordination and Compliance Section, N.W. 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530. More information on Title VI is available from the Justice Department online at www.justice.gov.

Contractor shall comply with all reasonable requests made in the course of an investigation of Title VI and these assurances by Dallas County, the Texas Department of Transportation, the US Department of Transportation, the US Department of Justice, or any other federal or state agency. Failure to comply with such reasonable requests will be deemed a breach of this contract/bid/solicitation.

E. Enforcement

The contractor affirmatively acknowledges that it will be subject to Title VI, and implementing regulations, and any enforcement measures therein. In addition to any enforcement action by Dallas County, the contractor acknowledges that the United States and the State of Texas has a right to seek judicial enforcement with regard to any matter arising under Title VI, including the assurances herein.

Contractor's Full Name:

Signature, Authorized Representative of Contractor

Date

Title

S8. EQUIPMENT RENTAL RATES

Title 48: Federal Acquisition Regulations System

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205-36 Rental costs.

(a) This subsection is applicable to the cost of renting or leasing real or personal property acquired under "operating leases" as defined in Financial Accounting Standards Board's Accounting Standards Codification (FASB ASC) 840, Leases. (See 31.205-11 for Capital Leases.)

(b) The following costs are allowable:

(1) Rental costs under operating leases, to the extent that the rates are reasonable at the time of the lease decision, after consideration of (i) rental costs of comparable property, if any; (ii) market conditions in the area; (iii) the type, life expectancy, condition, and value of the property leased; (iv) alternatives available; and (v) other provisions of the agreement.

(2) Rental costs under a sale and leaseback arrangement only up to the amount the contractor would be allowed if the contractor retained title, computed based on the net book value of the asset on the date the contractor becomes a lessee of the property adjusted for any gain or loss recognized in accordance with 31.205-16(b).

(3) Charges in the nature of rent for property between any divisions, subsidiaries, or organization under common control, to the extent that they do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, facilities capital cost of money, and maintenance (excluding interest or other unallowable costs pursuant to part 31), provided that no part of such costs shall duplicate any other allowed cost. Rental cost of personal property leased from any division, subsidiary, or affiliate of the contractor under common control, that has an established practice of leasing the same or similar property to unaffiliated lessees shall be allowed in accordance with subparagraph (b)(1) above.

(c) The allowability of rental costs under unexpired leases in connection with terminations is treated in 31.205-42(e).

[48 FR 42301, Sept. 19, 1983, as amended at 51 FR 2665, Jan. 17, 1986; 61 FR 69288, Dec. 31, 1996; 68 FR 69248, Dec. 11, 2003; 70 FR 33676, June 8, 2005; 77 FR 203, Jan. 3, 2012]

S9. FHWA FINAL RULE ON TEMPORARY TRAFFIC CONTROL DEVICES

Title 23: Highways

PART 630—PRECONSTRUCTION PROCEDURES

Subpart K—Temporary Traffic Control Devices

AUTHORITY: 23 U.S.C. 109(c) and 112; Sec. 1110 of Pub. L. 109-59; 23 CFR 1.32; and 49 CFR 1.48(b).

SOURCE: 72 FR 68489, Dec. 5, 2007, unless otherwise noted.

§630.1102 Purpose.

To decrease the likelihood of highway work zone fatalities and injuries to workers and road users by establishing minimum requirements and providing guidance for the use of positive protection devices between the work space and motorized traffic, installation and maintenance of temporary traffic control devices, and use of uniformed law enforcement officers during construction, utility, and maintenance operations, and by requiring contract pay items to ensure the availability of funds for these provisions. This subpart is applicable to all Federal-aid highway projects, and its application is encouraged on other highway projects as well.

§630.1104 Definitions.

For the purposes of this subpart, the following definitions apply:

Agency means a State or local highway agency or authority that receives Federal-aid highway funding.

Exposure Control Measures means traffic management strategies to avoid work zone crashes involving workers and motorized traffic by eliminating or reducing traffic through the work zone, or diverting traffic away from the work space.

Federal-aid Highway Project means highway construction, maintenance, and utility projects funded in whole or in part with Federal-aid funds.

Motorized Traffic means the motorized traveling public. This term does not include motorized construction or maintenance vehicles and equipment within the work space.

Other Traffic Control Measures means all strategies and temporary traffic controls other than Positive Protection Devices and Exposure Control Measures, but including uniformed law enforcement officers, used to reduce the risk of work zone crashes involving motorized traffic.

Positive Protection Devices means devices that contain and/or redirect vehicles and meet the crashworthiness evaluation criteria contained in National Cooperative Highway Research Program (NCHRP) Report 350, Recommended Procedures for the Safety Performance Evaluation of Highway Features, 1993, Transportation Research Board, National Research Council. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This document is available for inspection and copying at FHWA, 1200 New Jersey Avenue, SE., Washington, DC 20590, as provided in 49 CFR part 7. You may also inspect a copy at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741 6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Work Zone Safety Management means the entire range of traffic management and control and highway safety strategies and devices used to avoid crashes in work zones that can lead to worker and road user injuries and fatalities, including Positive Protection Devices, Exposure Control Measures, and Other Traffic Control Measures.

§630.1106 Policy and procedures for work zone safety management.

(a) Each agency's policy and processes, procedures, and/or guidance for the systematic consideration and management of work zone impacts, to be established in accordance with 23 CFR 630.1006, shall include the consideration and management of road user and worker safety on Federal-aid highway projects. These processes, procedures, and/or guidance, to be developed in partnership with the FHWA, shall address the use of Positive Protection Devices to prevent the intrusion of motorized traffic into the work space and other potentially hazardous areas in the work zone; Exposure Control Measures to avoid or minimize worker exposure to motorized traffic and road user exposure to work activities; Other Traffic Control Measures including uniformed law enforcement officers to minimize work zone crashes; and the safe entry/exit of work vehicles onto/from the travel lanes. Each of these strategies should be used to the extent that they are possible, practical, and adequate to manage work zone exposure and reduce the risks of crashes resulting in fatalities or injuries to workers and road users.

(b) Agency processes, procedures, and/or guidance should be based on consideration of standards and/or guidance contained in the Manual on Uniform Traffic Control Devices (MUTCD) and the AASHTO Roadside Design Guide, as well as project characteristics and factors. The strategies and devices to be used may be determined by a project-specific engineering study, or determined from agency guidelines that define strategies and approaches to be used based on project and highway characteristics and factors. The types of measures and strategies to be used are not mutually exclusive, and should be considered in combination as appropriate based on characteristics and factors such as those listed below:

- (1) Project scope and duration;
- (2) Anticipated traffic speeds through the work zone;
- (3) Anticipated traffic volume;
- (4) Vehicle mix;
- (5) Type of work (as related to worker exposure and crash risks);
- (6) Distance between traffic and workers, and extent of worker exposure;
- (7) Escape paths available for workers to avoid a vehicle intrusion into the work space;
- (8) Time of day (e.g., night work);
- (9) Work area restrictions (including impact on worker exposure);
- (10) Consequences from/to road users resulting from roadway departure;
- (11) Potential hazard to workers and road users presented by device itself and during device placement and removal;
- (12) Geometrics that may increase crash risks (e.g., poor sight distance, sharp curves);

- (13) Access to/from work space;
- (14) Roadway classification; and
- (15) Impacts on project cost and duration.

(c) Uniformed Law Enforcement Policy. Each agency, in partnership with the FHWA, shall develop a policy addressing the use of uniformed law enforcement on Federal-aid highway projects. The policy may consist of processes, procedures, and/or guidance. The processes, procedures, and/or guidance should address the following:

- (1) Basic interagency agreements between the highway agency and appropriate law enforcement agencies to address work zone enforcement needs;
- (2) Interaction between highway and law-enforcement agency during project planning and development;
- (3) Conditions where law enforcement involvement in work zone traffic control may be needed or beneficial, and criteria to determine the project-specific need for law enforcement;
- (4) General nature of law enforcement services to be provided, and procedures to determine project-specific services;
- (5) Appropriate work zone safety and mobility training for the officers, consistent with the training requirements in 23 CFR 630.1008(d);
- (6) Procedures for interagency and project-level communications between highway agency and law enforcement personnel; and
- (7) Reimbursement agreements for law enforcement service.

§630.1108 Work zone safety management measures and strategies.

(a) *Positive Protection Devices.* The need for longitudinal traffic barrier and other positive protection devices shall be based on an engineering study. The engineering study may be used to develop positive protection guidelines for the agency, or to determine the measures to be applied on an individual project. The engineering study should be based on consideration of the factors and characteristics described in section 630.1106(b). At a minimum, positive protection devices shall be considered in work zone situations that place workers at increased risk from motorized traffic, and where positive protection devices offer the highest potential for increased safety for workers and road users, such as:

- (1) Work zones that provide workers no means of escape from motorized traffic (e.g., tunnels, bridges, etc.);
- (2) Long duration work zones (e.g., two weeks or more) resulting in substantial worker exposure to motorized traffic;
- (3) Projects with high anticipated operating speeds (e.g., 45 mph or greater), especially when combined with high traffic volumes;
- (4) Work operations that place workers close to travel lanes open to traffic; and

(5) Roadside hazards, such as drop-offs or unfinished bridge decks, that will remain in place overnight or longer.

(b) *Exposure Control Measures.* Exposure Control Measures should be considered where appropriate to avoid or minimize worker exposure to motorized traffic and exposure of road users to work activities, while also providing adequate consideration to the potential impacts on mobility. A wide range of measures may be appropriate for use on individual projects, such as:

- (1) Full road closures;
- (2) Ramp closures;
- (3) Median crossovers;
- (4) Full or partial detours or diversions;
- (5) Protection of work zone setup and removal operations using rolling road blocks;
- (6) Performing work at night or during off-peak periods when traffic volumes are lower; and
- (7) Accelerated construction techniques.

(c) *Other Traffic Control Measures.* Other Traffic Control Measures should be given appropriate consideration for use in work zones to reduce work zone crashes and risks and consequences of motorized traffic intrusion into the work space. These measures, which are not mutually exclusive and should be considered in combination as appropriate, include a wide range of other traffic control measures such as:

- (1) Effective, credible signing;
- (2) Changeable message signs;
- (3) Arrow panels;
- (4) Warning flags and lights on signs;
- (5) Longitudinal and lateral buffer space;
- (6) Trained flaggers and spotters;
- (7) Enhanced flagger station setups;
- (8) Intrusion alarms;
- (9) Rumble strips;
- (10) Pace or pilot vehicle;
- (11) High quality work zone pavement markings and removal of misleading markings;
- (12) Channelizing device spacing reduction;

(13) Longitudinal channelizing barricades;

(14) Work zone speed management (including changes to the regulatory speed and/or variable speed limits);

(15) Law enforcement;

(16) Automated speed enforcement (where permitted by State/local laws);

(17) Drone radar;

(18) Worker and work vehicle/equipment visibility;

(19) Worker training;

(20) Public information and traveler information; and

(21) Temporary traffic signals.

(d) *Uniformed Law Enforcement Officers.* (1) A number of conditions may indicate the need for or benefit of uniformed law enforcement in work zones. The presence of a uniformed law enforcement officer and marked law enforcement vehicle in view of motorized traffic on a highway project can affect driver behavior, helping to maintain appropriate speeds and improve driver alertness through the work zone. However, such law enforcement presence is not a substitute for the temporary traffic control devices required by Part 6 of the MUTCD. In general, the need for law enforcement is greatest on projects with high traffic speeds and volumes, and where the work zone is expected to result in substantial disruption to or changes in normal traffic flow patterns. Specific project conditions should be examined to determine the need for or potential benefit of law enforcement, such as the following:

(i) Frequent worker presence adjacent to high-speed traffic without positive protection devices;

(ii) Traffic control setup or removal that presents significant risks to workers and road users;

(iii) Complex or very short term changes in traffic patterns with significant potential for road user confusion or worker risk from traffic exposure;

(iv) Night work operations that create substantial traffic safety risks for workers and road users;

(v) Existing traffic conditions and crash histories that indicate a potential for substantial safety and congestion impacts related to the work zone activity, and that may be mitigated by improved driver behavior and awareness of the work zone;

(vi) Work zone operations that require brief stoppage of all traffic in one or both directions;

(vii) High-speed roadways where unexpected or sudden traffic queuing is anticipated, especially if the queue forms a considerable distance in advance of the work zone or immediately adjacent to the work space; and

(viii) Other work site conditions where traffic presents a high risk for workers and road users, such that the risk may be reduced by improving road user behavior and awareness.

(2) Costs associated with the provision of uniformed law enforcement to help protect workers and road users, and to maintain safe and efficient travel through highway work zones, are eligible for Federal-aid participation. Federal-aid eligibility excludes law enforcement activities that would normally be expected in and around highway problem areas requiring routine or ongoing law enforcement traffic control and enforcement activities. Payment for the services of uniformed law enforcement in work zones may be included in the construction contract, or be provided by direct reimbursement from the highway agency to the law enforcement agency. When payment is included through the construction contract, the contractor will be responsible for reimbursing the law enforcement agency, and in turn will recover those costs through contract pay items. Direct interagency reimbursement may be made on a project-specific basis, or on a program-wide basis that considers the overall level of services to be provided by the law enforcement agency. Contract pay items for law enforcement service may be either unit price or lump sum items. Unit price items should be utilized when the highway agency can estimate and control the quantity of law enforcement services required on the project. The use of lump sum payment should be limited to situations where the quantity of services is directly affected by the contractor's choice of project scheduling and chosen manner of staging and performing the work. Innovative payment items may also be considered when they offer an advantage to both the highway agency and the contractor. When reimbursement to the law enforcement agency is made by interagency transfer of funds, the highway agency should establish a program-level or project-level budget that is adequate to meet anticipated program or project needs, and include provisions to address unplanned needs and other contingencies.

(e) *Work Vehicles and Equipment.* In addition to addressing risks to workers and road users from motorized traffic, the agency processes, procedures, and/or guidance established in accordance with 23 CFR 630.1006 should also address safe means for work vehicles and equipment to enter and exit traffic lanes and for delivery of construction materials to the work space, based on individual project characteristics and factors.

(f) *Payment for Traffic Control.* Consistent with the requirements of 23 CFR 630.1012, Project-level Procedures, project plans, specifications and estimates (PS&Es) shall include appropriate pay item provisions for implementing the project Transportation Management Plan (TMP), which includes a Temporary Traffic Control (TTC) plan, either through method or performance based specifications. Pay item provisions include, but are not limited to, the following:

(1) Payment for work zone traffic control features and operations shall not be incidental to the contract, or included in payment for other items of work not related to traffic control and safety;

(2) As a minimum, separate pay items shall be provided for major categories of traffic control devices, safety features, and work zone safety activities, including but not limited to positive protection devices, and uniformed law enforcement activities when funded through the project;

(3) For method based specifications, the specifications and other PS&E documents should provide sufficient details such that the quantity and types of devices and the overall effort required to implement and maintain the TMP can be determined;

(4) For method-based specifications, unit price pay items, lump sum pay items, or a combination thereof may be used;

(5) Lump sum payment should be limited to items for which an estimate of the actual quantity required is provided in the PS&E or for items where the actual quantity required is dependent upon the contractor's choice of work scheduling and methodology;

(6) For Lump Sum items, a contingency provision should be included such that additional payment is provided if the quantity or nature of the required work changes, either an increase or decrease, due to circumstances beyond the control of the contractor;

(7) Unit price payment should be provided for those items over which the contractor has little or no control over the quantity, and no firm estimate of quantities is provided in the PS&Es, but over which the highway agency has control of the actual quantity to be required during the project;

(8) Specifications should clearly indicate how placement, movement/relocation, and maintenance of traffic control devices and safety features will be compensated; and

(9) The specifications should include provisions to require and enforce contractor compliance with the contract provisions relative to implementation and maintenance of the project TMP and related traffic control items. Enforcement provisions may include remedies such as liquidated damages, work suspensions, or withholding payment for noncompliance.

§630.1110 Maintenance of temporary traffic control devices.

To provide for the continued effectiveness of temporary traffic control devices, each agency shall develop and implement quality guidelines to help maintain the quality and adequacy of the temporary traffic control devices for the duration of the project. Agencies may choose to adopt existing quality guidelines such as those developed by the American Traffic Safety Services Association (ATSSA) or other state highway agencies.¹ A level of inspection necessary to provide ongoing compliance with the quality guidelines shall be provided.

¹The American Traffic Safety Services Association's (ATSSA) Quality Guidelines for Work Zone Traffic Control Devices uses photos and written descriptions to help judge when a traffic control device has outlived its usefulness. These guidelines are available for purchase from ATSSA through the following URL: http://www.atssa.com/store/bc_item_detail.jsp?productId=1. Similar guidelines are available from various State highway agencies. The Illinois Department of Transportation "Quality Standards for Work Zone Traffic Control Devices" is available online at <http://dot.state.il.us/workzone/wztcd2004r.pdf>. The Minnesota Department of Transportation "Quality Standards—Methods to determine whether the various traffic control devices are Acceptable, Marginal, or Unacceptable" is available online at <http://www.dot.state.mn.us/trafficeng/otepubl/fieldmanual2007/FM-2007-QualityStandards.pdf>.

§630.1108 Work zone safety management measures and strategies.

(d) *Uniformed Law Enforcement Officers.* (1) A number of conditions may indicate the need for or benefit of uniformed law enforcement in work zones. The presence of a uniformed law enforcement officer and marked law enforcement vehicle in view of motorized traffic on a highway project can affect driver behavior, helping to maintain appropriate speeds and improve driver alertness through the work zone. However, such law enforcement presence is not a substitute for the temporary traffic control devices required by Part 6 of the MUTCD. In general, the need for law enforcement is greatest on projects with high traffic speeds and volumes, and where the work zone is expected to result in substantial disruption to or changes in normal traffic flow patterns. Specific project conditions should be examined to determine the need for or potential benefit of law enforcement, such as the following:

- (i) Frequent worker presence adjacent to high-speed traffic without positive protection devices;
- (ii) Traffic control setup or removal that presents significant risks to workers and road users;
- (iii) Complex or very short term changes in traffic patterns with significant potential for road user confusion or worker risk from traffic exposure;
- (iv) Night work operations that create substantial traffic safety risks for workers and road users;
- (v) Existing traffic conditions and crash histories that indicate a potential for substantial safety and congestion impacts related to the work zone activity, and that may be mitigated by improved driver behavior and awareness of the work zone;
- (vi) Work zone operations that require brief stoppage of all traffic in one or both directions;
- (vii) High-speed roadways where unexpected or sudden traffic queuing is anticipated, especially if the queue forms a considerable distance in advance of the work zone or immediately adjacent to the work space; and
- (viii) Other work site conditions where traffic presents a high risk for workers and road users, such that the risk may be reduced by improving road user behavior and awareness.

(2) Costs associated with the provision of uniformed law enforcement to help protect workers and road users, and to maintain safe and efficient travel through highway work zones, are eligible for Federal-aid participation. Federal-aid eligibility excludes law enforcement activities that would normally be expected in and around highway problem areas requiring routine or ongoing law enforcement traffic control and enforcement activities. Payment for the services of uniformed law enforcement in work zones may be included in the construction contract, or be provided by direct reimbursement from the highway agency to the law enforcement agency. When payment is included through the construction contract, the contractor will be responsible for reimbursing the law enforcement agency, and in turn will recover those costs through contract pay items. Direct interagency reimbursement may be made on a project-specific basis, or on a program-wide basis that considers the overall level of services to be provided by the law enforcement agency. Contract pay items for law enforcement service may be either unit price or lump sum items. Unit price items should be utilized when the highway agency can estimate and control the quantity of law enforcement services required on the project. The use of lump sum payment should be limited to situations where the quantity of services is directly affected by the contractor's choice of project scheduling and chosen manner of staging and performing the work. Innovative payment items may also be considered when they offer an advantage to both the highway agency and the contractor. When reimbursement to the law enforcement agency is made by interagency transfer of funds, the highway agency should establish a program-level or project-level budget that is adequate to meet anticipated program or project needs, and include provisions to address unplanned needs and other contingencies.

S10. LOBBYING CERTIFICATION

Title 49: Transportation

PART 20—NEW RESTRICTIONS ON LOBBYING

AUTHORITY: Sec. 319, Public Law 101-121 (31 U.S.C. 1352); 49 U.S.C. 322(a).

SOURCE: 55 FR 6737, 6756, Feb. 26, 1990, unless otherwise noted.

CROSS REFERENCE: See also Office of Management and Budget notice published at 54 FR 52306, December 20, 1989.

Subpart A—General

§20.100 Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: 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) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, set forth in appendix A, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form, set forth in appendix B, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, set forth in appendix A, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form, set forth in appendix B, if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

§20.105 Definitions.

For purposes of this part:

(a) *Agency*, as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

(b) *Covered Federal action* means any of the following Federal actions:

(1) The awarding of any Federal contract;

(2) The making of any Federal grant;

(3) The making of any Federal loan;

(4) The entering into of any cooperative agreement; and,

(5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan. Loan guarantees and loan insurance are addressed independently within this part.

(c) *Federal contract* means an acquisition contract awarded by an agency, including those subject to the Federal Acquisition Regulation (FAR), and any other acquisition contract for real or personal property or services not subject to the FAR.

(d) *Federal cooperative agreement* means a cooperative agreement entered into by an agency.

(e) *Federal grant* means an award of financial assistance in the form of money, or property in lieu of money, by the Federal Government or a direct appropriation made by law to any person. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, loan insurance, interest subsidies, insurance, or direct United States cash assistance to an individual.

(f) *Federal loan* means a loan made by an agency. The term does not include loan guarantee or loan insurance.

(g) *Indian tribe* and *tribal organization* have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

(h) *Influencing or attempting to influence* means making, with the intent to influence, any communication to or appearance before an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

(i) *Loan guarantee* and *loan insurance* means an agency's guarantee or insurance of a loan made by a person.

(j) *Local government* means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

(k) *Officer or employee of an agency* includes the following individuals who are employed by an agency:

(1) An individual who is appointed to a position in the Government under title 5, U.S. Code, including a position under a temporary appointment;

(2) A member of the uniformed services as defined in section 101(3), title 37, U.S. Code;

(3) A special Government employee as defined in section 202, title 18, U.S. Code; and,

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, U.S. Code appendix 2.

(l) *Person* means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

(m) *Reasonable compensation* means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

(n) *Reasonable payment* means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

(o) *Recipient* includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

(p) *Regularly employed* means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guarantee commitment. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

(q) *State* means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

§20.110 Certification and disclosure.

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

(1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or

(2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

(1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or

(2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,

Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:

(1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,

(3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

(1) A subcontract exceeding \$100,000 at any tier under a Federal contract;

(2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;

(3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,

(4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement,

Shall file a certification, and a disclosure form, if required, to the next tier above.

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

(g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

(h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

Subpart B—Activities by Own Employees

§20.200 Agency and legislative liaison.

(a) The prohibition on the use of appropriated funds, in §20.100 (a), does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(b) For purposes of paragraph (a) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.

(c) For purposes of paragraph (a) of this section, the following agency and legislative liaison activities are allowable at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) For purposes of paragraph (a) of this section, the following agencies and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by this section are allowable under this section.

§20.205 Professional and technical services.

(a) The prohibition on the use of appropriated funds, in §20.100 (a), does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any

bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

(b) For purposes of paragraph (a) of this section, “professional and technical services” shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by this section are allowable under this section.

§20.210 Reporting.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

Subpart C—Activities by Other Than Own Employees

§20.300 Professional and technical services.

(a) The prohibition on the use of appropriated funds, in §20.100 (a), does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

(b) The reporting requirements in §20.110 (a) and (b) regarding filing a disclosure form by each person, if required, shall not apply with respect to professional or technical services rendered directly in the preparation, submission, or negotiation of any commitment providing for the United States to insure or guarantee a loan.

(c) For purposes of paragraph (a) of this section, “professional and technical services” shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting or a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed

accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(d) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(e) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(f) Only those services expressly authorized by this section are allowable under this section.

Subpart D—Penalties and Enforcement

§20.400 Penalties.

(a) Any person who makes an expenditure prohibited herein shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

(b) Any person who fails to file or amend the disclosure form (see appendix B) to be filed or amended if required herein, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(c) A filing or amended filing on or after the date on which an administrative action for the imposition of a civil penalty is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. An administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

(d) In determining whether to impose a civil penalty, and the amount of any such penalty, by reason of a violation by any person, the agency shall consider the nature, circumstances, extent, and gravity of the violation, the effect on the ability of such person to continue in business, any prior violations by such person, the degree of culpability of such person, the ability of the person to pay the penalty, and such other matters as may be appropriate.

(e) First offenders under paragraphs (a) or (b) of this section shall be subject to a civil penalty of \$10,000, absent aggravating circumstances. Second and subsequent offenses by persons shall be subject to an appropriate civil penalty between \$10,000 and \$100,000, as determined by the agency head or his or her designee.

(f) An imposition of a civil penalty under this section does not prevent the United States from seeking any other remedy that may apply to the same conduct that is the basis for the imposition of such civil penalty.

§20.405 Penalty procedures.

Agencies shall impose and collect civil penalties pursuant to the provisions of the Program Fraud and Civil Remedies Act, 31 U.S.C. sections 3803 (except subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812, insofar as these provisions are not inconsistent with the requirements herein.

§20.410 Enforcement.

The head of each agency shall take such actions as are necessary to ensure that the provisions herein are vigorously implemented and enforced in that agency.

Subpart E—Exemptions

§20.500 Secretary of Defense.

(a) The Secretary of Defense may exempt, on a case-by-case basis, a covered Federal action from the prohibition whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such a determination.

(b) The Department of Defense may issue supplemental regulations to implement paragraph (a) of this section.

Subpart F—Agency Reports

§20.600 Semi-annual compilation.

(a) The head of each agency shall collect and compile the disclosure reports (see appendix B) and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained in the disclosure reports received during the six-month period ending on March 31 or September 30, respectively, of that year.

(b) The report, including the compilation, shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.

(c) Information that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees. Such information shall not be available for public inspection.

(d) Information that is classified under Executive Order 12356 or any successor order shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Armed Services of the Senate and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees. Such information shall not be available for public inspection.

(e) The first semi-annual compilation shall be submitted on May 31, 1990, and shall contain a compilation of the disclosure reports received from December 23, 1989 to March 31, 1990.

(f) Major agencies, designated by the Office of Management and Budget (OMB), are required to provide machine-readable compilations to the Secretary of the Senate and the Clerk of the House of

Representatives no later than with the compilations due on May 31, 1991. OMB shall provide detailed specifications in a memorandum to these agencies.

(g) Non-major agencies are requested to provide machine-readable compilations to the Secretary of the Senate and the Clerk of the House of Representatives.

(h) Agencies shall keep the originals of all disclosure reports in the official files of the agency.

§20.605 Inspector General report.

(a) The Inspector General, or other official as specified in paragraph (b) of this section, of each agency shall prepare and submit to Congress each year, commencing with submission of the President's Budget in 1991, an evaluation of the compliance of that agency with, and the effectiveness of, the requirements herein. The evaluation may include any recommended changes that may be necessary to strengthen or improve the requirements.

(b) In the case of an agency that does not have an Inspector General, the agency official comparable to an Inspector General shall prepare and submit the annual report, or, if there is no such comparable official, the head of the agency shall prepare and submit the annual report.

(c) The annual report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

(d) The annual report shall include the following: All alleged violations relating to the agency's covered Federal actions during the year covered by the report, the actions taken by the head of the agency in the year covered by the report with respect to those alleged violations and alleged violations in previous years, and the amounts of civil penalties imposed by the agency in the year covered by the report.

Appendix A to Part 20—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) 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 an 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.

(2) 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 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.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 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.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement 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 the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

S11. LOCAL HIRING PREFERENCE

Title 23: Highways
PART 635—CONSTRUCTION AND MAINTENANCE
Subpart A—Contract Procedures

§635.117 Labor and employment.

(a) No construction work shall be performed by convict labor at the work site or within the limits of any Federal-aid highway construction project from the time of award of the contract or the start of work on force account until final acceptance of the work by the STD unless it is labor performed by convicts who are on parole, supervised release, or probation.

(b) No procedures or requirement shall be imposed by any State which will operate to discriminate against the employment of labor from any other State, possession or territory of the United States, in the construction of a Federal-aid project.

(c) The selection of labor to be employed by the contractor on any Federal-aid project shall be by the contractor without regard to race, color, religion, sex, national origin, age, or handicap and in accordance with 23 CFR part 230, 41 CFR part 60 and Exec. Order No. 11246 (Sept. 24, 1965), 3 CFR 339 (1964-1965), as amended.

(d) Pursuant to 23 U.S.C. 140(d), it is permissible for STD's to implement procedures or requirements which will extend preferential employment to Indians living on or near a reservation on eligible projects as defined in paragraph (e) of this section. Indian preference shall be applied without regard to tribal affiliation or place of enrollment. In no instance should a contractor be compelled to layoff or terminate a permanent core-crew employee to meet a preference goal.

(e) Projects eligible for Indian employment preference consideration are projects located on roads within or providing access to an Indian reservation or other Indian lands as defined under the term "Indian Reservation Roads" in 23 U.S.C. 101 and regulations issued thereunder. The terminus of a road "providing access to" is that point at which it intersects with a road functionally classified as a collector or higher classification (outside the reservation boundary) in both urban and rural areas. In the case of an Interstate highway, the terminus is the first interchange outside the reservation.

(f) The advertisement or call for bids on any contract for the construction of a project located on the Federal-aid system either shall include the minimum wage rates determined by the Secretary of Labor to be prevailing on the same type of work on similar construction in the immediate locality or shall provide that such rates are set out in the bidding documents and shall further specify that such rates are a part of the contract covering the project.

S12. NON-COLLUSION PROVISION

Title 23 - Highways

Volume: 1

Date: 2014-04-01

Original Date: 2014-04-01

Title: Section 635.112 - Advertising for bids and proposals.

Context: Title 23 - Highways. CHAPTER I - FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION. SUBCHAPTER G - ENGINEERING AND TRAFFIC OPERATIONS. PART 635 - CONSTRUCTION AND MAINTENANCE.

Subpart A - Contract Procedures.

§ 635.112 Advertising for bids and proposals.

(a) No work shall be undertaken on any Federal-aid project, nor shall any project be advertised for bids, prior to authorization by the Division Administrator.

(b) The advertisement and approved plans and specifications shall be available to bidders a minimum of 3 weeks prior to opening of bids except that shorter periods may be approved by the Division Administrator in special cases when justified.

(c) The STD shall obtain the approval of the Division Administrator prior to issuing any addenda which contain a major change to the approved plans or specifications during the advertising period. Minor addenda need not receive prior approval but should be identified by the STD at the time of or prior to requesting FHWA concurrence in award. The STD shall provide assurance that all bidders have received all issued addenda.

(d) Nondiscriminatory bidding procedures shall be afforded to all qualified bidders regardless of National, State or local boundaries and without regard to race, color, religion, sex, national origin, age, or handicap. If any provisions of State laws, specifications, regulations, or policies may operate in any manner contrary to Federal requirements, including title VI of the Civil Rights Act of 1964, to prevent submission of a bid, or prohibit consideration of a bid submitted by any responsible bidder appropriately qualified in accordance with § 635.110, such provisions shall not be applicable to Federal-aid projects. Where such nonapplicable provisions exist, notices of advertising, specifications, special provisions or other governing documents shall include a positive statement to advise prospective bidders of those provisions that are not applicable.

(e) Except in the case of a concession agreement, as defined in section 710.703 of this title, no public agency shall be permitted to bid in competition or to enter into subcontracts with private contractors.

(f) The STD shall include a noncollusion provision substantially as follows in the bidding documents:

EACH BIDDER SHALL FILE A STATEMENT EXECUTED BY, OR ON BEHALF OF THE PERSON, FIRM, ASSOCIATION, OR CORPORATION SUBMITTING THE BID CERTIFYING THAT SUCH PERSON, FIRM, ASSOCIATION, OR CORPORATION HAS NOT, EITHER DIRECTLY OR INDIRECTLY, ENTERED INTO ANY AGREEMENT, PARTICIPATED IN ANY COLLUSION, OR OTHERWISE TAKEN ANY ACTION, IN RESTRAINT OF FREE COMPETITIVE BIDDING IN CONNECTION WITH THE SUBMITTED BID. FAILURE TO SUBMIT THE EXECUTED STATEMENT AS PART OF THE BIDDING DOCUMENTS WILL MAKE THE BID NONRESPONSIVE AND NOT ELIGIBLE FOR AWARD CONSIDERATION.

(1) The required form for the statement will be provided by the State to each prospective bidder.

(2) The statement shall either be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the State to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States.

(g) The STD shall include the lobbying certification requirement pursuant to 49 CFR part 20 and the requirements of 49 CFR part 29 regarding suspension and debarment certification in the bidding documents.

(h) The STD shall clearly identify in the bidding documents those requirements which the bidder must assure are complied with to make the bid responsive. Failure to comply with these identified bidding requirements shall make the bid nonresponsive and not eligible for award consideration.

(i) In the case of a design-build project, the following requirements apply:

(1) When a Request for Proposals document is issued after the NEPA process is complete, the FHWA Division Administrator's approval of the Request for Proposals document will constitute the FHWA's project authorization and the FHWA's approval of the STD's request to release the document. This approval will carry the same significance as plan, specification and estimate approval on a design-bid-build Federal-aid project.

(2) Where a Request for Proposals document is issued prior to the completion of the NEPA process, the FHWA's approval of the document will only constitute the FHWA's approval of the STD's request to release the document.

(3) The STD may decide the appropriate solicitation schedule for all design-build requests. This includes all project advertising, the release of the Request for Qualifications document, the release of the Request for Proposals document and all deadlines for the receipt of qualification statements and proposals. Typical advertising periods range from six to ten weeks and can be longer for large, complicated projects.

(4) The STD must obtain the approval of the Division Administrator prior to issuing addenda which result in major changes to the Request for Proposals document. Minor addenda need not receive prior approval but may be identified by the STD at the time of or prior to requesting the FHWA's concurrence in award. The STD must provide assurance that all offerors have received all issued addenda.

[56 FR 37004, Aug. 2, 1991, as amended at 67 FR 75925, Dec. 10, 2002; 72 FR 45336, Aug. 14, 2007; 73 FR 77502, Dec. 19, 2008]

S13. NON-DISCRIMINATION AGAINST PERSONS WITH DISABILITIES

Title 49: Transportation

PART 27—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

§27.7 Discrimination prohibited.

(a) *General.* No qualified person with a disability shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance administered by the Department of Transportation.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

(i) Deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not substantially equal to that afforded persons who are not disabled;

(iii) Provide a qualified person with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as persons who are not disabled;

(iv) Provide different or separate aid, benefits, or services to persons with a disability or to any class of persons with a disability unless such action is necessary to provide qualified persons with a disability with aid, benefits or services that are as effective as those provided to persons who are not disabled;

(v) Aid or perpetuate discrimination against a qualified person with a disability by providing financial or other assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the recipient's program or activity;

(vi) Deny a qualified person with a disability the opportunity to participate in conferences, in planning or advising recipients, applicants or would-be applicants, or

(vii) Otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for persons with and without a disability, but must afford persons with a disability equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting that is reasonably achievable.

(3) Even if separate or different aid, benefits, or services are available to persons with a disability, a recipient may not deny a qualified person with a disability the opportunity to participate in the programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) That have the effect of subjecting qualified persons with a disability to discrimination on the basis of disability,

(ii) That have the purpose or effect of defeating or substantially reducing the likelihood that persons with a disability can benefit by the objectives of the recipient's program or activity, or

(iii) That yield or perpetuate discrimination against another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant or a recipient may not make selections:

(i) That have the effect of excluding persons with a disability from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives Federal financial assistance, or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to persons with a disability.

(6) As used in this section, the aid benefit, or service provided under a program or activity receiving Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) *Communications*. Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(d) *Aid, benefits, or services limited by Federal law*. For aid, benefits, or services authorized by Federal statute or executive order that are designed especially for persons with a disability, or for a particular class of persons with a disability, the exclusion of persons without a disability or other classes of persons with a disability is not prohibited by this part.

[44 FR 31468, May 31, 1979, as amended at 68 FR 51390, Aug. 26, 2003; 79 FR 21405, Apr. 16, 2014]

S14. NON-RESIDENT BIDDER AND TEXAS PREFERENCE

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures

§635.110 Licensing and qualification of contractors.

(b) No procedure or requirement for bonding, insurance, prequalification, qualification, or licensing of contractors shall be approved which, in the judgment of the Division Administrator, may operate to restrict competition, to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by, any responsible contractor, whether resident or nonresident of the State wherein the work is to be performed.

(f) In the case of a design-build project, the STDs may use their own bonding, insurance, licensing, qualification or prequalification procedure for any phase of design-build procurement.

(1) The STDs may not impose statutory or administrative requirements which provide an in-State or local geographical preference in the solicitation, licensing, qualification, pre-qualification, short listing or selection process. The geographic location of a firm's office may not be one of the selection criteria. However, the STDs may require the successful design-builder to establish a local office after the award of contract.

S15. NON-SEGREGATED FACILITIES

PART 633—REQUIRED CONTRACT PROVISIONS

Subpart A—Federal-Aid Construction Contracts (Other Than Appalachian Contracts)

AUTHORITY: 23 U.S.C. 114 and 315; 49 CFR 1.48.

SOURCE: 52 FR 36920, Oct. 2, 1987, unless otherwise noted.

§633.101 Purpose.

To prescribe for Federal-aid highway proposals and construction contracts the method for inclusion of required contract provisions of existing regulations which cover employment, nonsegregated facilities, record of materials and supplies, subletting or assigning the contract, safety, false statements concerning highway projects, termination of a contract, and implementation of the Clean Air Act and the Federal Water Pollution Control Act, and other provisions as shall from time-to-time be required by law and regulation as conditions of Federal assistance.

§633.102 Applicability.

(a) The required contract provisions and the required proposal notices apply to all Federal-aid construction contracts other than Appalachian construction contracts.

(b) Form FHWA-1273, "Required Contract Provisions, Federal-aid Construction Contracts," contains required contract provisions and required proposal notices that are required by regulations promulgated by the FHWA or other Federal agencies. The required contract provisions of Form FHWA-1273 shall be physically incorporated in each Federal-aid highway construction contract other than Appalachian construction contracts (see §633.104 for availability of form).

(c) [Reserved]

(d) The required contract provisions contained in Form FHWA-1273 shall apply to all work performed on the contract by the contractor's own organization and to all work performed on the contract by piecework, station work, or by subcontract.

(e) The contractor shall insert in each subcontract, except as excluded by law or regulation, the required contract provisions contained in Form FHWA-1273 and further require their inclusion in any lower tier subcontract that may in turn be made. The required contract provisions of Form FHWA-1273 shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the requirements contained in the provisions of Form FHWA-1273.

(f) The State highway agency (SHA) shall include the notices concerning certification of nonsegregated facilities and implementation of the Clean Air Act and Federal Water Pollution Control Act, pursuant to 40 CFR part 15, in all bidding proposals for Federal-aid highway construction projects. As the notices are reproduced in Form FHWA-1273, the SHA may include Form FHWA-1273 in its entirety to meet this requirement.

[52 FR 36920, Oct. 2, 1987, as amended at 69 FR 7118, Feb. 13, 2004]

§633.103 Regulatory authority.

All required contract provisions contained in Form FHWA-1273 are requirements of regulations promulgated by the FHWA or other Federal agencies. The authority for each provision will be cited in the text of Form FHWA-1273.

§633.104 Availability.

(a) Form FHWA-1273 will be maintained by the FHWA and as regulatory revisions occur, the form will be updated.

(b) Current copies of Form FHWA-1273, Required Contract Provisions, will be made available to the SHAs by the FHWA.

S16. PATENTED / PROPRIETARY PRODUCTS

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

§635.411 Material or product selection.

(a) Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the plans and specifications for a project, unless:

(1) Such patented or proprietary item is purchased or obtained through competitive bidding with equally suitable unpatented items; or

(2) The State transportation department certifies either that such patented or proprietary item is essential for synchronization with existing highway facilities, or that no equally suitable alternate exists; or

(3) Such patented or proprietary item is used for research or for a distinctive type of construction on relatively short sections of road for experimental purposes.

(b) When there is available for purchase more than one non-patented, nonproprietary material, semi-finished or finished article or product that will fulfill the requirements for an item of work of a project and these available materials or products are judged to be of satisfactory quality and equally acceptable on the basis of engineering analysis and the anticipated prices for the related item(s) of work are estimated to be approximately the same, the PS&E for the project shall either contain or include by reference the specifications for each such material or product that is considered acceptable for incorporation in the work. If the State transportation department wishes to substitute some other acceptable material or product for the material or product designated by the successful bidder or bid as the lowest alternate, and such substitution results in an increase in costs, there will not be Federal-aid participation in any increase in costs.

(c) A State transportation department may require a specific material or product when there are other acceptable materials and products, when such specific choice is approved by the Division Administrator as being in the public interest. When the Division Administrator's approval is not obtained, the item will be nonparticipating unless bidding procedures are used that establish the unit price of each acceptable alternative. In this case Federal-aid participation will be based on the lowest price so established.

(d) Reference in specifications and on plans to single trade name materials will not be approved on Federal-aid contracts.

(e) In the case of a design-build project, the following requirements apply: Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the Request for Proposals document unless the conditions of paragraph (a) of this section are applicable.

(f) State transportation departments (State DOTs) shall have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a Federal-aid highway.

[41 FR 36204, Aug. 27, 1976, as amended at 67 FR 75926, Dec. 10, 2002; 71 FR 66454, Nov. 15, 2006; 78 FR 5717, Jan. 28, 2013]

S17. PREQUALIFICATION

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

§635.110 Licensing and qualification of contractors.

(a) The procedures and requirements a STD proposes to use for qualifying and licensing contractors, who may bid for, be awarded, or perform Federal-aid highway contracts, shall be submitted to the Division Administrator for advance approval. Only those procedures and requirements so approved shall be effective with respect to Federal-aid highway projects. Any changes in approved procedures and requirements shall likewise be subject to approval by the Division Administrator.

(b) No procedure or requirement for bonding, insurance, prequalification, qualification, or licensing of contractors shall be approved which, in the judgment of the Division Administrator, may operate to restrict competition, to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by, any responsible contractor, whether resident or nonresident of the State wherein the work is to be performed.

(c) No contractor shall be required by law, regulation, or practice to obtain a license before submission of a bid or before the bid may be considered for award of a contract. This, however, is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding. Prequalification of contractors may be required as a condition for submission of a bid or award of contract only if the period between the date of issuing a call for bids and the date of opening of bids affords sufficient time to enable a bidder to obtain the required prequalification rating.

(d) Requirements for the prequalification, qualification or licensing of contractors, that operate to govern the amount of work that may be bid upon by, or may be awarded to, a contractor, shall be approved only if based upon a full and appropriate evaluation of the contractor's capability to perform the work.

(e) Contractors who are currently suspended, debarred or voluntarily excluded under 49 CFR part 29 or otherwise determined to be ineligible, shall be prohibited from participating in the Federal-aid highway program.

(f) In the case of a design-build project, the STDs may use their own bonding, insurance, licensing, qualification or prequalification procedure for any phase of design-build procurement.

(1) The STDs may not impose statutory or administrative requirements which provide an in-State or local geographical preference in the solicitation, licensing, qualification, pre-qualification, short listing or selection process. The geographic location of a firm's office may not be one of the selection criteria. However, the STDs may require the successful design-builder to establish a local office after the award of contract.

(2) If required by State statute, local statute, or administrative policy, the STDs may require prequalification for construction contractors. The STDs may require offerors to demonstrate the ability of their engineering staff to become licensed in that State as a condition of responsiveness; however, licensing procedures may not serve as a barrier for the consideration of otherwise responsive proposals. The STDs may require compliance with appropriate State or local licensing practices as a condition of contract award.

[56 FR 37004, Aug. 2, 1991, as amended at 67 FR 75925, Dec. 10, 2002]

S18. PRISON PRODUCED MATERIALS

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

§635.417 Convict produced materials.

(a) Materials produced after July 1, 1991, by convict labor may only be incorporated in a Federal-aid highway construction project if such materials have been:

(1) Produced by convicts who are on parole, supervised release, or probation from a prison or

(2) Produced in a qualified prison facility and the cumulative annual production amount of such materials for use in Federal-aid highway construction does not exceed the amount of such materials produced in such facility for use in Federal-aid highway construction during the 12-month period ending July 1, 1987.

(b) *Qualified prison facility* means any prison facility in which convicts, during the 12-month period ending July 1, 1987, produced materials for use in Federal-aid highway construction projects.

[53 FR 1923, Jan. 25, 1988, as amended at 58 FR 38975, July 21, 1993]

S19. PUBLICLY OWNED EQUIPMENT

Title 23: Highways
PART 635—CONSTRUCTION AND MAINTENANCE
Subpart A—Contract Procedures

§635.106 Use of publicly owned equipment.

(a) Publicly owned equipment should not normally compete with privately owned equipment on a project to be let to contract. There may be exceptional cases, however, in which the use of equipment of the State or local public agency for highway construction purposes may be warranted or justified. A proposal by any STD for the use of publicly owned equipment on such a project must be supported by a showing that it would clearly be cost effective to do so under the conditions peculiar to the individual project or locality.

(b) Where publicly owned equipment is to be made available in connection with construction work to be let to contract, Federal funds may participate in the cost of such work provided the following conditions are met:

(1) The proposed use of such equipment is clearly set forth in the Plans, Specifications and Estimate (PS&E) submitted to the Division Administrator for approval.

(2) The advertised specifications specify the items of publicly owned equipment available for use by the successful bidder, the rates to be charged, and the points of availability or delivery of the equipment; and

(3) The advertised specifications include a notification that the successful bidder has the option either of renting part or all of such equipment from the State or local public agency or otherwise providing the equipment necessary for the performance of the contract work.

(c) In the rental of publicly owned equipment to contractors, the State or local public agency shall not profit at the expense of Federal funds.

(d) Unforeseeable conditions may make it necessary to provide publicly owned equipment to the contractor at rental rates agreed to between the contractor and the State or local public agency after the work has started. Any such arrangement shall not form the basis for any increase in the cost of the project on which Federal funds are to participate.

(e) When publicly owned equipment is used on projects constructed on a force account basis, costs may be determined by agreed unit prices or on an actual cost basis. When agreed unit prices are applied the equipment need not be itemized nor rental rates shown in the estimate. However, if such work is to be performed on an actual cost basis, the STD shall submit to the Division Administrator for approval the schedule of rates proposed to be charged, exclusive of profit, for the publicly owned equipment made available for use.

S20. SAFETY: ACCIDENT PREVENTION (OSHA)

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures

§635.108 Health and safety.

Contracts for projects shall include provisions designed:

(a) To insure full compliance with all applicable Federal, State, and local laws governing safety, health and sanitation; and

(b) To require that the contractor shall provide all safeguards, safety devices, and protective equipment and shall take any other actions reasonably necessary to protect the life and health of persons working at the site of the project and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

S21. STATE OR LOCAL PREFERENCE

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures

§635.409 Restrictions upon materials.

No requirement shall be imposed and no procedure shall be enforced by any State transportation department in connection with a project which may operate:

(a) To require the use of or provide a price differential in favor of articles or materials produced within the State, or otherwise to prohibit, restrict or discriminate against the use of articles or materials shipped from or prepared, made or produced in any State, territory or possession of the United States; or

(b) To prohibit, restrict or otherwise discriminate against the use of articles or materials of foreign origin to any greater extent than is permissible under policies of the Department of Transportation as evidenced by requirements and procedures prescribed by the FHWA Administrator to carry out such policies.

S22. SUBCONTRACTING

Title 23: Highways
PART 635—CONSTRUCTION AND MAINTENANCE
Subpart A—Contract Procedures

§635.116 Subcontracting and contractor responsibilities.

(a) Contracts for projects shall specify the minimum percentage of work that a contractor must perform with its own organization. This percentage shall be not less than 30 percent of the total original contract price excluding any identified specialty items. Specialty items may be performed by subcontract and the amount of any such specialty items so performed may be deducted from the total original contract before computing the amount of work required to be performed by the contractor's own organization. The contract amount upon which the above requirement is computed includes the cost of materials and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

(b) The STD shall not permit any of the contract work to be performed under a subcontract, unless such arrangement has been authorized by the STD in writing. Prior to authorizing a subcontract, the STD shall assure that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. The Division Administrator may permit the STD to satisfy the subcontract assurance requirements by concurrence in a STD process which requires the contractor to certify that each subcontract arrangement will be in the form of a written agreement containing all the requirements and pertinent provisions of the prime contract. Prior to the Division Administrator's concurrence, the STD must demonstrate that it has an acceptable plan for monitoring such certifications.

(c) To assure that all work (including subcontract work) is performed in accordance with the contract requirements, the contractor shall be required to furnish:

(1) 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;

(2) Such other of its own organizational resources (supervision, management, and engineering services) as the STD contracting officer determines are necessary to assure the performance of the contract.

(d) In the case of a design-build project, the following requirements apply:

(1) The provisions of paragraph (a) of this section are not applicable to design-build contracts;

(2) At their discretion, the STDs may establish a minimum percentage of work that must be done by the design-builder. For the purpose of this section, the term design-builder may include any firms that are equity participants in the design-builder, their sister and parent companies, and their wholly owned subsidiaries;

(3) No procedure, requirement or preference shall be imposed which prescribes minimum subcontracting requirements or goals (other than those necessary to meet the Disadvantaged Business Enterprise program requirements of 49 CFR part 26).

S23. TERMINATION OF CONTRACT

Title 23: Highways
PART 635—CONSTRUCTION AND MAINTENANCE
Subpart A—Contract Procedures

§635.125 Termination of contract.

(a) All contracts exceeding \$10,000 shall contain suitable provisions for termination by the State, including the manner by which the termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(b) The STD prior to termination of a Federal-aid contract shall consult with and receive the concurrence of the Division Administrator. The extent of Federal-aid participation in contract termination costs, including final settlement, will depend upon the merits of the individual case. However, under no circumstances shall Federal funds participate in anticipated profit on work not performed.

(c) Except as provided for in paragraph (e) of this section, normal Federal-aid plans, specifications, and estimates, advertising, and award procedures are to be followed when a STD awards the contract for completion of a terminated Federal-aid contract.

(d) When a STD awards the contract for completion of a Federal-aid contract previously terminated for default, the construction amount eligible for Federal participation on the project should not exceed whichever amount is the lesser, either:

(1) The amount representing the payments made under the original contract plus payments made under the new contract; or

(2) The amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract.

(e) If the surety awards a contract for completion of a defaulted Federal-aid contract or completes it by some other acceptable means, the FHWA will consider the terms of the original contract to be in effect and that the work will be completed in accordance with the approved plans and specifications included therein. No further FHWA approval or concurrence action will therefore be needed in connection with any defaulted Federal-aid contract awarded by a surety. Under this procedure, the construction amount eligible for Federal participation on the project should not exceed the amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract.

S24. TIME EXTENSIONS

Title 23 - Highways

PART 635 – CONSTRUCTION AND MAINTENANCE

Subpart A - Contract Procedures.

§635.121 Contract time and contract time extensions.

(a) The STD should have adequate written procedures for the determination of contract time. These procedures should be submitted for approval to the Division Administrator within 6 months of the effective date of this Final Rule.

(b) Contract time extensions granted by a STD shall be subject to the concurrence of the Division Administrator and will be considered in determining the amount of Federal participation. Contract time extensions submitted for approval to the Division Administrator, shall be fully justified and adequately documented.

S25. TRENCH SAFETY

HEALTH AND SAFETY CODE

TITLE 9. SAFETY

SUBTITLE A. PUBLIC SAFETY

CHAPTER 756. MISCELLANEOUS HAZARDOUS CONDITIONS

SUBCHAPTER C. TRENCH SAFETY

Sec. 756.022. TRENCH EXCAVATION IN STATE.

(a) The bid documents, if bids are used, and the contract for a construction project in this state on which a contractor is employed and that includes a trench excavation exceeding a depth of five feet must include:

(1) a reference to the Occupational Safety and Health Administration standards for trench safety that will be in effect during the period of construction of the project;

(2) a copy of special shoring requirements, if any, of the state or of a political subdivision in which the construction project is located, with a separate pay item for the special shoring requirements;

(3) a copy of any geotechnical information that was obtained by the owner for use in the design of the trench safety system; and

(4) a separate pay item for trench excavation safety protection.

(b) The separate pay item for trench excavation safety protection must be based on the linear feet of trench excavated. The separate pay item for special shoring requirements, if any, of the state or of any political subdivision in which the construction project is located must be based on the square feet of shoring used.

(c) A municipality may adopt an ordinance that requires the refusal of a building permit to a person who fails to certify in writing that the requirement of Subsection (a) has been satisfied. A municipality, in lieu of or in addition to the written certification, may require an applicant for a building permit to produce for inspection or file with the municipality a copy of a contract that complies with Subsection (a) as a condition of issuance of a building permit.

(d) This section does not apply to a contract:

(1) governed by Section [756.023](#);

(2) governed by Subtitle D, Title 10, Government Code; or

(3) entered into by a person subject to the safety standards adopted under and the administrative penalty provisions of Subchapter E, Chapter 121, Utilities Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Redesignated from Health & Safety Code Sec. 756.021 and amended by Acts 1991, 72nd Leg., ch. 14, Sec. 237, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(4), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 18.31, eff. Sept. 1, 1999.

Sec. 756.023. TRENCH EXCAVATION FOR POLITICAL SUBDIVISION.

(a) On a project for a political subdivision of the state in which trench excavation will exceed a depth of five feet, the bid documents provided to all bidders and the contract must include:

- (1) a reference to the Occupational Safety and Health Administration standards for trench safety in effect during the period of construction of the project;
- (2) a copy of special shoring requirements, if any, of the political subdivision, with a separate pay item for the special shoring requirements;
- (3) a copy of any geotechnical information that was obtained by the owner for use by the contractor in the design of the trench safety system; and
- (4) a separate pay item for trench excavation safety protection.

(b) The separate pay item for trench excavation safety protection must be based on the linear feet of trench excavated. The separate pay item for special shoring requirements, if any, of the political subdivision must be based on the square feet of shoring used.

(c) A political subdivision may require a bidder to attend a prebid conference to coordinate a geotechnical investigation of the project site by bidders. In awarding a contract, a political subdivision may not consider a bid from a bidder who failed to attend a required prebid conference.

(d) This section does not apply to a person subject to the safety standards adopted under and the administrative penalty provisions of Subchapter E, Chapter 121, Utilities Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Redesignated from Health & Safety Code Sec. 756.022 and amended by Acts 1991, 72nd Leg., ch. 14, Sec. 237, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.32, eff. Sept. 1, 1999.

S26. CONTRACTOR'S ASSURANCE

CONTRACTOR'S ASSURANCE
(Subcontracts – Federal Aid Projects)

By signing this Contract, the Contractor is giving assurances that all subcontract agreements of \$10,000 or more on this project will incorporate the following provisions:

- Special Provision “Certification of Nondiscrimination in Employment”

- Special Provision “Disadvantaged Business Enterprise in Federal-Aid Construction”

- Special Provision “Measurement and Payment” (Article 9.2)

- Special Provision “Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity” (Executive Order 11246)

- Special Provision “Standard Federal Equal Employment Opportunity Construction Contract Specifications” (Executive Order 11246)

- Form FHWA 1273 “Required Contract Provisions Federal-aid Construction Contracts”
(Form FHWA 1273 must also be physically attached to subcontracts and purchase orders of \$10,000 or more)

- Applicable “Wage Determination Decision”

- Special Provision “Buy America” (23 CFR 635.410)

S27. WARRANTIES AND WARRANTY CLAUSES

Title 23: Highways
PART 635—CONSTRUCTION AND MAINTENANCE
Subpart A—Contract Procedures

§635.413 Guaranty and warranty clauses.

The STD may include warranty provisions in National Highway System (NHS) construction contracts in accordance with the following:

(a) Warranty provisions shall be for a specific construction product or feature. Items of maintenance not eligible for Federal participation shall not be covered.

(b) All warranty requirements and subsequent revisions shall be submitted to the Division Administrator for advance approval.

(c) No warranty requirement shall be approved which, in the judgment of the Division Administrator, may place an undue obligation on the contractor for items over which the contractor has no control.

(d) A STD may follow its own procedures regarding the inclusion of warranty provisions in non-NHS Federal-aid contracts.

(e) In the case of a design-build project, the following requirements will apply instead of paragraphs (a) through (d) of this section.

(1) General project warranties may be used on NHS projects, provided:

(i) The term of the warranty is short (generally one to two years); however, projects developed under a public-private agreement may include warranties that are appropriate for the term of the contract or agreement.

(ii) The warranty is not the sole means of acceptance;

(iii) The warranty must not include items of routine maintenance which are not eligible for Federal participation; and,

(iv) The warranty may include the quality of workmanship, materials and other specific tasks identified in the contract.

(2) Performance warranties for specific products on NHS projects may be used at the STD's discretion. If performance warranties are used, detailed performance criteria must be provided in the Request for Proposal document.

(3) The STD may follow its own procedures regarding the inclusion of warranty provisions on non-NHS Federal-aid design-build contracts.

(4) For best value selections, the STD may allow proposers to submit alternate warranty proposals that improve upon the warranty terms in the RFP document. Such alternate warranty proposals must be in addition to the base proposal that responds to the RFP requirements.

PART VI FORMS

Only apparent low bidder will be required to complete Experience Record and Equipment Schedule forms. These forms are to be turned in within five business days upon receiving notice.

EXPERIENCE RECORD

List of Projects your Organization has successfully completed:

Amount of Contract Award	Type of Work	Date Accepted	Name and Address of Owner

List of Projects your Organization is now engaged in completing:

Amount of Contract Award	Type of Work	Anticipated Date of Completion	Name and Address of Owner

List of Surety Bonds in Force on above Uncompleted Work:

Date of Contract Award	Type of Bond*	Amount of Bond	Name and Address of Surety

*List every type of bond separately. If one project has more than one type of bond, list each and every bond for that project on a separate line.

QUALIFICATION STATEMENT

Submitted to: _____
(Corporation)

By: _____ (Co-Partnership)
(Individual)

Principal Office: _____

The signatory of this questionnaire guarantees the truth and accuracy of all statements and of all answers.

1. How many years has your organization been in business as a general contractor under your present business name? _____

2. How many years' experience in this type of construction work has your organization had?

(a.) As a general contractor? _____

(b.) As a sub-contractor? _____

3. Have you ever failed to complete any work awarded to you? _____

If so, where and why? _____

4. In what manner have you inspected this proposed work? _____

5. Explain your plan or layout for performing the proposed work. _____

6. The work, if awarded to you, will have the personal supervision of whom?

(a.) For administrative management _____

(b.) For construction superintendence _____

7. What portions of the work do you intend to sub-let? State names and addresses of sub- contractors, and general portion to be performed by each in this project.

8. Have you received firm offers for all major items of equipment and material within prices used in preparing your bid? _____

NOTE: If the bidder intends to use a Sub-Contractor for paving or utility construction for the work included in this Contract, he must complete this form based on the Sub-Contractor's information as submitted on a Statement of Experience form.

The EXPERIENCE RECORD and EQUIPMENT SCHEDULE are hereby considered a part of this Qualification Statement.

PROJECT: _____

Owner: Denton County

BIDDER: _____ BY: _____

ADDRESS: _____ PHONE: _____

BIDDER'S SIGNATURE _____

CHILD SUPPORT STATEMENT

Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.



CHILD SUPPORT STATEMENT FOR THE TEXAS DEPARTMENT OF TRANSPORTATION FOR NEGOTIATED CONTRACTS AND GRANTS

Under Family Code, Section 231.006, _____ certifies that _____

as of _____ is eligible to receive a grant, loan, or payment and acknowledges that any contract may be terminated and payment may be withheld if this certification is inaccurate.

List below the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25% of the business entity submitting the bid or application. This form must be updated whenever any party obtains a 25% ownership interest in the business entity.

Name <i>(please print legibly, if handwritten)</i>	Social Security Number

Family Code, Section 231.006, specifies that a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% percent is not eligible to receive payments from state funds under a contract to provide property, materials, or services; or receive a state-funded grant or loan.

A child support obligor or business entity ineligible to receive payments described above remains ineligible until all arrearage have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency.

Except as provided by Family Code, Section 231.302(d), a social security number is confidential and may be disclosed only for the purposes of responding to a request for information from an agency operating under the provisions of Subchapters A and D of Title IV of the federal Social Security Act (42 U.S.C. Sections 601 et seq. and 651 et seq.)

The Texas Department of Transportation maintains the information collected through this article. With few exceptions, you are entitled on request to be informed about the information that we collect about you. Under Sections 552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information. Under Section 559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

- Please send this form to Texas Department of Transportation, General Services Division (GSD).
- Contract Services Section, 125 E.11th Street, Austin, Texas 78701-2483.

CERTIFICATION REGARDING LOBBYING

Certification For Contracts, Grants, Loans, And Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) 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 an 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.
- (2) 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 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.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 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.

Signature/Authorized Certifying Official

Typed Name and Title

Applicant/Organization

Date Signed

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement 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 the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature/Authorized Certifying Official

Typed Name and Title

Applicant/Organization

Date Signed

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

0348-0046

(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):	
(attach Continuation Sheet(s) SF-LLLA, if necessary)		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: (attach Continuation Sheet(s) SF-LLLA, if necessary)		
15. Continuation Sheet(s) SF-LLLA attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16 Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

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

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLLA Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

AFFIDAVIT OF NON-COLLUSION

The undersigned, as bidder, declares that the only person or parties interested in this proposal as principals are those named herein; that the contractor has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for the above-captioned work.

The undersigned affirms that truth and accuracy of this certification.

Legal Firm Name

Signature

Address: _____

Before me, the undersigned authority a Notary Public on this day personally appeared

_____ who, being by me duly sworn, upon oath says:

That he is qualified and authorized to make this affidavit for and on the behalf of

_____ County(s), Texas, and is fully cognizant of the facts herein set out and affirms to the truth and accuracy of the certification made herein by signing above.

Subscribed and sworn to before me by the said (1) _____

this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Notary Public in and for

_____ County, Texas

CERTIFICATE OF NON-SEGREGATED FACILITIES

We, _____(Company)

Certify that we do not and will not maintain or provide for our employees any segregated facilities at any of our establishments, and that we do not and will not permit our employees to perform their services at any location, under our control, where segregated facilities are maintained. We understand and agree that breach of this certification is a violation of Equal Opportunity clause required by Executive Order 11246, amended.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom or otherwise.

We further agree that (except where we have obtained identical certifications from proposed Subcontractors for specific time periods) we will obtain identical certifications from proposed Subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that we will retain such certification in our files; and that we will forward the following notice to such proposed Subcontractors (except where the proposed Subcontractors have submitted identical certifications for specific time periods).

NOTICE TO PROSPECTIVE SUBBUILDERS OF REQUIREMENT FOR CERTIFICATION OF NON-SEGREGATED FACILITIES. A certification of Non-segregated facilities as required by the 9 May 1967 order on Elimination of Segregated Facilities, by the Secretary of Labor (32 Fed. Reg. 7439, 19 May 1967), must be submitted from the provisions either for each subcontract or for all subcontracts during a period (i.e. quarterly, semi-annually, or annually).

NOTE: Whoever knowingly and willfully makes any false, fictitious or fraudulent representation may be liable to criminal prosecution under 18 U.S.C. 1001.

(Name of Company)

By: _____

Date: _____

Title: _____

The State of _____
County of _____

Certification of Absence of Suspension, Debarment, Voluntary Exclusion or Determination of Ineligibility.

The undersigned bidder under penalty of perjury under the laws of the United States or the State of Texas, certifies that, except as noted herein the bidder's firm and all persons associated therewith in the capacity of the owner, partner, stockholder, director, officer, principal investigator, project director, manger, auditor, or any position involving the administration of any part of the firm's operations:

1. are not currently suspended, debarred, or voluntary excluded from or determined to be ineligible for bidding by any federal agency;
2. have not been suspended, debarred, voluntary excluded from or determined to be ineligible for bidding by any federal agency within the past 3 years;
3. do not have a proposed debarment pending with any federal agency, and
4. have not been indicted, convicted, or had a civil judgment rendered against it or any person indicated above by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

All exceptions to the above are recorded in the following space:

The undersigned bidder understands that all exceptions will not necessarily preclude the issuance of a bidding proposal or result in the denial of award of the contract for a federally-funded project. It also understood that exceptions will be carefully reviewed by the department and by the Federal Highway Administration and may result in rejection of the bid proposal and suspension and debarment of the contractor pursuant to 43 Texas Administrative Code (TAC) Section 9.6 Procedure for Debarment of a Contractor, to 43 TAC 9.7, Procedure for Suspension of a Contractor to 43 TAC Section 9.8 Supplemental Procedures for Suspension or Debarment of a Contractor, and/or Debarment and Suspension (Non-Procurement) 49 CFR part 29 (1987)

For any exception noted, the following information explains to whom it applies, the initiating agency, and the dates of the action.

The undersigned bidder understands that providing false information may result in criminal prosecution or administrative sanctions

Print Firm Name

Signature/Title

Before me, the undersigned authority, a Notary Public on this personally appeared _____
Who being by me duly sworn upon oath says that she/he is qualified and authorized to make affidavit for and on behalf
of _____

Bidder of _____ County, and is fully cognizant of the facts herein set
out and affirms to the truth and accuracy of the certifications made herein by signing the documents above.

Subscribed and sworn before me by the said _____
Name

this _____ day of _____, 20_____, to certify which witness my hand
and seal of office.

Notary Public in and for

_____ County

CERTIFICATION OF INTEREST IN OTHER BID PROPOSALS FOR THIS WORK

By signing this proposal, the bidding firm and signer certify that the following information , as indicated by checking “Yes” or “No” below, is true, accurate, and complete.

- A. Quotation(s) have been issued in this firm’s name to other firm(s) interested in this work for consideration for performing a portion of the work.

_____ YES

_____ NO

- B. If this proposal is the low bid, the bidder agrees to provide the following information prior to award of the contract.

1. Identify firms which bid as a prime contractor and from which the bidder received quotations for the work on this project.
2. Identify all the firms which bid as a prime contractor to which the bidder gave quotations for the work on this project.

Contract #

Firm/Company Name

BUSINESS OWNERSHIP

Section 231.006, Family Code, requires the Department to collect the names and social security number of individuals owning 25% or more of the business entity awarded this contract.

1. In the spaces below please provide the names and social security number of individuals owning 25% or more of the business.

NAME

SOCIAL SECURITY NUMBER

_____	_____
_____	_____
_____	_____
_____	_____

2. Please check the box below if no individual owns 25% or more of the business.

- No individual owns 25% or more of the business.

Except as provided by Section 231.302(d), Family Code, a social security number if confidential an may be disclosed only for the purpose of responding to a request for information from an agency operating under the provisions of Pars A and D to Title IV of the federal Social Security Act (42 USC Section 601-617 and 651-699).

Under section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is eligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

The information must be provided and returned with the executed contract documents. Failure to furnish this information will result in the contract being declared in default and forfeiture of the proposal guaranty.

Signature

Date

Print Name

If this project is a Joint Venture, all parties to the joint venture must provide a completed form.

PART VII – Exhibits

EXHIBIT A – Bonfire Electronic Submittal Instructions

EXHIBIT B – Bonfire Paper Submittal Instructions

EXHIBIT C – Construction Plans Shady Shores Road



Submission Instructions for Suppliers

Please follow these instructions to submit via our Public Portal.

1. Prepare your submission materials:

Requested Information

Name	Type	# Files	Requirement	Instructions
2907 Bid and Unit Price Bid Form	File Type: Excel (.xls, .xlsx)	Multiple	Required	
Mandatory Requirements (Q-49IJ)	Questionnaire: Excel (.xlsx)	1	Required	You will need to fill out the provided Response Template for this Questionnaire. The Response Template can be downloaded from the project listing on the Bonfire portal.
Mandatory TxDOT Requirements	File Type: PDF (.pdf)	Multiple	Required	

Requested Documents:

Please note the type and number of files allowed. The maximum upload file size is 1000 MB.

Please do not embed any documents within your uploaded files, as they will not be accessible or evaluated.

Requested Questionnaires:

The Questionnaire Response Templates can be obtained at <https://dentoncounty.bonfirehub.com/opportunities/228610>.

Please note that Questionnaires may take a significant amount of time to prepare.



2. Upload your submission at:

<https://dentoncounty.bonfirehub.com/opportunities/228610>

The Question period for this opportunity starts May 22, 2026 4:00 PM CDT. The Question period for this opportunity ends June 11, 2026 4:00 PM CDT. You will not be able to send messages after this time.

Your submission must be uploaded, submitted, and finalized prior to the Closing Time of **June 18, 2026 2:00 PM CDT**. We strongly recommend that you give yourself sufficient time and **at least ONE (1) day** before Closing Time to begin the uploading process and to finalize your submission.

Important Notes:

Each item of Requested Information will only be visible after the Closing Time.

Uploading large documents may take significant time, depending on the size of the file(s) and your Internet connection speed.

You will receive an email confirmation receipt with a unique confirmation number once you finalize your submission.

Minimum system requirements: Microsoft Edge, Google Chrome, or Mozilla Firefox. Javascript must be enabled. Browser cookies must be enabled.

Need Help?

Denton County uses a Euna Procurement portal for accepting and evaluating proposals digitally. Please contact Euna Procurement at support.procurement@eunasolutions.com for technical questions related to your submission. You can also visit their help forum at <https://procurement-help.eunasolutions.com/hc/en-us>

Paper Submission Instructions for Suppliers

The following instructions only pertain to those that intend to submit a paper submission. If you intend to submit electronically, refer to Electronic Submission Instructions.

1. Prepare your submission materials:

Requested Information

Name	Instructions
Bid and Unit Price Bid Form	Complete and submit.
Vendor References	Submit three (3) references.
Vendor Acknowledgment	Complete and submit.
TxDOT Mandatory Requirements	Complete and submit.

Follow the instructions in the Specifications, Section I. Instructions for submission.

The Question period for this opportunity starts May 22, 2026 2:00 PM CDT. The Question period for this opportunity ends June 11, 2026 4:00 PM CDT. You will not be able to send messages after this time.