

## REQUEST FOR QUALIFICATIONS (RFQ)

RFQ NO. <b>26026</b>	DATE RFQ CLOSES: July 15, 2026	TIME: 10:00 AM
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Notice is hereby given that submittals will be received by the City of Bellevue, Washington, for:

### **Multi-Project Federal Construction Administration Support RFQ No. 26026**

by filing electronically via Public Purchase ([www.publicpurchase.com](http://www.publicpurchase.com)) no later than 10:00 AM, the 15th day of July 2026, at which time such submittals will be received and evaluated for submission to the City Council at a future council meeting. Submittals will not be accepted after that time and date. Registration for the Public Purchase site is required prior to submittal and is available at no cost.

The City of Bellevue Transportation Department (City) solicits interest from consulting firms with experience in administering federally funded large public works projects. This agreement is anticipated to begin in September, 2026 and will be for 2 years in duration with the option for the City to extend it for additional time and money if necessary. Consultants will be considered for the Multi-Project Federal Contract Administration Support.

#### **Project Description**

The City of Bellevue (City) requests Statements of Qualifications (SOQs) from qualified firms for Construction Administration Support services for an assortment of capital projects with Federal Highway Administration (FHWA) and other United States Department of Transportation (USDOT) funding. The City is scheduled to award 10 projects over the next 2 to 3 years which include federal funds. This contract will support the Contract Administration group, which is led by the Sr. Contract Administrator. It's the City's intent to award one contract. A hybrid work environment may be allowed.

The listed projects may be funded wholly or in part by the Federal Highway Administration (FHWA). As stated in the WSDOT Local Agency Guidelines (LAG) Manual, all consultant costs must comply with the contract cost principals and procedures found in 48 CFR Part 31 – *Contract Cost Principles and Procedures*. WSDOT's Consultant Services Office (CSO) must approve the Consultant's indirect cost rate computations prior to contract execution.

#### **Technical Requirements**

It is anticipated that the Consultant will have expertise in the following areas:

- Administration in federally funded projects following WSDOT Standard Specifications, Local Agency Guidelines (LAG) Manual and Construction Manual.
- State and federal grant requirements
- Software utilized: Microsoft Office Suite, SharePoint, Build
- Consultant will be provided a City-issued laptop for use, all work becomes property of the City of Bellevue.

#### **Qualifications**

- The proposed firm should possess at least 5 years' experience administering public works construction projects in compliance with federal and state grant requirements.

- Knowledge of federal and state laws, rules and regulations controlling budgetary, fiscal, and contract procedures and documentation.

### **Evaluation Criteria**

Submittals will be evaluated and ranked based on the following criteria:

- 1) Experience with similar Transportation infrastructure projects (40 points)
- 2) Experience with WSDOT/FHWA standards and requirements (30 points)
- 3) Key staff qualifications and experience (30 points)

### **Submittal**

Submittals should include the following information: Firm name, phone numbers; Name of Principal-in-Charge and Project Manager; and employee(s) qualifications for the project.

All services that are contracted through this RFQ will be in accordance with the WSDOT Local Agency Guidelines (LAG) Manual and with pertaining FHWA regulations and requirements. The Professional Services Agreement with the successful Consultant firm will conform to all requirements outlined in the Using Consultants chapter of the WSDOT LAG Manual.

All information and documents pertinent to this RFQ are available on the Shared Procurement Portal Partner cooperative, which uses a shared website ([www.sharedprocurementportal.com](http://www.sharedprocurementportal.com)) for advertising solicitations. Any questions regarding this project should be directed to Procurement, at [procurement@bellevuewa.gov](mailto:procurement@bellevuewa.gov).

The City reserves the right to reject any or all submittals and to waive irregularities and informalities in the submittal and evaluation process. The City reserves the right to amend the terms of this RFQ, circulate various addenda, or withdraw the RFQ at any time, regardless of how much time and effort Consultants have spent on their responses. This RFQ does not obligate the City to pay any costs incurred by consultants in the preparation and submission of their submittals. Furthermore, this RFQ does not obligate the City to accept or contract for any expressed or implied services. See Section 1 – General Information of the full RFQ document available on the Shared Procurement Portal for additional submittal requirements.

The selected consultant must comply with the City of Bellevue's equal opportunity requirements. The City of Bellevue is committed to a program of equal employment opportunity regardless of race, color, creed, religion, gender, age, national origin, pregnancy, genetic information, marital status, sexual orientation (including gender identity), or the presence of any sensory, physical, or mental disabilities.

### **Contract Type**

It is the City's intent to execute a Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement located online at: [https://wsdot.wa.gov/sites/default/files/2021-10/LP\\_LAPS-NegotiatedHourlyRate.pdf](https://wsdot.wa.gov/sites/default/files/2021-10/LP_LAPS-NegotiatedHourlyRate.pdf) It is expected that the Consultant will review this contract prior to submitting their qualifications.

### **Americans with Disabilities Act (ADA) Information**

The City of Bellevue, in accordance with Section 504 of the Rehabilitation Act (Section 504) and the Americans with Disabilities Act (ADA), commits to nondiscrimination on the basis of disability in all of its programs and activities. This material can be made available in an alternate format by emailing

Procurement Services at [procurement@bellevuewa.gov](mailto:procurement@bellevuewa.gov) or by calling (425) 452-7876.

**Title VI Statement**

The City of Bellevue, 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.

Dated this 18th day of June 2026

Published: Seattle Times: 06/18/2026, 06/25/2026, and 07/02/2026  
Seattle Daily Journal of Commerce: 06/18/2026, 06/25/2026, and 07/02/2026

City of Bellevue  
**Request for Qualifications (RFQ)**

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**RFQ INFORMATION:**

**RFQ Number:** 26026  
**RFQ Title:** Multi-Project Federal Construction Administration Support  
**Date Issued:** 06/18/2026  
**Contact Person:** Jennifer Brooke  
**Email Address:** jbrooke@bellevuewa.gov  
**Submittals Due:** 07/15/2026 at 10:00 AM

**SUBMIT SUBMITTALS TO:**

**Online Submittal:** Submittals shall be submitted electronically via Public Purchase.  
([www.publicpurchase.com](http://www.publicpurchase.com))

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## Section 1 – General Information

**NOTICE:** Notice is hereby given that submittals will be received by the City of Bellevue, Washington for **RFQ #26026 – Multi-Project Federal Construction Administration Support** by filing with the City electronically via Public Purchase ([www.publicpurchase.com](http://www.publicpurchase.com)).

**BACKGROUND INFORMATION:** The City of Bellevue (City) requests Statements of Qualifications (SOQs) from qualified firms for Construction Administration Support services for an assortment of capital projects with Federal Highway Administration (FHWA) funding. The City is scheduled to award 10 projects over the next 2 to 3 years which include federal funds. The successful Consultant firm will support the Contract Administration group, which is led by the Sr. Contract Administrator. It's the City's intent to award one contract. It is anticipated the schedule may require an average of 20-30 hours per week. A hybrid work environment may be allowed.

**SCOPE OF SERVICES:** The work to be performed by the Consultant consists of Construction Administration Support Services as described in Attachment "A" – Scope of Work.

**AREAS OF EXPERTISE:** It is anticipated that the Consultant project team will have expertise in the following areas:

- Familiarity with public works projects following the WSDOT LAG Manual, Standard Specifications, and other applicable publications
- State and federal grant requirements
- Local, State and Federal environmental requirements
- Davis Bacon and L&I Prevailing Wage Rates, Certified Payrolls, Intent to Pay Prevailing Wages and Affidavit of Wages Paid

**DURATION OF SERVICES:** The initial Professional Services Agreement will be for 2 years in duration with the City's option to extend the contract for additional time and money. The Contract resulting from this RFQ shall remain in effect until completion of the services described in the Contract and final payment thereof, unless terminated earlier in accordance with the WSDOT Local Agency Guidelines (LAG) Professional Services Contract.

**RFQ SCHEDULE:** These dates are estimates and are subject to change by the City.

Event	Date
RFQ Release	06/18/2026
Consultant Questions Due	07/06/2026
Responses to Consultants Questions	07/08/2026
Submittal Responses Due	07/15/2026
Announce Apparent Successful Firm	07/23/2026
Council Award Date	08/04/2026
New Contract in Place	Early September

**GRANT INFORMATION:** The projects identified in this solicitation are federally funded, including, but not limited to Federal Highway Administration (FHWA) and other United States Department of Transportation (USDOT) funding. (Attachment “C”).

All services that are contracted through this RFQ will be in accordance with the WSDOT Local Agency Guidelines (LAG) Manual and with pertaining FHWA regulations and requirements. The Professional Services Agreement with the successful Consultant firm will conform to all requirements outlined in the Using Consultants chapter of the WSDOT Local Agency Guideline (LAG) Manual.

**QUALIFICATIONS:** The selected Consultant firm is required to have the following qualifications. Qualifications must be addressed in submittal requirements.

- Experience administering public works construction projects in compliance with state and federal requirements, with specific expertise in the requested specialty services for these projects, as listed in Attachment “A” – Scope of Work.
- Expertise and experience in federal, state, and local public works documentation.
- Ability to provide high quality deliverables (as identified in Attachment “A”), meet required deadlines, manage and prioritize workload across multiple projects.

**SUBMITTAL REQUIREMENTS:** SUBMITTALS should include the following information:

- Statement of Intent: A statement of intent explaining why the firm is interested in this project, highlighting the firm’s qualifications to do the work, and provide qualifications of the proposed key personnel.
- Submittal size shall not be more than ten single-sided, 8 ½ x 11 pages using a single-spaced 12-point font. The additional forms and certificates that are required for the firm’s RFQ submittal will not be counted against the ten-page limit.
- A completed and signed RFQ Submittal Form
- A completed and signed Non-Collusion Certificate and Debarment Affidavit.
- A completed and signed Affidavit of Equal Opportunity Compliance.
- A completed and signed Affidavit of Title VI Compliance.

**SUBMITTAL FORMAT:** Please submit one electronic copy of complete submittal in searchable PDF format online through the City’s Public Purchase portal ([www.publicpurchase.com](http://www.publicpurchase.com)), no later than 10:00 AM on July 15, 2026. The submittal shall include signatures by authorized personnel on all documents that require an authorized signature. Submittal size shall not be more than ten single-sided 8 ½ x 11 pages using a single-spaced 12-point font. The additional forms and certificates that are required for the firms’ RFQ submittal will not be counted against the ten-page limit. The submittal may include one page cover. The cover page or letter will not count towards the ten-page limit, and it will not be evaluated.

### **Technical Requirements**

It is anticipated that the Consultant will have expertise in the following areas:

- Administration in federally funded projects following WSDOT Standard Specifications, Local Agency Guidelines (LAG) Manual and Construction Manual.
- State and federal grant requirements
- Software utilized: Microsoft Office Suite, SharePoint, Build
- Consultant will be provided a City-issued laptop for use, all work becomes property of the City of Bellevue.

### **Qualifications**

- The proposed firm should possess at least 5 years' experience administering public works construction projects in compliance with federal and state grant requirements.
- Knowledge of federal and state laws, rules and regulations controlling budgetary, fiscal, and contract procedures and documentation.

**EVALUATION PROCEDURES:** Submittals will be evaluated by the Selection Committee. The Selection Committee will consider the completeness of a firm's submittal and how well the submittal meets the needs of the project. The Selection Committee will use the evaluation criteria (below). The City reserves the right to ask for additional qualifying information, shortlist firms, conduct and evaluate interviews, and/or select the highest-scoring consultant(s) from the written qualification submittals received as a result of this RFQ.

**EVALUATION CRITERIA:** Submittals will be evaluated and ranked based on the following criteria:

- Experience with similar Transportation infrastructure projects (40 points)
- Experience with WSDOT/FHWA standards and requirements (30 points)
- Key staff qualifications and experience (30 points)

**QUESTIONS:** Questions regarding this RFQ may be submitted through the City's Public Purchase Portal ([www.publicpurchase.com](http://www.publicpurchase.com)). Unauthorized contact regarding this RFQ with other City employees may result in disqualification. Any oral communications will be considered unofficial and non-binding on the City. All questions must be submitted in writing before the deadline shown in the RFQ Schedule section.

### **CODE OF CONDUCT POLICY – COMPETITIVE SOLICITATIONS:**

#### **Definitions:**

- Solicitations: Method of acquiring goods, services, and construction for public use in which offers are made to the City by two or more sources. Typical documents used by the City are titled: Invitation to Bid, Invitation to Quote, Request for Proposals, Request for Qualifications, Request for Information, or any other methods of obtaining competitive offers.
- Blackout Period: The period between the time a solicitation is issued by the City and the time the City awards the contract.
- Lobbying: The attempt to persuade or influence any City employees, officials, or representatives responsible for reviewing, evaluating, ranking, or awarding the work or contract for goods or services for or against any solicitation; provided, however, that lobbying shall not include the submission of required materials in direct response to the solicitation according to the instructions to respondents in such solicitations.

Conduct of Participants: After the issuance of any **solicitation**, all bidders, proposers, contractors, consultants, or individuals acting on their behalf are hereby prohibited from **lobbying** any City employee, official, or representative at any time during the **blackout period**. The blackout period starts with the issuance of this solicitation and ends after the City announces the selected consultant firm.

Sanctions: The City may reject the submittal of any bidder, proposer, contractor, and/or consultant who violates the policy set forth herein.

**REJECTION OF SUBMITTALS:** The City reserves the right to reject any or all submittals and to waive irregularities and informalities in the submittal and evaluation process. This RFQ does not obligate the City to pay any costs incurred by consultants in the preparation and submission of their Submittals. Furthermore, this RFQ does not obligate the City to accept or contract for any expressed or implied services.

**RFQ ADDENDA:** The City reserves the right to amend terms of this “Request for Qualifications” (RFQ) to circulate various addenda, or to withdraw the RFQ at any time, regardless of how much time and effort consultants have spent on their responses. The City also reserves the right to change the RFQ schedule, cancel or reissue the RFQ. All addenda will become part of the RFQ submittal package.

If it becomes necessary to revise any part of this RFQ, the City will issue the addenda on the City’s website ([www.publicpurchase.com](http://www.publicpurchase.com)). It is the consultant’s responsibility to confirm as to whether any addenda have been issued.

**SUBMITTAL MODIFICATION & CLARIFICATIONS:** The City reserves the right to request that any consultant clarify its submittal or supply any additional material deemed necessary to assist in the evaluation of the submittal.

Modification of a submittal already received will be considered only if the modification is received prior to the submittal deadline. All modifications must be made in writing, executed, and submitted in the same form and manner as the original submittal.

**EXCEPTIONS:** If consultant(s) takes exception to any term or condition set forth in this submittal and/or the sample consultant agreement and any of its Exhibits and Attachments (including Insurance Requirements), said exceptions must be clearly identified on the RFQ Submittal Form. Exceptions or deviations to any of the terms and conditions must not be added to the submittal pages but must be submitted on the RFQ Submittal Form under “Exceptions”. Such exceptions shall be considered in the evaluation and award process. The City shall be the sole determiner of the acceptability of any exception.

**SUBMITTAL VALIDITY PERIOD:** Submission of a submittal will signify the consultant’s agreement that its submittal and the content thereof are valid for 60 days following the submission deadline unless otherwise agreed to in writing by both parties. The submittal will become part of the Contract that is negotiated between the City and the selected consultant.

**RESPONSE FORMAT:** Submittals should be prepared simply, providing a straightforward, concise delineation of the approach and capabilities necessary to satisfy the requirements of the RFQ. Emphasis in the submittal should be on completeness, clarity of content, and adherence to the presentation structure required by this RFQ.

Consultant submittals must be submitted in the format specified under SUBMITTAL REQUIREMENTS. Consultants that deviate from this format may be deemed non-responsive. Faxed submittals will not be accepted.

**COMPLETENESS OF SUBMITTAL:** The consultant must submit a completed RFQ Submittal Form (included in this RFQ) signed by a consultant representative authorized to bind the proposing company contractually.

**SUBMITTAL RESPONSE DATE AND LOCATION:** Submittals must be submitted by the time and at the location specified in the Request for Qualifications. All submittals and accompanying documentation will become the property of the City and will not be returned. Consultants accept all risk of late delivery of mailed submittal regardless of fault.

**SUBMITTAL SIGNATURES:**

- An authorized representative must sign submittals, with the consultant's address, telephone and email information provided. Unsigned submittals may not be considered.
- If the submittal is made by an individual, the name, mailing address and signature of the individual must be shown.
- If the submittal is made by a firm or partnership, the name and mailing address of the firm or partnership and the signature of at least one of the general partners must be shown.
- If the submittal is made by a corporation, the name and mailing address of the corporation and the signature and title of the person who signs on behalf of the corporation must be shown.
- The City reserves the right to request documentation showing the authority of the individual signing the submittal to execute contracts on behalf of anyone, or any corporation, other than himself/herself. Refusal to provide such information upon request may cause the submittal to be rejected as non-responsive.

**CONTRACT NEGOTIATION:** The City reserves the right to negotiate with the firm that, in the opinion of the City, submitted a submittal that is the "best value" to the City. In no event will the City be required to offer any modified terms to any other firm prior to entering into an agreement with a proposer as a result of such negotiation or modifications. It is the intent of the City to ensure it has the flexibility it needs to arrive at a mutually acceptable agreement. Negotiations may include, but not be limited to, matters such as:

- Contract details
- Contract payment details
- Service requirements
- Minor changes to the scope of services

**CONTRACT AWARD:** The City reserves the right to make an award without further discussion of the submittals. Therefore, the submittal should be initially submitted on the most favorable terms the consultant can offer. The consultant selected as the apparent successful consultant(s) will be expected to enter into a contract with the City.

It is the City's intent to execute a Professional Services Negotiated Hourly Rate Consultant Agreement Contract located online at: [https://wsdot.wa.gov/sites/default/files/2021-10/LP\\_LAPS-NegotiatedHourlyRate.pdf](https://wsdot.wa.gov/sites/default/files/2021-10/LP_LAPS-NegotiatedHourlyRate.pdf)

The City typically does not accept changes to these professional services contract terms and conditions. Should the consultant wish to propose changes to the Contract terms and conditions, the desired changes must be identified in the consultant's submittal. The City is under no obligation to accept such proposed changes and may reject a consultant's submittal based on proposed changes unacceptable to the City.

The general conditions and specifications of the RFQ and the selected consultant's response, as amended by Contract between the City and the selected consultant, including e-mail or written correspondence relative to the RFQ, will become part of the contract documents. Additionally, the City will verify consultant representations that appear in the submittal. Failure of a consultant to perform services as represented may result in elimination of the consultant from further competition or in Contract cancellation or termination.

Once the City and consultant have reached an agreement on the scope of services, a final contract will be prepared by the City. The foregoing should not be interpreted to prohibit either party from proposing additional contract terms and conditions during the negotiations of the final Contract. If the selected consultant fails to sign the contract within ten business days of delivery of the final Contract, the City may elect to negotiate a contract with the next-highest ranked consultant. The City shall not be bound, or in any way obligated, until both parties have executed a Contract. No party may incur any chargeable costs prior to the execution of the final Contract.

The City further reserves the right, as its sole option, to award more than one contract or split a contract among multiple consultants or use a contract different from the sample City contract.

## Section 2 – Terms and Conditions

**EQUAL OPPORTUNITY EMPLOYMENT:** The selected consultant must comply with the City of Bellevue equal opportunity requirements. The City of Bellevue is committed to a program of equal employment opportunity regardless of race, color, creed, religion, gender, age, national origin, pregnancy, genetic information, marital status, sexual orientation (including gender identity), or the presence of any sensory, physical, or mental disabilities.

The City of Bellevue is also committed to complying with Title VI of the Civil Rights Act of 1964, that provides “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

**TITLE VI:** The City of Bellevue, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all consultants that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit submittals in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

**AMERICAN WITH DISABILITIES ACT (ADA) INFORMATION:** The City of Bellevue in accordance with Section 504 of Rehabilitation Act (Section 504) and the American with Disabilities Act (ADA), commits to nondiscrimination on the basis of disability, in all its program and activities. This material can be made available in an alternate format by emailing Procurement Services at [procurement@bellevuewa.gov](mailto:procurement@bellevuewa.gov) or by calling (425) 452-7876.

**INSURANCE REQUIREMENTS:** The selected consultant, or consultants, shall maintain insurance that is sufficient to protect the consultant’s business against all applicable risks, as set forth in the City’s Standard Insurance Requirements Attachment “B”. Please review insurance requirements prior to submitting a Submittal. If selected consultant is unable to meet these standard requirements, please note current or proposed insurance coverages in submittal as an Exception. Standard requirements may be negotiated if it is in the best interest of the City.

**INDEMNIFICATION:** The consultant shall hold harmless, defend, and indemnify the City and the City’s officers, agents, and employees against any liability that may be imposed upon them by reason of the consultant’s failure to provide compensation coverage or liability coverage.

**BUSINESS REGISTRATION AND TAXATION:** The consultant or consultants awarded the contract will be subject to City of Bellevue Business Registration and Business Taxation as presented in the Bellevue City Code. Questions about the City’s Business and Occupation (B&O) tax should be directed to the City’s Tax office at (425) 452-6851.

**NON-ENDORSEMENT:** As a result of the selection of a consultant to supply products and/or services to the City, consultant agrees to make no reference to the City in any literature, promotional material, brochures, sales presentation or the like without the express written consent of the City.

**NON-COLLUSION:** Submittal and signature of a Submittal swears that the document is genuine and not a sham or collusive and not made in the interest of any person not named, and that the consultant has not induced or solicited others to submit a sham offer, or to refrain from proposing.

**COMPLIANCE WITH LAWS AND REGULATIONS:** In addition to nondiscrimination and affirmative action compliance requirements previously listed, the consultant or consultants ultimately awarded a contract shall comply with federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, protection of public and employee safety and health; environmental protection; waste reduction and recycling; the protection of natural resources; permits; fees; taxes; and similar subjects. The successful firm shall comply with the requirements outlined in the FHWA-1273 form (attached).

**OWNERSHIP OF DOCUMENTS:** Any reports, studies, conclusions, and summaries prepared by the consultant shall become the property of the City.

**CONFIDENTIALITY OF INFORMATION:** All information and data furnished to the consultant by the City, and all other documents to which the consultant's employees have access during the term of the Contract, shall be treated as confidential to the City. Any oral or written disclosure to unauthorized individuals is prohibited.

**PUBLIC RECORDS:** Under Washington state law, the documents (including but not limited to written, printed, graphic, electronic, photographic, or voice mail materials and/or transcriptions, recordings, or reproductions thereof) submitted in response to this RFQ (the "documents") become a public record upon submission to the City, subject to mandatory disclosure upon request by any person, unless the documents are exempt from public disclosure by a specific provision of law. The City assumes no contractual obligation to enforce any exemption.

**ATTACHMENT “A”**  
**SCOPE OF WORK**  
**RFQ #26026**  
**Multi-Project Federal Construction Administrative Support**

Major elements of work contemplated to be performed under the contract:

Maintaining project compliance documentation including but not limited to:

- Bid Openings
  - Develop and maintain cost sharing spreadsheets.
  - Creating bid tabulations.
  - Filing all documents in SharePoint and paper project files.
  - Conduct vetting of apparent low bidder.
  - FSBE/DBE compliance goals.
  - Submittal of required federal documentation.
  - Submitting all required documents to WSDOT Local Programs for Concurrence to Award.
  - Creating bid packages upon council award to the Contractor.
  - Routing contracts through City’s Procurement department.
- Processing Request to Sublets and tracking contractor compliance.
- Intent to Pay Prevailing Wages
- Review Weekly Certified Payrolls for Contractor and all Subcontractors.
- Affidavit of Wages Paid
- Monthly Retainage Forms
- Change Order Documentation, Review, Processing and Tracking.
- Filing the Notice of Completion (NOC).
- Review Field Note Records (FNRs).
- Posting Contractor Pay Estimates.
  - Sending approved payments to Accounts Payable for processing after internal approval.
  - Maintaining payment documentation files.
- FSBE Documentation
  - Completing on-site reviews and sending them to WSDOT OEO
  - Verifying payments have been reported on WSDOT’s DMCS website.
  - FSBE trucking forms have been received by the FSBE trucking firm.
- Training Hours
  - Review contractor submitted training programs and trainees.
  - Tracking contractor trainee hours worked.
  - Review certified payrolls to verify and approve payment for trainee hours on the contractor pay estimate.
- Contractor Correspondence
  - Issuing Notice to Proceed (NTP) letters.
  - Contacting contractor as needed for required documentation.
  - Issuing Substantial and Physical Completion letters.
- Weekly Construction Meetings
  - Attend weekly construction meetings.
  - Distribute meeting agendas, schedules, material documentation notes.
  - Taking meeting notes during the meeting.
  - Distributing meeting notes after the meeting to all attendees.

The Project Manager will submit a monthly invoice, with costs itemized by project for the duration of the contract.

The City of Bellevue has identified the following list of potential FHWA funded projects that the consultant shall be providing support for:

<b>STIP-ID</b>	<b>STIP Title</b>	<b>WSDOT #</b>
BELL-92	<b>Coal Creek Corridor Safety Improvements</b>	<b>HSIP-1113(004)</b>
	<i>Install curve warning signs, radar speed feedback signs, evaluate reduced speed limit, and additional signing.</i>	
BELL-88	<b>NW Bellevue Walkways and Crosswalks (NE 18th and 21st Streets Safe Routes to School)</b>	<b>SRTS-9917(052)</b>
	<i>This project will construct marked crosswalks (includes illumination), reduced curb radii, vehicle lane width reduction, raised intersections, school speed zone signs, ADA curb ramp retrofits, sidewalk with curb and buffer separation in some locations and sidewalk with curb in others.</i>	
BELL-97	<b>Bundle-Deck Repair</b>	<b>BHM-9917(053)</b>
	<i>A bundled bridge deck preservation project at four city-owned bridges listed on the National Bridge Inventory ((1) NE 12th Street over former BNRR corridor, (2) NE 12th Street over Safeway parking lot west of 124th Avenue NE, (3) Lakemont Boulevard at milepost 2.34, and (4) 120th Avenue NE over Sound Transit light rail corridor). Work will consist of replacement of failed compression seal expansion joints, sealing full depth deck cracks and thin overlay as needed, removal and installation of pavement markings and temporary traffic control.</i>	
BELL-89	<b>Main Street Off-Street Multimodal Pathway</b>	<b>TAPUL-2032(140)</b>
	<i>Construct a 12-ft-wide concrete multi-use pedestrian and bicycle pathway on the south side of Main Street between 108th Avenue and 112th Avenue. The project will include a 4-foot-wide planter, traffic calming features including two raised crosswalks to be installed at the crossings of 110 Avenue SE and 110 Place SE, updated green pavement markings at the intersection of 108th Avenue NE, and landscaping throughout.</i>	
BELL-70C	<b>Mountains to Sound Greenway Trail (142<sup>nd</sup> Place SE to the Nonmotorized Overcrossing of I-90 at 150<sup>th</sup> Avenue SE)</b>	<b>STBGUL-HLP-0075(033)</b>

	<i>Design and construct a separated multi-use trail along the south side of I-90 starting east of the 132nd Ave SE intersection and continuing to the vicinity of 150th Ave SE overcrossing with I-90. In general, the trail will include a 12- foot-wide, hard surface facility, trailhead treatments, wayfinding, landscaped buffer in some areas, lighting and storm drainage improvements. This project will provide signal modifications to existing signals. This project will add new mid-block crossing of SE 36th Street within the 13400 block as well as west of the 146th Ave SE intersection. This is section 3 from 142nd Place SE to the nonmotorized overcrossing of I-90 at 150th Ave SE.</i>	
BELL-85	<b>Eastrail to NE Spring Boulevard Trail Link</b>	<b>STPUL-0075(031)</b>
	<i>Construct a non-motorized trail linking the north-south EastRail with the east-west Spring Boulevard pedestrian-bicycle multipurpose pathway. This project will include a hard surfaced facility that is anticipated to include trail head treatments, wayfinding, lighting and natural storm drainage.</i>	
BELL-91	<b>NE 12<sup>th</sup> Street Bridge</b>	<b>BHM-2066(003)</b>
	<i>Conduct seismic retrofit of bridges 08547200 (Bellevue2) and 0847300 (Bellevue4) on NE 12th Street.</i>	
BELL-96	<b>Eastrail – Mountains to Sound Greenway Regional Trails Connection</b>	<b>TBD</b>
	<i>Construct multimodal pathway with curb, gutter, and planted buffer on 118th Avenue SE; an RRFB crossing of 118th Avenue SE at SE 32nd Street; and address cross slopes and install paving and striping to create a 6-ft-wide dedicated shoulder for pedestrians and bicyclists along SE 32nd Street. As needed, the scope also includes walls and railing, fencing, lighting, wayfinding signage, landscaping, and utility relocation to support the trail connection.</i>	
BELL-100	<b>NE 8th Street Complete Streets Safety Improvements</b>	<b>TBD</b>
	<i>Install bike lanes, crosswalk, and rectangular rapid flashing beacons (RRFB)</i>	
BELL-101	<b>Systemic High Visibility Crosswalk Markings</b>	<b>TBD</b>
	<i>Install high visibility crosswalk markings and stop bars (stop-controlled intersections).</i>	

**ATTACHMENT "B"**  
**INSURANCE REQUIREMENTS**  
**RFQ #26026**

**Multi-Project Federal Construction Administration Support**

The consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the consultant, his agents, representatives, employees, or subcontractors. The cost of such insurance shall be paid by the consultant. Insurance shall meet or exceed the following unless otherwise approved by the City.

**A. Minimum Insurance**

1. Commercial General Liability coverage with limits not less than \$1,000,000 per occurrence / \$2,000,000 annual aggregate.
2. Commercial Automobile Liability coverage with limits not less than \$1,000,000 per accident for any auto.
3. Stop Gap/Employer's Liability coverage with limits not less than \$1,000,000 per accident/disease.
4. Workers' Compensation coverage as required by the Industrial Insurance Laws of the State of Washington.

**B. Additional Insurance:**

Consultant's Errors & Omissions or Professional Liability with limits not less than \$1,000,000 per claim and as an annual aggregate.

**C. Self-Insured Retentions**

Self-insured retentions must be declared to the City.

**D. Other Provisions**

1. Commercial General Liability policies shall be endorsed to:  
Include the City, its officials, employees, and volunteers as additional insureds,
  - a. Provide that such insurance shall be primary as respects any insurance or self-insurance maintained by the City.
2. Consultant or its Insurance Agent/Broker shall notify the City of any cancellation, or reduction in coverage or limits, of any insurance within seven days of receipt of insurers' notification to that effect.

**E. Acceptability of Insurers**

Insurance shall be placed with insurers with an AM Best rating of A:VII or better.

**F. Verification of Coverage**

Consultant shall furnish the City with certificates of insurance required by this clause. The certificates are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

**G. Subcontractors**

Consultant shall require subcontractors to provide coverage which complies with the requirements stated herein.

**RFQ SUBMITTAL FORM**  
**RFQ # 26026**  
**Multi-Project Federal Construction Administration Support**

To: City of Bellevue

From: \_\_\_\_\_ Company Name

\_\_\_\_\_ Company Address

\_\_\_\_\_ City, State, Zip Code

\_\_\_\_\_ Phone, Email & Fax Number

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**Submittal Requirements Checklist:**

[Provide submittal requirements checklist – ensure it matches information provided in the RFQ]

- Statement of Intent: A statement of intent explaining why the firm is interested in the project, highlighting firm’s qualifications to do the work, and provide qualifications of proposed personnel.
- Project Manager: Identify the person who will act as the firm’s Project Manager to be the City’s primary contact. Include two examples of completion of similar projects in complexity and magnitude to the Multi-Project Federal Construction Administration Support project in the last five to seven years. Briefly describe each project and the role this person played in the delivery of each project. Include the names, titles and phone numbers of references.
- Key Personnel: It is the City’s expectations that key personnel will be committed for the duration of the project. Should turnover for the Consultant necessitate a change in the project key personnel, the Consultant shall develop and present to the City options and recommendations for a replacement. All key personnel replacements shall be approved by the City prior to implementation.
- Submittal size shall not be more than ten single-sided, 8 ½ x 11 pages using a single-spaced 12-point font. The additional forms and certificates that are required for the firm’s RFQ submittal will not be counted against the ten-page limit.
- A completed and signed RFQ Submittal Form
- A completed and signed Non-Collusion Certificate and Debarment Affidavit.
- A completed and signed Affidavit of Equal Opportunity Compliance.
- A completed and signed Affidavit of Title VI Compliance.

**Exceptions:**

Except as noted below, the undersigned hereby agrees to comply with all the terms and conditions put forth in the City's Request for Qualifications.

The signature below represents review and acknowledgement of the City's Insurance Requirements as listed in Attachment "B". Our submittal includes the following verification (please check one):

- Evidence of Insurance Certificate verifying amounts of coverage.
- A written statement indicating the company currently has the required coverages or is willing to obtain (at the company's own cost) the required coverages if awarded the contract.

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

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

**NON-COLLUSION CERTIFICATE AND DEBARMENT AFFIDAVIT**

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The undersigned, being duly sworn, deposes and says that the person, firm, association, co-partnership or corporation herein named, 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 the preparation and submission of a submittal to the City of Bellevue for consideration in the award of a contract on the improvement described as follows:

**RFQ #26026 – Multi-Project Federal Construction Administration Support**

The undersigned further certifies that, except as noted on a separate form, the firm, association, or corporation or any person in a controlling capacity associated therewith or any position involving the administration of federal funds; is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against said person, firm, association, or corporation by a court of competent jurisdiction on any manner involving fraud or official misconduct within the last three years.

I further acknowledge that by signing this page of the submittal, I am deemed to have agreed to the provisions of the affidavit.

\_\_\_\_\_

\_\_\_\_\_  
(Name of Firm)

By: \_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Title)

Sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Notary Public)

CORPORATE SEAL:

# BIDDER'S AFFIDAVIT OF EQUAL OPPORTUNITY COMPLIANCE

## GENERAL INSTRUCTIONS

**Application:** The following materials pertain to the Equal Opportunity Requirements of the City of Bellevue as set forth in Chapter 4.28.170 of the Bellevue City Code (BCC). All contractors, subcontractors, consultants, vendors, and suppliers who contract with the City in a total amount of \$35,000 or more within any given year, or as requested by the City, must comply with these requirements.

**Affidavit:** Before being considered for a contract of the magnitude listed above, all contractors will be required to submit the "Affidavit of Equal Opportunity Compliance" as a part of their proposal/qualifications or upon the request of the Procurement Services Division.

**Compliance:** The City of Bellevue reserves the right to randomly select contractors, subcontractors, consultants, vendors, or suppliers to be audited for compliance of the requirements listed. During this audit, the contractors, etc. will be asked for a specific demonstration of compliance with the requirements.

**Non-compliance:** A finding of non-compliance may be considered a breach of contract and suspension or termination of the contract may follow.

**City contact:** The City's Compliance Officer is the Procurement Services Manager, and specific questions pertaining to this section may be directed to the Procurement Services Manager at (425) 452-7876.

## **EQUAL OPPORTUNITY REQUIREMENTS**

Section 4.28.170 of the Bellevue City Code establishes the requirements for all contractual service providers:

“All contractors, subcontractors, consultants, vendors, and suppliers who contract with the City of Bellevue in a total amount of \$35,000 or more within any given year, or as requested by the City, are required to take affirmative action and comply with the following requirements of this section. There shall be included in any contract between such contractual services providers and the City of Bellevue the following provisions:

1. Contractor shall make specific and constant recruitment efforts with minority and women’s organizations, schools, and training institutions. This shall be done by notifying relevant minority and women’s organizations.
2. Contractor shall seek out eligible minority and women contractors to receive subcontract awards. Appropriate minority and women contractors shall be notified in writing of any bids advertised for subcontract work.
3. Contractor shall provide a written statement to all new employees and subcontractors indicating commitment as an equal opportunity employer and the steps taken to equal treatment of all persons.
4. Contractor shall actively consider for promotion and advancement available minorities and women.
5. Contractor is encouraged to make specific efforts to encourage present minority and women employees to help recruit qualified members of protected groups.
6. Contractor is encouraged to provide traditional and nontraditional employment opportunities to female and minority youth through after school and summer employment.
7. Contractor is encouraged to assist in developing the skills of minorities and women by providing or sponsoring training programs.

Willful disregard of the City’s nondiscrimination and affirmative action requirements shall be considered breach of contract and suspension or termination of all or part of the contract may follow.

All contractors, subcontractors, vendors, consultants, or suppliers of the City required to take affirmative action must sign the affidavit of compliance and submit with the bid proposal or upon the request of the Procurement Services Division. All documents related to compliance steps listed above shall be presented upon the request of the Procurement Services Division. The Procurement Services Manager shall serve as the compliance officer for the City and is authorized to develop and issue procedures for the administration of this section.”



## AFFIDAVIT OF EQUAL OPPORTUNITY COMPLIANCE

\_\_\_\_\_ certifies that:  
Consultant

1. If necessary to recruit additional employees, it has placed an advertisement in newspapers or trade journals of general circulation in the metropolitan Seattle area or taken similar action to provide notice to minority and women's organizations, schools, and training institutions.
2. In sourcing subcontract work for trades listed above, it will place an advertisement in newspapers or trade journals of general circulation in the metropolitan Seattle area or take similar action to provide written notice to qualified minority and women contractors of bids for subcontract work.
3. It will obtain from its subcontractors and submit upon request an Affidavit of Equal Opportunity Compliance as required by these bid documents.
4. It has provided a written statement to all new employees or subcontractors indicating their commitment as an equal opportunity employer.
5. It has considered all eligible employees for promotion or advancement when promotion or advancement opportunities have existed.

By: \_\_\_\_\_  
(Authorized Signature)

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

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

# BIDDER'S AFFIDAVIT OF TITLE VI COMPLIANCE

## GENERAL INSTRUCTIONS

**Application:** The following materials pertain to the regulations relative to nondiscrimination if Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, part 21. All contractors, subcontractors, consultants, suppliers, and manufacturers who contract with the City must comply with these requirements.

**Affidavit:** Before being considered for a contract, all contractors, etc. will be required to submit the "Affidavit of Title VI Compliance" as a part of their submittal or upon the request of the Procurement Services Division

**Compliance:** The City of Bellevue reserves the right to randomly select contractors, subcontractors, consultants, vendors, or suppliers to be audited for compliance of the requirements listed. During this audit, the contractors, etc. will be asked for a specific demonstration of compliance with the requirements.

**Non-compliance:** A finding of non-compliance may be considered a breach of contract and suspension or termination of the contract may follow.

**City contact:** The City's Compliance Officer is the Procurement Services Manager, and specific questions pertaining to this section may be directed to the Procurement Services Manager at (425) 452-7876.

## AFFIDAVIT OF TITLE VI COMPLIANCE

### Assurances for Consultants, Contractors, Subcontractors, Suppliers and Manufacturers (collectively referred to herein as Contractor)

1. **Compliance with Regulations:** The Contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter DOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed during the contract, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identification, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the Contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, sexual orientation, gender identification, or national origin.
4. **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Bellevue or the Washington State Department of Transportation 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 shall so certify to the City of Bellevue or the Washington State Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the City of Bellevue and the Washington State Department of Transportation shall impose such contract sanctions as it, or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding of payments to the Contractor under the contract until the contractor complies, and/or;
  - b. Cancellation, termination, or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor shall include the provisions of BCC 4.28.170(A)(1)(7) outlined above in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontractor or procurement as the City of Bellevue or the U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions including sanctions for noncompliance.

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the City of Bellevue enter into such litigation to protect the interests of the City and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The contractor hereby certifies that during the performance of this contract it agrees to comply with these assurances.

By: \_\_\_\_\_  
(Authorized Signature)

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

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

**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

**ATTACHMENTS**

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

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

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

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **6. Training and Promotion:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **10. Assurances Required:**

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

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

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

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

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

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

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

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

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

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

### III. NONSEGREGATED FACILITIES

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

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

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

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

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

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

#### 1. Minimum wages (29 CFR 5.5)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 2. Withholding (29 CFR 5.5)

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

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

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

### 3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements (1) Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements (1) Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker ( e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

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

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

(5) *Signature*. The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification*. The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention*. The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents*. The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers*. The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements*. If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures*. Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

#### **4. Apprentices and equal employment opportunity (29 CFR 5.5)**

a. *Apprentices* (1) *Rate of pay*. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

(3) *Apprenticeship ratio*. The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates*. Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity*. The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

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

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

**6. Subcontracts.** The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

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

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.** a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

**11. Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

## V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)\* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

\* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

### 3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

**4. Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

**5. Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

### VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

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

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

## **VII. SAFETY: ACCIDENT PREVENTION**

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

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

## **VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

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

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

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

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

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

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

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

**IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)**

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

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

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

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

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

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

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

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 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.

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**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.

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#### **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.

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#### **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.