PPPSCSA

CALL ORDER: 745
January 31, 2020

***OKLAHOMA DEPARTMENT OF TRANSPORTATION***

200 NE 21ST STREET OKLAHOMA CITY, OK 73105

***PROPOSAL***

**CONTRACT ID: 200137**

STAPLE BID BOND TO BACK OF PROPOSAL

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BIDS RECEIVED UNTIL 10:30 A.M. ON
March 19, 2020 AT ODOT, OKLAHOMA CITY

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JOB PIECE NO. FEDERAL AID PROJECT NO.

3292204 (SH-29/SH-74) STP-225C(082)AD GARVIN

DESCRIPTION: PEDESTRIAN IMPROVEMENTS (SIDEWALKS)

LOCATION: SH-29/SH-74: SH-29, FROM 0.1 MI WEST OF SH-74 EXTEND EAST.
SH-74, FROM 0.1 MI S. OF SH-29 EXTEND NORTH IN ELMORE CITY.

LENGTH: 0.738 MILES

AMOUNT OF PROPOSAL GUARANTEE: FIVE PERCENT (5%) OF THE BID.

NOTE: CAREFULLY REVIEW THE ENTIRE CONTENTS OF THIS PROPOSAL. ALL PROVISIONS OF THIS PROPOSAL REQUIRING SIGNATURE MUST BE SIGNED AND NOTARIZED. SUBMIT SCHEDULE OF ITEMS BY MEANS OF ELECTRONIC MEDIA PROVIDED. AFTER SCHEDULES OF ITEMS HAVE BEEN ADDED TO ELECTRONIC MEDIA, PRINT OUT ITEM SCHEDULE AND INSERT IN PROPOSAL. ELECTRONIC MEDIA AND SCHEDULE OF ITEMS PRINT OUT ARE TO BE PUT IN ENVELOPE WITH PROPOSAL.

SIGN: PROPOSAL MUST BE SIGNED TO COINCIDE WITH PRE-QUALIFICATION PAPERS.

BID PROPOSAL AFFIDAVIT

DBE PROGRAM AFFIDAVIT (WHEN APPLICABLE)

ALL PAPERS BOUND WITH OR STAPLED TO THIS PROPOSAL FORM ARE NECESSARY PARTS THEREOF AND PROPOSAL MUST NOT BE UNSTAPLED.

THIS PROPOSAL ISSUED TO: CONTRACTOR'S ID NO.

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PROPOSAL NO. ____________________

REVISED:

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BID RIGGING IS A SERIOUS CRIME. IF YOU HAVE ANY INFORMATION CONCERNING COLLUSIVE BIDDING, EVEN A REQUEST TO SUBMIT A COMPLIMENTARY BID, PLEASE CALL THE OKLAHOMA ATTORNEY GENERAL'S OFFICE AT TEL. NO. 405-521-3921.
Unless otherwise noted in the proposal, all bids must be submitted over the Internet via Bid Express. When written bids are allowed, sealed proposals sent by registered mail will be received through the ODOT Office Engineer Division until 30 minutes prior to the scheduled bid opening. From 30 minutes prior to the bid opening until the time of the bid opening, bid proposals must be turned in directly to the ODOT Commission Room located on the east side of the lobby. The scheduled bid opening is 10:30 A.M., March 19, 2020 for the work listed below.

No Proposal for construction or maintenance work of the department will be issued to any contractor after 10:30 A.M. on the working day preceding opening of bids for any contract.

Each bid shall be accompanied by a Certified or Cashier's Check or Bid Bond equal to 5% of the bid made payable to the State of Oklahoma, Department of Transportation, as a proposal guaranty. Proposal checks will be held or returned by the Department as per Section 103.04 of the State Standard Specifications.

The minimum wage to be paid laborers and mechanics employed on this project shall be included in the proposal.

Bids must be prepared as directed by the State Standard Specifications.

Plans, proposals, and specifications may be examined in the plan room or in the Office Engineer Division at the Oklahoma Department of Transportation central office in Oklahoma City, Oklahoma.

This work will be done under the Oklahoma Department of Transportation applicable specifications for highway construction as depicted on the lower left corner of the plan's title sheet.

Plans and proposal forms may be ordered from the Office Engineer Division, Oklahoma Department of Transportation Building, 200 N.E. 21st Street, Oklahoma City, OK 73105. Cost of Bidding Documents is $50.00 + tax for each Bidding Proposal. State Standard Specifications may be purchased for $55.00 + tax. (Oklahoma tax is 8.375%). Plans (Reduced Size Complete with X-Sec if applicable) $31.57 + postage/handling. Make checks payable to Oklahoma Department of Transportation.

No refunds will be made for bidding documents or Specification books purchased.

Unless otherwise noted in the proposal, upon award of the contract to the successful bidder, the contract will be completely and correctly executed by the contractor and returned to the Department within ten (10) working days from the date of award. The Department will have fourteen (14) working days from the date of award to complete it's execution of the contract.

The Oklahoma Department of Transportation (ODOT) ensures that no person or groups of persons shall, on the grounds of race, color, sex, age, national origin, disability/handicap, or income status, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by ODOT, it's recipients, sub-recipients, and contractors.

Description of work and location of project: Job Piece No.
STP-225C(082)AD SH-29/SH-74 GARVIN 3292204
PEDESTRIAN IMPROVEMENTS (SIDEWALKS)
SH-29/SH-74 SH-29, FROM 0.1 MI WEST OF SH-74 EXTEND EAST.
SH-74 FROM 0.1 MI S. OF SH-29 EXTEND NORTH IN ELMORE CITY.

STATE OF OKLAHOMA, DEPARTMENT OF TRANSPORTATION - By: Tim Gatz, Director.
CONTRACT TIME ALLOTTED FOR THIS PROJECT IS 90 CALENDAR DAYS.

DISADVANTAGE BUSINESS ENTERPRISES: REQUIRED PARTICIPATION IS 9.00%.

*****************************************************************************
* THE DEPARTMENT WILL CONSIDER A PROPOSAL NONRESPONSIVE AND MAY REJECT IT *
* IN ACCORDANCE WITH SUBSECTIONS 102.08 AND/OR 102.14 OF THE 2009 OKLAHOMA *
* DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS. *
*****************************************************************************
## OKLAHOMA DEPARTMENT OF TRANSPORTATION

**DATE:** January 31, 2020

**CONTRACT ID:** 200137

**J.P. NUMBER:** 3292204

**PROJECT(S):** SH-29/SH-74

**SCHEDULE OF PRICES**

**REVISED:**

**BIDDER MUST ENTER ALL UNIT PRICES, MAKE ALL EXTENSIONS AND TOTAL THE BID.**

<table>
<thead>
<tr>
<th>LINE NO</th>
<th>ITEM DESCRIPTION</th>
<th>APPROX.</th>
<th>UNIT PRICE</th>
<th>BID AMOUNT</th>
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OKLAHOMA DEPARTMENT OF TRANSPORTATION

DATE: January 31, 2020

PROJECT(S): 3292204

SH-29/SH-74

CONTRACT ID: 200137

J.P. NUMBER: 3292204

SH-29/SH-74

BIDDER MUST ENTER ALL UNIT PRICES, MAKE ALL EXTENSIONS AND TOTAL THE BID.

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OKLAHOMA DEPARTMENT OF TRANSPORTATION

SCHEDULE OF PRICES

DATE: January 31, 2020

PROJECT(S): 3292204
SH-29/SH-74

CONTRACT ID: 200137
J.P. NUMBER 3292204

SECTION 0001 TOTAL

SECTION 0002 TRAFFIC SIGNING AND STRIPING

BIDDER MUST ENTER ALL UNIT PRICES, MAKE ALL EXTENSIONS AND TOTAL THE BID.

<table>
<thead>
<tr>
<th>LINE NO</th>
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OKLAHOMA DEPARTMENT OF TRANSPORTATION
BAMS/LAS - LETTING AND AWARD SYSTEM
SPECIAL PROVISIONS - 2009 SPECIFICATION

DATE: January 14, 2020

CONTRACT ID: 200137
SPECIAL PROVISIONS FOR J.P.: 3292204
SH-29/SH-74
OKLAHOMA PROJECT NUMBER: STP-225C(082)AD

103-3(a)09 SUBCONTRACTS
106-5(a-f)09 BUY AMERICA
108-2(a-b)09 ADMINISTRATION AND EXTENSION OF CONTRACT TIME (WINTER TIME SUSPENSION)
108-23(a)09 FLEXIBLE NOTICE TO PROCEED
108-182(a)09 70% SUBLETTING OF CONTRACT
109-7(a-c)09 PRICE ADJUSTMENT FOR ASPHALT BINDER
109-8(a-b)09 PAYMENTS TO SUBCONTRACTORS
109-11(a)09 PAYMENT FOR MATERIAL ON HAND
411-12(a)09 LONGITUDINAL JOINT DENSITY ON ASPHALT CONCRETE PAVEMENT
411-13(a)09 WARM MIX ASPHALT
411-17(a)09 COMPACTION OF HOT MIX ASPHALT
708-22(a)09 WARM MIX ASPHALT MATERIAL REQUIREMENTS
708-23(a)09 HAMBURG RUT TESTING OF HOT MIX ASPHALT
708-26(a-f)09 PLANT MIX BITUMINOUS BASES AND SURFACES (SUPERPAVE)
708-28(a)09 MULTIPLE STRESS CREEP RECOVERY (MSCR) TESTING
855-7(a-f)09 TRAFFIC STRIPE (PLASTIC)
857-2(a-c)09 CONSTRUCTION ZONE PAVEMENT MARKINGS
OK20200020 WAGE RATES

CF000050 REPORTING OF BID RIGGING
CF000101 TITLE VI - NON-DISCRIMINATION CLAUSE
CF000200 RESIDENCE REQUIREMENTS FOR LABOR ON FEDERAL AID PROJECTS
CF000501 CERTIFICATION FOR FEDERAL-AID CONTRACTS
CF000502 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION (FHWA 1273)
CF000503 CARGO PREFERENCE ACT (CPA) REQUIREMENTS
CF000600 NOTICE OF REQUIREMENTS FOR AFFIRMATIVE ACTION
CF000900 STANDARD FEDERAL EQUAL OPPORTUNITY
CF001000 ON-THE-JOB TRAINING (OJT) PROGRAM
CF001700 CONTRACTORS AFFIDAVIT
CX00210B * DISADVANTAGED BUSINESS ENTERPRISES PROGRAMS
CZ002300 CONTRACT DISPUTE RESOLUTION PROCEDURE
CZ002850 NO.2 PROPOSAL SHEET
CZ002975 * BIDDER’S AFFIDAVIT - STATEMENT UNDER PENALTY
These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

(Add the following:)

103.10 SUBCONTRACTS

Subcontracts and/or sub-agreements must be submitted for review and approval by the Department prior to the subcontractor performing contract work. Ensure all subcontracts conform to the requirements of Subsection 108.01, "Subletting of Contract," and are executed in accordance with the Contract requirements and the provisions specified herein.

As a minimum, the following information must be included in all subcontracts:

- Full description of the contract work to be performed by the subcontractor
- Contractor Equal Employment Opportunity (EEO) Policy Statement (see ODOT General Contractor Requirements – Development and Dissemination of EEO Policy)
- Form FHWA-1273 (must be physically attached verbatim to subcontracts, excluding purchase orders, rental agreements and other agreements for supplies or services)
- ODOT Title VI Assurances Appendices A and E (must be physically attached verbatim)
- Prompt Payment/Return of Retainage provisions (from the ODOT DBE Program Manual)
- Signature(s) of the prime contractor and subcontractor

If the subcontract is with a subcontractor performing work as an ODOT certified DBE, then the following additional information must be included in the submitted subcontract:

- Full description of the contract work that the certified DBE will perform based upon their NAICS code
- DBE Termination/Substitution/Replacement Clause (from the ODOT DBE Program Manual)

The aforementioned subcontract documents can be downloaded from the ODOT website, and are available for the Contractors' use: [https://www.odot.org/subcontracts](https://www.odot.org/subcontracts).

Purchase orders, rental agreements and other agreements for supplies or services related to a construction contract are excluded from this requirement only if the purchase order or other agreement is not with a DBE. However, Prompt Payment/Return of Retainage provisions must still be included.

Submit executed subcontracts and/or sub-agreements in pdf format to the Department using the following email address: [constructionsubcontracts@odot.org](mailto:constructionsubcontracts@odot.org). Submit all additional and/or modified subcontracts or sub-agreements to the Department via the same email address. To prevent delays in the approval of the subcontract, include the following information in all correspondence: contract I.D., project number, prime contractor, and subcontractor.

Subcontracts and sub-agreements may be submitted prior to the receipt of the signed Contract by the Department.
These Special Provisions amend, revise, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

106.01 SOURCE OF SUPPLY AND QUALITY REQUIREMENTS

B. Buy America (Replace with the following :)

Comply with the Buy America provisions of Title 23 CFR 635.410 which states that all manufacturing processes, including the application of a coating, for all steel or iron products permanently incorporated into the project shall have occurred in the United States (U.S.). These requirements are in effect on all Contracts regardless of the use of federal funds. All referenced forms and letters must be obtained from the current version of the ODOT Construction Control Directive (CCD) No. 20140620 – Buy America.

“All manufacturing processes” are defined as any process required to change the raw ore or scrap metal into the finished steel or iron product (e.g. smelting, rolling, extruding, bending, etc.).

“Coating” is defined as any process which protects or enhances the value of the steel or iron product to which the coating is applied (e.g. epoxy, galvanizing, painting, etc.).

(1) Exemptions

The following materials are exempt, unless processed or refined to include substantial amounts of steel or iron material, and may be used regardless of source in the domestic manufacturing process for steel or iron material:

- Raw materials (iron ore or alloys)
- Scrap
- Pig iron
- Processed, pelletized, and reduced iron ore material
- Aluminum
- Brass
- Copper

For recycled steel, only the manufacturing processes to produce steel products must occur domestically, beginning at the point where the recycled steel is melted.

(2) Minimal Use Request

Federal regulations allow a minimal use of foreign steel or iron if the cost of the steel and iron products as they are delivered to the project does not exceed 0.1 percent of the total Contract
amount, or $2,500, whichever is greater. This threshold applies to the cumulative amount of all foreign steel and iron used on the project. The Contractor must submit a written request to the Resident Engineer which includes the origin and value of any foreign material to be used. This request must be submitted prior to the work being performed and preferably at the preconstruction conference. The Contractor must track the amount of incorporated foreign steel and iron throughout the life of a project to ensure the minimal use threshold amount is not exceeded.

(3) Preconstruction Conference Discussion

The Department will host a project preconstruction conference. At this conference, the Contractor should be prepared to present and/or discuss the following items as part of the Buy America requirements for all steel and iron products permanently incorporated into projects:

- Project Specific Certification letters from the Contractor and Subcontractors demonstrating their understanding and intent to comply with the Buy America Requirements (see Subsection 106.B.(4).(a)).
- A list of all steel products and suppliers to be used on the project.
- Required documentation verifying compliance with Buy America for each known steel or iron product at the time of the meeting (see Subsection 106.B.(4).(b)).
- Minimal use requests (see Subsection 106.B.(2))
- Change order work involving steel must be in compliance and documented similarly to Contract work.

(4) Compliance with Buy America Requirements

Steel or iron products incorporated into the project that the origin was not domestic the Contractor may be subject to removal and replacement of the work, forfeiture of payment for the work, and/or assessment of penalty.

(a) Certification Letters

Before any work begins that incorporates steel or iron products into the project, the Contractor shall submit a project specific certification letter stating that all manufacturing processes involved with the production of these products will occur in the U.S., along with project specific certification letters from each Subcontractor for each steel or iron products to be used on the project. Acceptable language for these letters can be found in the ODOT CCD for Buy America. Alternative statements will not be considered.

(b) Submittals and Forms

For each steel or iron product, the Contractor and Subcontractor will be responsible for providing to the Department all documentation required to verify that each product complies with Buy America in accordance with the requirements of the corresponding category listed below. The Contractor must provide a completed:

- Material Use Statement & Certifications (MDT-1) for each steel or iron product in Category 1 incorporated into the project.
Certificate of Materials Origin (MDT-2) for each steel or iron product in Categories 1 and 2 incorporated into the project.

Programmatic Certificate of Materials Origin (MDT-3) for each steel or iron product in Category 3 incorporated into the project.

In most instances, determination of compliance with Buy America requirements should be achieved prior to incorporating the product into the work. If not, the Resident Engineer will be responsible for withholding payment for this work until compliance has been determined.

(5) Product Categories

The various steel and iron products (referred to herein as ‘steel’) that are permanently incorporated into projects have been grouped into the following categories with the roles and responsibilities listed to ensure compliance with the Buy America requirements:

(a) Category 1

Steel products covered in this category are as follows:

- Products used in pavements, bridges, or other structures cast at the project site:
  - Structural steel (girders, diaphragms, anchor bolts, high-strength bolts, sealed expansion joints, etc.)
  - Reinforcing steel (epoxy coated or black)
  - Welded wire fabric
  - Steel spiral wire (drilled shaft cages, bridge rail, etc.)
  - Steel piling
  - Drill shaft casing (permanent)
  - Dowel bars and baskets for paving
  - Steel sheet piling (permanent)
  - Bridge bearing assemblies (fixed and expansion)
  - Post-tensioning steel (strands, wedges, anchor plates, etc.)
- Steel monotube structures
- Galvanized steel supports for overhead and cantilevered sign structures
- Sign posts and bases (2 ½” diameter and larger and wide flange posts)

For items in this category, the Contractor is responsible for the following:

- Submitting completed MDT-1 and MDT-2 forms for each item with steel to both the Resident Engineer and Materials Engineer.
- The MDT-1 will include the Mill Test Reports, and the MDT-2 will list each corporate entity involved in the manufacturing of the steel item from melting through all fabrication processes.
  - Mill test reports and certification letters must include a statement similar to the following: "All manufacturing processes for these steel and iron products, including the application of coatings have occurred in the United States."
  - Certifications for a particular item should be retained in one location to allow easy access for auditing purposes.
Certifications should be retained by the Contractor until final acceptance of the project.

(b) **Category 2**

Steel and iron products covered in this category are as follows:

- Cast iron products (frames, grates, hoods, manhole covers, etc.)
- Fencing materials
- Corrugated steel pipe
- Corrugated steel pipe end treatments
- Steel pipe
- Ductile iron pipe
- Underground utility encasement conduit
- Stay-in-place forms

For items in this category, the Contractor is responsible for the following:

- Submitting completed MDT-2 forms for each item with steel to the Resident Engineer.
- The MDT-2 will list each corporate entity involved in the manufacturing of the steel item from melting through all fabrication processes.
  - The MDT-2 forms should be retained by the Contractor until final acceptance of the project.

(c) **Category 3**

This category covers traffic related items which typically have been placed on the ODOT Traffic Engineering Division’s Qualified Products List (QPL). For items in this category listed on the QPL, the MDT-3 will be on file with the Traffic Division. For items in this category that are not listed on the QPL, the Contractor is responsible for submitting a completed MDT-3 form for each pay item with steel to the Resident Engineer. The MDT-3 lists all corporate entities involved throughout the manufacturing process for each steel and iron product used on the project.

The steel products covered in this category are as follows:

- Traffic signal poles and mast arm
- Highway lighting poles and mast arm
- High mast lighting towers
- Cable barrier
- Guardrail, guardrail posts, end sections, terminals, impact attenuators
- Sign posts and bases (less than 2 1/2” in diameter and square tubing)
- Steel electrical conduit
(d) **Category 4**

This category covers pre-stressed and precast concrete items receiving full-time inspection by ODOT as the concrete items are cast. Items in this category are required to have a signed and dated project specific certification for each corporate entity involved in the manufacturing of the steel item from melting through all fabrication processes. This includes the Mill Test Reports with a certification from the supplier/fabricator that references the Buy America requirements and lists each corporate entity involved throughout the manufacturing processes. Mill test reports and certification letters must include a statement similar to the following:

"All manufacturing processes for these steel and iron products, including the application of coatings, have occurred in the United States."

The pre-stressed and precast concrete items covered in this category are as follows:

- Pre-stressed concrete beams and girders
- Precast panels
- Precast MSE and sound walls
- Precast bridge arches

(e) **Category 5**

This category covers non-structural precast concrete items that do not receive full-time inspection by ODOT. Fabricators for items in this category have been placed on the ODOT Materials Division Approved Products List (APL). The fabricator is required to provide a signed and dated project specific certification which lists each corporate entity involved in the manufacturing process, including melting and all fabrication processes. The certification must reference the Buy America requirements using a statement similar to the following:

"All manufacturing processes for these steel and iron products, including the application of coatings, have occurred in the United States."

The steel used in the fabrication of these items will be certified by the fabricator for general use in production and cannot be tied specifically to any individual item.

The pre-stressed and precast concrete items covered in this category are as follows:

- Precast box culverts
- Reinforced concrete pipe and precast end sections
- Precast inlets and catch basins
- Precast manholes

(f) **Category 6**

This category covers miscellaneous steel or iron components, subcomponents and hardware necessary to encase, assemble and construct certain highway products and manufactured products. For items in this category, the Contractor is responsible for the following:
• Ensure that all manufacturing processes for these steel and iron products including the application of coatings have occurred in the United States.
• Provide documentation to verify compliance upon request.
• Certifications should be retained by the Contractor/supplier until final acceptance of the project.

The following items are included in this category:

• Cabinets
• Covers
• Clamps
• Fittings
• Sleeves
• Miscellaneous hardware (washers, bolts, nuts, and screws)
• Tie wire
• Spacers
• Chairs or other steel reinforcement supports
• Lifting hooks
• Pipe Valves
• Electronic components
• Temporary falsework
• Mailbox and installation assembly
These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

108.07 ADMINISTRATION AND EXTENSION OF CONTRACT TIME

B. Calendar Day Contract (Replace the 2nd paragraph with the following:)

The Contractor may request a winter time suspension of time charges and work during the time period between December 21st and the following February 15th. The Contractor must make this request in writing to the Engineer at least ten (10) working days prior to the beginning date of the winter time suspension.

Upon receipt of the Contractor’s written request, the Engineer will perform a field review of the project to determine if a winter time suspension is suitable. As part of the review, consideration will be given to the following applicable project components:

- more than 85% complete
- adverse impacts to the prosecution and progress of other projects
- on the interstate system
- lane or ramp closures
- lane or edge drop offs without a recoverable slope
- areas that require patching,
- obstructions (i.e. manholes, valve boxes, etc.) in the roadway that could hamper snow and ice removal
- exposed structural surfaces or subgrade
- areas that could pond water
- construction debris, materials, or equipment in the roadway clear zone
- temporary erosion control measures in place
- proper signage and striping in place
- driveways and side roads are accessible
- scheduled project deliveries and services (i.e. materials, inspections, etc.)
- expiring permits
- environmental mitigation as required by the contract
- items of work which, if left undone or unattended, would not be in the best interest of the Department or traveling public

After this review, the Engineer will notify the Contractor in writing that the request for suspensions is approved, or that the request for suspension is denied, citing the justification for such denial.
If the Resident Engineer approves the request, make all necessary arrangements to leave the project in a safe manner. The Contractor will continue to maintain the project work site during this time suspension in accordance with Subsection 105.14, "Maintenance During Construction." Items which do not affect the operational capacity or safety of the roadway that is open to traffic will not be subject to the 24 hour correction requirement. Any maintenance performed during the winter time suspension will be performed by the Contractor at no additional cost to the Department.

Upon completion of the winter time suspension, the Engineer will perform a field review of the project to ensure that any previously constructed elements of the project have not been damaged. If any damage is discovered, the Contractor will return these elements to their condition prior to the winter time suspension at no additional cost to the Department.

The winter time suspension is not to be used as a means for the Contractor to avoid time charges for weekends and holidays. If the Contractor chooses to perform work during the winter time suspension, the suspension will cease to be in effect and time charges will resume.

Notify the Resident Engineer if work is to resume prior to February 15th.

Liquidated damages will not be assessed for any portion of a winter time suspension that occurs after expiration of the contract time.

A winter time suspension will not suspend time charges subject to an incentive/disincentive provision.
These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

108.03 PROSECUTION AND PROGRESS *(Add the following:)*

The Notice to Proceed for this project will be issued in the normal time period (approximately 30 days after the award). The Contractor may begin work any time after the issuance of the Notice to Proceed, but no later than **August 3, 2020**. Time charges will begin on the date the Contractor begins work, or at the date specified in the Notice to Proceed, and will continue until the project is completed. Once the work begins, construction is expected to continue at an optimum rate until the work is done.

Notify the Resident Engineer, and when applicable the County Commissioner, at least 14 calendar days prior to beginning work.

There will be no additional compensation for any increased costs due to beginning work at or near the end of the flexible period.
OKLAHOMA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISIONS
FOR
70% SUBLETTING OF CONTRACT

These special provisions amend and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

108.01 SUBLETTING OF CONTRACT (Replace paragraph one with the following:)

The Department will not allow the Contractor to sublet, sell, assign, or otherwise dispose of the Contract, or any portion thereof, or any of the Contractor's rights, title, or interest therein without the written or electronic consent of the State Construction Engineer or an authorized representative. The Contractor shall perform at least 30 percent of the Contract amount, based on the contract unit prices, using its own organization, unless the Contract allows a greater percentage.
These special provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

(Add the following:)

109.12 PRICE ADJUSTMENT FOR ASPHALT BINDER

A price adjustment clause is included in this Contract to provide additional compensation to the Contractor or a credit to the Department for fluctuations in asphalt binder prices. This price adjustment is dependent upon a change in the average price of asphalt binder which results in an increase or decrease in the price of products utilized on this project.

A. Payment

Payment will be made to the Contractor for monthly fluctuation in the price of asphalt binder used in performing the applicable items of Asphalt Concrete work as listed in the table below when the asphalt binder price fluctuates by more than 3% from the base price defined below. Payments may be positive, negative, or nonexistent depending on the circumstances. Payments or deductions will only be calculated on that portion of the asphalt binder price fluctuation that exceeds the 3% specified above. Payments or deductions for the asphalt binder price adjustment will be included in the Contractor’s progressive estimates; and the payment or deduction authorized for each estimate will be based upon the algebraic difference between the quantities for applicable items of work.

The Asphalt Binder Price Adjustment will be a dollar amount paid as compensation to the Contractor, or as a credit to the Department as reflected on the Progressive (or Final) Estimate Summary Report as Line Item Adjustments.

B. Asphalt Binder Price Adjustment (ABPA)

The Asphalt Binder Price Adjustment (ABPA) for the current estimate will be computed according to the following formula:

\[ ABPA = Q \times F \times D \]

where

- \( ABPA \) = Asphalt binder price adjustment, in dollars;
- \( Q \) = The algebraic difference between the quantities for the applicable items on the current estimate and the quantities shown on the previous estimate, in tons of mix;
- \( F \) = The Asphalt Binder Use Factor for the applicable items of work subject to this price adjustment, as listed in Table 109:1;
- \( D \) = Allowable price differential, in dollars.
Table 109:1
Asphalt Binder Use Factor

<table>
<thead>
<tr>
<th>ITEM OF WORK</th>
<th>SPECIFICATION NUMBER</th>
<th>ASPHALT BINDER USE FACTOR PER UNIT (English and Metric units)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permeable Friction Course</td>
<td>405</td>
<td>0.062 ton of binder per ton of mix</td>
</tr>
<tr>
<td>Open Graded Friction Surface Course</td>
<td>406</td>
<td>0.058 ton of binder per ton of mix</td>
</tr>
<tr>
<td>Asphalt Concrete, Type S-2</td>
<td>411(A)</td>
<td>0.037 ton of binder per ton of mix</td>
</tr>
<tr>
<td>Asphalt Concrete, Type S-3</td>
<td>411(B)</td>
<td>0.042 ton of binder per ton of mix</td>
</tr>
<tr>
<td>Asphalt Concrete, Type S-4</td>
<td>411(C)</td>
<td>0.048 ton of binder per ton of mix</td>
</tr>
<tr>
<td>Asphalt Concrete, Type S-5</td>
<td>411(D)</td>
<td>0.053 ton of binder per ton of mix</td>
</tr>
<tr>
<td>Asphalt Concrete, Type S-6</td>
<td>411(E)</td>
<td>0.058 ton of binder per ton of mix</td>
</tr>
<tr>
<td>SMA</td>
<td>411(F)</td>
<td>0.062 ton of binder per ton of mix</td>
</tr>
<tr>
<td>Asphalt Concrete, Type RBL</td>
<td>411(G)</td>
<td>0.054 ton of binder per ton of mix</td>
</tr>
<tr>
<td>Asphalt Concrete, Type RIL</td>
<td>411(H)</td>
<td>0.054 ton of binder per ton of mix</td>
</tr>
</tbody>
</table>

When the units of measure in this contract for the items of work listed in the table do not correspond with the units shown in the table (i.e. Asphalt Concrete paid by the square yard, etc.), those items will not be subject to the terms of this special provision or any asphalt binder price adjustment.

The allowable price differential, “D”, for the current estimate will be computed according to the following formulas:

- When the current price, $P$, is greater than the base price, $P_{(b)}$:
  \[ D = P - [1.03 \times P_{(b)}], \text{ but not less than zero.} \]

- When the current price, $P$, is less than the base price, $P_{(b)}$:
  \[ D = P - [0.97 \times P_{(b)}], \text{ but not greater than zero.} \]

$P$, the asphalt binder current price in dollars per ton (mton), is the Monthly Asphalt Binder Price Index for the month in which the estimate pay period ends.

$P_{(b)}$, the asphalt binder base price in dollars per ton (mton), is the Monthly Asphalt Binder Price Index for the month in which the bids for the work were received.

The Department will establish the Monthly Asphalt Binder Price Index each month and post the information to the Department website at:

http://www.okladot.state.ok.us/contractadmin/pdfs/binder-index.pdf
C. Asphalt Binder Index Determination

The Monthly Asphalt Binder Price Index will be determined by calculating the average of the minimum and maximum prices for performance-graded binder using the Selling Price of PG64-22 paving grade, as listed under "Midwest/Mid-Continent Markets - MISSOURI/KANSAS/OKLAHOMA - Tulsa, Oklahoma/Southern Kansas". The publication used to establish each Monthly Asphalt Binder Price Index will be the Asphalt Weekly Monitor® furnished by Poten & Partners, Inc. The issue of the Asphalt Weekly Monitor® used will be for the last full week in the previous month received by the Department prior to the first day of the index month. If the specified publication ceases to be available for any reason, the Department at its discretion will select and begin using a substitute price source or index to establish the Monthly Asphalt Binder Price Index.

D. Supplemental Items Subject to Adjustment

Items included in the contract that are listed in the table above are subject to adjustment in accordance with this provision, regardless of any amount of overrun to the plan quantity. Any new items of work added to the Contract by supplemental agreement that are listed in the table above, will be subject to the asphalt binder price adjustments in accordance with this provision. The base asphalt binder price, $P_{(h)}$, for any newly added eligible items will be the same $P_{(h)}$ as the eligible items in the Contract and the new unit price established by supplemental agreement will be determined accordingly.
OKLAHOMA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISIONS
FOR
PAYMENTS TO SUBCONTRACTORS

These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

109.11 PAYMENTS TO SUBCONTRACTORS

The Code of Federal Regulations requires that Contractors pay subcontractors, suppliers, and vendors promptly for work performed or materials provided, and release retainage promptly after the subcontractor, supplier, or vendor completes the work or provides materials certifications. The Department has established that, when criteria for payments are met, 15 calendar days is a reasonable time to make payment or release retainage, and requires that payment be made within that time. The 15 calendar day period for subcontracted work or materials and services provided will commence on the date the Contractor receives payment from the Department for the work. If the Contractor holds retainage for subcontracted work or materials/services provided, the 15 calendar day period shall commence on the date that the Resident Engineer determines that the subcontracted unit or portion of the Contract has been completed in accordance with Subsection 105.17, "Project Completion and Acceptance," or the project is deemed complete by the Department. Services provided to a Contractor for support of construction operations or as deemed necessary by the Contractor for upkeep of machinery or facilities used directly or indirectly for construction operations shall be paid within 15 calendar days of the last service provided. If payment is not made for work, material or services, or if retainage is not released within the required 15 calendar day period, the subcontractor will be entitled to make a formal written complaint to the Department detailing the amounts and date due, and the work performed or material provided. The Department will then institute a formal investigation and, if warranted, conduct a formal hearing. Upon a finding that the Contractor failed to perform in accordance with the terms of the Contract requirements, the Department may impose sanctions as provided in Subsection 102.04, "Refusal of Proposals," Subsection 102.14, "Rejection of Proposal," or both.

A subcontractor may initiate a request for a determination that a subcontracted unit or portion of the Contract has been completed by making a written request for such determination to the Resident Engineer, with a copy to the Contractor, as provided in Subsection 105.17, "Project Completion and Acceptance." At the time the written request is made, the subcontractor shall have submitted to the Resident Engineer required documentation including material certifications, payrolls, and other such documents as may be required to audit the completed work. If the Resident Engineer, upon inspection, finds that a unit or portion of the Contract has been satisfactorily completed, the Resident Engineer will report the fully audited final quantities to the Contractor and the subcontractor. Upon receipt from the Resident Engineer of a determination that the subcontracted work is deemed complete, the audited final quantities and payment for those quantities, the Contractor shall release any retainage held within 15 calendar days. However, if the Contractor or Subcontractor working under the direction of the Contractor damages the work, the Contractor shall repair or replace the damaged work at no additional cost to the Department to the satisfaction of the Contract requirements and the Resident Engineer.

Failure of the Contractor to complete Contract work within the designated Contract Time or accumulation by the Contractor of deductions due to producing non-specification work may result in the
assessment of negative progressive estimates representing the Department’s overpayment to the Contractor for a given Contract period. The assessment of negative progressive estimates does not relieve the Contractor of the requirements for prompt payment of subcontractors and for timely release of retainage. However, if the subcontractor’s work is directly responsible for the liquidated damage or non-specification work deduction, such deduction may be assessed against that subcontractor. Amounts thereafter due to the subcontractor will be the balance owed for the work less the imposed deductions.

Payment disputes between the Contractor and subcontractors relating to allocation of chargeable Contract Time and any resultant Liquidated Damages, quantity or quality of items of work subject to a subcontract or other agreement shall be referred to a neutral alternative dispute resolution forum for hearing and decision with the costs for such mediation or arbitration to be shared equally by the parties. Funding for mediation of payment disputes involving Disadvantaged Business Enterprises is available from the Department through the DBE Supportive Service Program. Such services are reimbursed by the Federal Highway Administration and are authorized by 23 CFR § 230, Subpart B. The Contractor shall include a clause in any subcontract notifying the subcontractor of their right to resolution of payment disputes through alternative dispute resolution mechanisms.
OKLAHOMA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISIONS
FOR
PAYMENT FOR MATERIAL ON HAND

These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2009

109.7 PAYMENT FOR MATERIAL ON HAND

A. Payment Before Incorporation (Replace with the following:)

The Department may pay for material purchased by the Contractor before the material is actually
incorporated into the project under the following conditions:

- The Contractor specifically purchased the material for incorporation into the work;
- The material meets the Contract requirements;
- The Contractor delivered the material to the project, other approved locations, or an approved
  fabricator’s yard;
- The Contractor will store the material longer than 60 calendar days;
- The material is not living, perishable, or susceptible to degradation through weather or other
  natural phenomenon through the anticipated period of storage; and
- The Contractor can verify the purchase of the material with paid invoices.
OKLAHOMA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISIONS
FOR
LONGITUDINAL JOINT DENSITY ON ASPHALT CONCRETE PAVEMENT

These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

411.04 CONSTRUCTION METHODS

J. Joints (Add the following:)

(1) Longitudinal Joint Density

For each lot, or sublot at locations where roadway density tests are to be taken, perform a joint density evaluation at each pavement edge that is or will become a longitudinal joint. Determine the joint density in accordance with OHD L-14, Appendix B. The joint density is considered failing if the density at the joint is more than 3.0pcf below the density at the random sample location at the same station and the measured (by core or correlation) joint density is less than 90%.

Investigate joint density failures and take corrective actions during production and placement to improve the joint density. Suspend production if two (2) consecutive evaluations fail unless otherwise approved. Resume production after the Engineer approves changes to production or placement methods.
These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

411.01 DESCRIPTION *(Add the following:)*

Warm Mix Asphalt (WMA) is defined as an asphalt binder and aggregate mixture which, by additive or process, can be produced and placed at a reduced temperature from normal HMA temperatures. WMA requirements are the same as for HMA except where noted.

411.04 CONSTRUCTION METHODS

K. Compaction

(1) General *(Add the following:)*

Ensure that the WMA immediately behind the paver is at least 215°F [102°C].
These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

(Revise as follows:)

411.04 CONSTRUCTION METHODS

K. Compaction

(2) Acceptance

(a) Layers At Least 1½ in [38 mm] Thick (Replace the first paragraph with the following:)

Ensure the target density of each lot is 94 percent of the Maximum Theoretical Density, determined by the specific gravity of the HMA in accordance with AASHTO T 209.

(Replace Table 411:2 with the following:)

<table>
<thead>
<tr>
<th>Pay Adjustment Factor (PAF)</th>
<th>Average Lot Density (ALD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt; 97.0</td>
<td>Unacceptable (^b)</td>
</tr>
<tr>
<td>92.0 – 97.0</td>
<td>1.00</td>
</tr>
<tr>
<td>91.0 – 91.9</td>
<td>1.00 – (0.07)(92.0 – ALD)</td>
</tr>
<tr>
<td>88.1 – 90.9</td>
<td>0.93 – (0.15)(91.0 – ALD)</td>
</tr>
<tr>
<td>&lt; 88.1</td>
<td>Unacceptable (^b)</td>
</tr>
</tbody>
</table>

* Use PAF for Roadway Density in the Combined Pay Factor equation in accordance with Subsection 411.04.N.(2).(a), “Basis of Acceptance and Payment.”

\(^b\) Unless otherwise directed by the Engineer, remove and replace unacceptable lots at no additional cost to the Department.
These Special Provisions amend and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

708.04 COMPOSITION OF MIXTURES (Add the following:)

F. Warm Mix Asphalt

Unless otherwise shown on the plans, mixtures produced as Warm Mix Asphalt (WMA) will be accepted at the Contractor’s option. For WMA, mixing temperatures may be reduced. Unless otherwise directed, use only WMA additives or processes listed on the Department’s approved list maintained by the Materials Division. The Materials Division Engineer may accept new additives or processes with sufficient evidence of performance.

Prepare WMA mix designs in general accordance with AASHTO R 35 except where modified by these specifications. WMA requirements are the same as for HMA except where noted. When using the technology during a mix design, increase the oven aging period to four hours before preparing samples for moisture susceptibility and rut testing. Report the supplier’s recommended temperatures for plant mixing and roadway compaction on the mix design. Report the supplier’s recommended temperatures for laboratory mixing and compaction on the mix design.

For WMA using an additive technology, perform the mix design using the additive. For WMA designs that use a plant process, perform the mix design as an HMA mix design. If the laboratory has a foamer, the design may be performed using that process. Alternatively, use an existing approved HMA mix design except when the percent binder absorbed exceeds 1.00 percent. The percent binder absorbed formula is shown at the end of this paragraph. When the percent binder absorbed exceeds 1.00 percent, use the plant-produced WMA material for moisture susceptibility and rut testing. Report the additive or process used by name, supplier source, and application rate (if applicable) on the mix design.

\[
P_{ba} = \frac{100 G_b (G_{se} - G_{sb})}{G_{se} G_{sb}}
\]

Where:
- \(P_{ba}\) = Percent binder absorbed by total mass of aggregate,
- \(G_b\) = Specific gravity of the binder,
- \(G_{se}\) = Effective specific gravity of the combined aggregates, and
- \(G_{sb}\) = Bulk specific gravity of the combined aggregates.
OKLAHOMA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION
FOR
HAMBURG RUT TESTING OF HOT MIX ASPHALT

These special provisions amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

708.04 COMPOSITION OF MIXTURES (Revise the following:)

Remove references to APA rut depth in Tables 708:8, 708:9, 708:10, and 708:11.

Add the following Table between Tables 708:11 and 708:12:

<table>
<thead>
<tr>
<th>Table 708:11a</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Hamburg Rut Test Requirements</strong>&lt;sup&gt;a,b&lt;/sup&gt;</td>
</tr>
<tr>
<td><strong>Binder Grade</strong></td>
</tr>
<tr>
<td>PG 64</td>
</tr>
<tr>
<td>PG 70</td>
</tr>
<tr>
<td>PG 76</td>
</tr>
</tbody>
</table>

Note: For the purposes of this table PG64, PG70, and PG76 refer to the high temperature grade of the binder.

<sup>a</sup> Rut test requirements apply to Superpave, SMA, and RIL mixes only.

<sup>b</sup> Pre-existing mix designs meeting the APA rut requirements may be accepted by the Materials Engineer.

708.06 SAMPLING AND TESTING (Amend Table 708:13 to include the following:)

<table>
<thead>
<tr>
<th>Table 708:13</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sampling and Testing of Aggregates, Bituminous Mixtures, and Asphalt Materials</strong></td>
</tr>
<tr>
<td><strong>Materials</strong></td>
</tr>
<tr>
<td>Bituminous Mixtures</td>
</tr>
<tr>
<td>Rutting susceptibility using the Hamburg Rut Tester</td>
</tr>
</tbody>
</table>
These special provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

### 708.02 MINERAL AGGREGATE

(Replace Table 708:1 with the following:)

<table>
<thead>
<tr>
<th>Test</th>
<th>Superpave</th>
<th>Stone Matrix Asphalt</th>
<th>Permeable Friction Course</th>
<th>Rich Bottom Layer</th>
<th>Open Graded Friction Surface Course</th>
<th>Open Graded Bituminous Base</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PG64</td>
<td>PG70</td>
<td>PG76</td>
<td>PG76</td>
<td>PG64</td>
<td>PG76</td>
</tr>
<tr>
<td>L.A. Abrasion *, % wear</td>
<td>≤ 40</td>
<td>≤ 40</td>
<td>≤ 40</td>
<td>≤ 30</td>
<td>≤ 30</td>
<td>≤ 30</td>
</tr>
<tr>
<td>Micro-Deval *, % wear</td>
<td>—</td>
<td>—</td>
<td>≤ 25</td>
<td>≤ 25</td>
<td>—</td>
<td>≤ 25</td>
</tr>
<tr>
<td>Sand equivalent b</td>
<td>≥ 40</td>
<td>≥ 45</td>
<td>≥ 50</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Mechanically Fractured Faces b,c,h, %</td>
<td>≥ 85/80</td>
<td>≥ 95/90</td>
<td>≥ 98/95</td>
<td>≥ 98/95</td>
<td>≥ 85/80</td>
<td>≥ 98/95</td>
</tr>
<tr>
<td>Aggregate Durability Index a</td>
<td>≥ 40</td>
<td>≥ 40</td>
<td>≥ 40</td>
<td>≥ 40</td>
<td>≥ 40</td>
<td>≥ 40</td>
</tr>
<tr>
<td>Insoluble Residue d,e, %</td>
<td>≥ 30</td>
<td>≥ 40</td>
<td>≥ 40</td>
<td>≥ 40</td>
<td>—</td>
<td>≥ 40</td>
</tr>
<tr>
<td>Flat and Elongated b,c,f, %</td>
<td>≤ 10</td>
<td>≤ 10</td>
<td>≤ 10</td>
<td>≤ 10</td>
<td>≤ 10</td>
<td>≤ 10</td>
</tr>
<tr>
<td>Natural Sand and Gravel e, %</td>
<td>≤ 15</td>
<td>≤ 15</td>
<td>≤ 15</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Clay Balls and Friable Particles e, %</td>
<td>≤ 1.0</td>
<td>≤ 1.0</td>
<td>≤ 1.0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Soft Particles e, %</td>
<td>≤ 5</td>
<td>≤ 5</td>
<td>≤ 5</td>
<td>≤ 5</td>
<td>≤ 5</td>
<td>≤ 5</td>
</tr>
<tr>
<td>Sticks or Roots e, %</td>
<td>≤ 0.5</td>
<td>≤ 0.5</td>
<td>≤ 0.5</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
Table 708:1
Physical Properties of Aggregates

Note: For this table: PG64, PG70, and PG76 refer to the high temperature grade of the binder. Unless otherwise noted, specifications for PG binder grades higher than PG76 will use PG76 specifications.

* Applies to each source.

* Applies to the combined aggregate.

† Applies to the aggregate retained on the No. 4 [4.75 mm] sieve.

‡ Applies to the combined coarse aggregate.

§ Applies to the coarse aggregate in the surface course. Does not apply to shoulders, driveways, and temporary detours.

∥ A flat and elongated piece has a length greater than five times the thickness.

¶ Applies to combined aggregate. If the maximum for the combined aggregate is not exceeded, the Department will allow 1.5% for one source.

In the mechanically fractured faces requirement format “xx/yy,” “xx” is the minimum percentage of coarse aggregate requiring one fractured face, and “yy” is the percentage requiring two fractured faces.

708.04 COMPOSITION OF MIXTURES

A. Asphalt Mix Design and Initial Job-Mix Formula (Replace the 3rd paragraph with the following:)

Ensure the initial JMF is in accordance with Tables 708:6, 708:8, and 708:9, or Tables 708:7, 708:8, and 708:9 for the type of mix required by the Contract. Prepare a trial mixture in accordance with Subsection 411.04.C. Propose changes to the JMF if the trial, prepared at the initial JMF proportions, fails to meet the requirements of Tables 708:6, 708:10, 708:11, and 708:12, or Tables 708:7, 708:10, 708:11, and 708:12. If the changes do not produce a mix design in accordance with these tables, the Resident Engineer will require a new mix design. If the changes do produce a mix design in accordance with these tables, the Department’s Materials Engineer will approve the changes for adjustment of the JMF.

B. Plant Produced Mixtures (Replace the 1st and 2nd paragraphs with the following:)

Provide a uniform, plant produced mixture of the combined aggregate and asphalt in accordance with Tables 708:6, 708:10, and 708:11, or Tables 708:7, 708:10, and 708:11 within the specification limits established by the JMF with allowable tolerances.

After the plant is in operation, propose any necessary adjustments to the JMF in accordance with Table 708:6 or Table 708:7. If test results indicate the adjustments are in accordance with Tables 708:10 and 708:11, adjust the JMF accordingly.
C. Reclaimed Asphalt Pavement (Replace the 2\textsuperscript{nd} paragraph with the following:)

Regardless of the layer or binder type, the Department's Materials Engineer will accept superpave mixtures with no greater than 25 percent RAP for shoulders, driveways, and layers serving as a bond breaker under PCC pavements if the mixture meets the Contract requirements for the type or grade. Superpave mixtures containing up to 35 percent RAP will be accepted in temporary detours if the mixture meets the Contract requirements for the type or grade, and if the mixture can be produced meeting air quality standards set forth by the Oklahoma Department of Environmental Quality. Temporary is defined as any material that will not become part of any permanent pavement. Temporary material must be removed before the end of the project.

(Replace Table 708:6 with the following:)

<table>
<thead>
<tr>
<th>Sieve Size (^a)</th>
<th>Percent Passing per Superpave Mixture Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>S2</td>
<td>S3</td>
</tr>
<tr>
<td>1% in [37.5 mm]</td>
<td>100</td>
</tr>
<tr>
<td>1 in [25.0 mm]</td>
<td>90 - 100</td>
</tr>
<tr>
<td>3/4 in [19.0 mm]</td>
<td>≤ 90</td>
</tr>
<tr>
<td>1/2 in [12.5 mm]</td>
<td>—</td>
</tr>
<tr>
<td>3/8 in [9.5 mm]</td>
<td>—</td>
</tr>
<tr>
<td>No. 4 [4.75 mm]</td>
<td>≥ 40</td>
</tr>
<tr>
<td>No. 8 [2.36 mm]</td>
<td>29 - 45</td>
</tr>
<tr>
<td>No. 16 [1.18 mm]</td>
<td>—</td>
</tr>
<tr>
<td>No. 30 [0.600 mm]</td>
<td>—</td>
</tr>
<tr>
<td>No. 50 [0.300 mm]</td>
<td>—</td>
</tr>
<tr>
<td>No. 100 [0.150 mm]</td>
<td>—</td>
</tr>
<tr>
<td>No. 200 [0.075 mm]</td>
<td>1.0 - 7.0(^b)</td>
</tr>
</tbody>
</table>

**Other Mixture Requirements**

<table>
<thead>
<tr>
<th>NMS (^c)</th>
<th>1 in [25 mm]</th>
<th>¾ in [19 mm]</th>
<th>½ in [12.5 mm]</th>
<th>% in [9.5 mm]</th>
<th>No. 4 [4.75 mm]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asphalt Cement (^d), % of mix mass</td>
<td>≥ 3.9</td>
<td>≥ 4.3</td>
<td>≥ 4.8</td>
<td>≥ 5.3</td>
<td>≥ 5.8</td>
</tr>
<tr>
<td>Performance grade asphalt cement</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

\(^a\) Table 708:6 reflects the sieve size boundaries for design and JMF purposes. After the design is established, the JMF will designate combined aggregate sieve requirements with tolerances in Table 708:12.

\(^b\) Ensure the ratio of the percent passing the No. 200 [75 µm] sieve to the percent effective asphalt cement is from 0.6 to 1.6.

\(^c\) Nominal Maximum Size (NMS) is defined as one size larger than the first sieve to retain more than 10 percent.

\(^d\) The Department's Materials Engineer may adjust the lower limit if the effective specific gravity of the combined aggregates is greater than 2.65. The Department's Materials Engineer may allow adjustments if a theoretical lab molded specimen at the JMF asphalt content meets the VMA requirement at 4% air voids.

\(^e\) The Contractor may substitute a higher grade of asphalt than that shown on the Plans at no additional cost to the Department.
Table 708:8
Mix Design Properties of Laboratory Molded Specimens

<table>
<thead>
<tr>
<th>Property</th>
<th>Superpave</th>
<th>SMA</th>
<th>PFC</th>
<th>RBL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PG64</td>
<td>PG70</td>
<td>PG76</td>
<td>PG64</td>
</tr>
<tr>
<td>Number of SGC Gyrations</td>
<td>6</td>
<td>7</td>
<td>8</td>
<td>—</td>
</tr>
<tr>
<td>(N_{ini})</td>
<td>50</td>
<td>65</td>
<td>80</td>
<td>50</td>
</tr>
<tr>
<td>(N_{des})</td>
<td>85.5 - 91.5</td>
<td>85.5 - 90.5</td>
<td>85.5 - 89.0</td>
<td>—</td>
</tr>
<tr>
<td>Required Density, % of G</td>
<td>85.5 - 89.0</td>
<td>96.0</td>
<td>96.0</td>
<td>82.0</td>
</tr>
<tr>
<td>VMA, %</td>
<td>See Table 708:9</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>VFA, %</td>
<td>See Table 708:9</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lab Permeability, (\text{cm/s} \times 10^{-5})</td>
<td>(\leq 12.5)</td>
<td>(\leq 12.5)</td>
<td>(\leq 12.5)</td>
<td>(\leq 12.5)</td>
</tr>
<tr>
<td>TSR, Min.</td>
<td>0.80</td>
<td>0.80</td>
<td>0.80</td>
<td>0.80</td>
</tr>
<tr>
<td>ITS (^a), psi</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Draindown, %</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>(\leq 0.20)</td>
</tr>
<tr>
<td>Hamburg Rut Test, Min. No.</td>
<td>10,000</td>
<td>15,000</td>
<td>20,000</td>
<td>20,000</td>
</tr>
</tbody>
</table>

Note: For this table: PG64, PG70, and PG76 refer to the high temperature grade of the binder. Unless otherwise noted, specifications for PG binder grades higher than PG76 will use PG76 specifications.

\(^a\) Indirect Tensile Strength from AASHTO T 283, preconditioned specimen average, in psi.

Table 708:9
Mix Design Properties of Laboratory Molded Specimens

<table>
<thead>
<tr>
<th>Property</th>
<th>Superpave</th>
<th>SMA</th>
<th>PFC</th>
<th>RBL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>S2</td>
<td>S3</td>
<td>S4</td>
<td>S5</td>
</tr>
<tr>
<td>VMA (^a), %</td>
<td>(\geq 12.5)</td>
<td>(\geq 13.5)</td>
<td>(\geq 14.5)</td>
<td>(\geq 15.5)</td>
</tr>
<tr>
<td>VFA (^b), %</td>
<td>67 - 73</td>
<td>70 - 75</td>
<td>72 - 77</td>
<td>73 - 78</td>
</tr>
</tbody>
</table>

\(^a\) VMA is based on the bulk specific gravity of the aggregates.

\(^b\) VFA is defined as the percentage of VMA containing asphalt binder.
Table 708:10

<table>
<thead>
<tr>
<th>Property</th>
<th>Superpave</th>
<th>SMA</th>
<th>PFC</th>
<th>RBL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PG64</td>
<td>PG70</td>
<td>PG76</td>
<td>PG64</td>
</tr>
<tr>
<td>Number of SGC Gyrrations</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nini</td>
<td>6</td>
<td>7</td>
<td>8</td>
<td>—</td>
</tr>
<tr>
<td>Ndes</td>
<td>50</td>
<td>65</td>
<td>80</td>
<td>50</td>
</tr>
<tr>
<td>Required Density, % of G~</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nin</td>
<td>85.5 - 91.5</td>
<td>85.5 - 90.5</td>
<td>85.5 - 89.0</td>
<td>—</td>
</tr>
<tr>
<td>Ndes</td>
<td>94.5 - 97.4</td>
<td>94.5 - 97.4</td>
<td>94.5 - 97.4</td>
<td>94.5 - 97.4</td>
</tr>
<tr>
<td>VMA, %</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>VFA, %</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lab Permeability, cm/s × 10^-5</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>TSR, Min.</td>
<td>0.75</td>
<td>0.75</td>
<td>0.75</td>
<td>0.75</td>
</tr>
<tr>
<td>ITS a, psi</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Draindown, %</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Hamburg Rut Test, Min. No.</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>of Cycles to 12.50 mm, 122 °F</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: For this table: PG64, PG70, and PG76 refer to the high temperature grade of the binder. Unless otherwise noted, specifications for PG binder grades higher than PG76 will use PG76 specifications.

* Indirect Tensile Strength from AASHTO T 283, preconditioned specimen average, in psi.

(Add the following:)

Table 708:11

<table>
<thead>
<tr>
<th>Property</th>
<th>Superpave</th>
<th>SMA</th>
<th>PFC</th>
<th>RBL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>S2</td>
<td>S3</td>
<td>S4</td>
<td>S5</td>
</tr>
<tr>
<td>VMA a, %</td>
<td>≥ 12.0</td>
<td>≥ 13.0</td>
<td>≥ 14.0</td>
<td>≥ 15.0</td>
</tr>
<tr>
<td>VFA b, %</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

a VMA is based on the bulk specific gravity of the aggregates. Compute a new bulk specific gravity from each AASHTO T 209 test. Calculate the value by multiplying the aggregate Effective Specific Gravity (Gse) calculated from the latest AASHTO T 209 test by the aggregate Bulk Specific Gravity (Gb) from the design. Afterwards, divide the product by the aggregate Gse from the design.

b VFA is defined as the percentage of VMA containing asphalt binder.
708.06 SAMPLING AND TESTING

(Delete the following row from Table 708:13 under the "Aggregates" section):

| Uncompacted void content of fine aggregate | AASHTO T 304, Method A |

(Delete the following row to Table 708:13 under the "Bituminous Mixtures" section):

| Rutting susceptibility using the asphalt pavement analyzer | OHD L-43 |

(Add the following row to Table 708:13 under the "Bituminous Mixtures" section):

| Rutting susceptibility using the Hamburg Rut Tester | OHD L-55 |
OKLAHOMA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION
FOR
MULTIPLE STRESS CREEP RECOVERY (MSCR) TESTING

These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

708.03 ASPHALT MATERIALS (Replace Table 708:2 with the following:)

<table>
<thead>
<tr>
<th>Table 708:2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional Requirements to AASHTO M 320 for Asphalt Cement</td>
</tr>
<tr>
<td>Test</td>
</tr>
<tr>
<td>MSCR Recovery a, 147.2°F [64°C], %</td>
</tr>
<tr>
<td>Separation b, %</td>
</tr>
<tr>
<td>Original DSR G*/sin(δ), kPa</td>
</tr>
<tr>
<td>RTFO DSR G*/sin(δ), kPa</td>
</tr>
<tr>
<td>Spot test c</td>
</tr>
<tr>
<td>Solubility in trichloroethylene, %</td>
</tr>
</tbody>
</table>

Note: Asphalt binder suppliers will provide handling requirements and recommended field mixing and compaction temperatures for their product to the hot-mix producer.

a AASHTO TP 70 average percent recovery at 3.2 kPa, R 3.2.
b Separation test samples are prepared in accordance with ASTM D 5976, but are reported as the difference in G* between the top and bottom samples.
c Spot test using solvent blend of 65 percent heptane and 35 percent xylene by volume.

708.06 SAMPLING AND TESTING

(Revise Table 708:13 to add the following row to the Asphalt Materials section:)

<table>
<thead>
<tr>
<th>Table 708:13</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sampling and Testing of Aggregates, Bituminous Mixtures, and Asphalt Materials</td>
</tr>
<tr>
<td>Materials</td>
</tr>
<tr>
<td>Multiple Stress Creep Recovery (MSCR) Test of Asphalt Binder Using a Dynamic Shear Rheometer (DSR)</td>
</tr>
</tbody>
</table>

(Revise Table 708:13 to remove the following row, and its associated footnote:)

Elastic recovery test by means of ductilometer c | ASTM D 6084
855.01 DESCRIPTION

This work consists of providing and placing alkyd based reflectorized plastic pavement markings on asphalt concrete and Portland cement concrete pavement surfaces.

855.02 MATERIALS

A. General

When using the alkyd based thermoplastic, the manufacturer has the option of formulating the material according to his own specifications. However, the requirements specified herein and in Section 711 of the Standard Specifications apply regardless of the type of formulation used.

Provide resin in which the pigment, glass beads, and filler are well dispersed. Ensure the material is free of skins, dirt, and foreign objects.

<table>
<thead>
<tr>
<th>Component</th>
<th>Test Method</th>
<th>White 1</th>
<th>Yellow 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Binder</td>
<td></td>
<td>20% min</td>
<td>20% min</td>
</tr>
<tr>
<td>TiO2, Type II Rutile</td>
<td>ASTM D476</td>
<td>10% min</td>
<td>-</td>
</tr>
<tr>
<td>Glass Beads</td>
<td>AASHTO T 250</td>
<td>40% min</td>
<td>40% min</td>
</tr>
<tr>
<td>Yellow Pigment</td>
<td></td>
<td></td>
<td>% min per Manufacturer</td>
</tr>
<tr>
<td>Calcium Carbonate and Inert Filler (-200 mesh sieve)</td>
<td>30% max</td>
<td>37.5% max</td>
<td></td>
</tr>
</tbody>
</table>

1 Percentages are by weight.

Provide alkyd/maleic binder consisting of a mixture of synthetic resins (at least one synthetic resin must be solid at room temperature) and high boiling point plasticizers. At least one-half of the binder composition must be 100% maleic-modified glycerol of rosin, and be no less than 15% by weight of the entire material formulation.
B. Lead-Free Yellow Thermoplastic Traffic Stripe

(1) General

Provide plastic marking materials for traffic markings applied to asphaltic or Portland cement in accordance with Section 711, “Traffic Stripe”.

Clearly mark each bag to indicate color, weight, pigment type (for yellow only), and lot or batch number. (A lot or batch number is each individual mix or blend that produces a finished product ready for use.)

Ensure each bag contains 50 lbs of material.

(a) Pigments

Provide lead-free yellow and filler pigments that pass a U.S. Standard Sieve Number 200 when washed free of resins by solvent washing.

(b) Prime

Provide yellow pigment that is heat resistant and weather-stable. Ensure the yellow pigment is lead-free, organic yellow pigment (C. I. Pigment Yellow 83, opaque version). Do not mix pigment types within a batch. Obtain the Engineer’s approval of alternate pigments other than those listed prior to use in the formulation.

(c) Filler

Provide filler pigment that is calcium carbonate of 95% purity.

(d) Binder

Provide binder consisting of a mixture of resins, at least one of which is a solid at room temperature, and high boiling point plasticizers. At least 1/3 of the binder composition must be a hydrocarbon resin, and must be no less than 8% by weight of the entire material formulation.

(e) Silica

The total silica used in the formulation must be in the form of glass traffic beads.

(f) Glass Traffic Beads

Provide glass traffic beads used in the formulation meeting the requirements for AASHTO M 247 Type 1.
(2) Finished Product Requirements

(a) Physical Characteristics

Unless otherwise specified, the finished thermoplastic pavement marking materials must be a free flowing granular material. The material must remain in the free flowing state in storage for a minimum of six (6) months when stored at temperatures of 100 °F or less. Produce material that is readily applied through thermoplastic equipment at temperatures between 400 and 425 °F.

(b) Toxicity

When temperatures are up to and including 445 °F, materials must not give off fumes that are toxic or otherwise injurious to persons, animals, or property.

(c) Material Stability

Provide materials that do not break down or deteriorate when temperatures are held at 400°F for 4 hours.

(d) Temperature versus Characteristics

The temperature versus viscosity characteristics of the material in the plastic state must remain constant throughout up to four (4) reheatings to 400 °F, and from batch-to-batch.

(e) Chemical Resistance

Produce material that is unaffected by contact with sodium chloride, calcium chloride, or other similar chemicals on the roadway surface by contact with the oil content of the pavement materials, or by contact from oil droppings from traffic.

(f) Softening Point

Provide materials that soften at 194 °F when tested by the ring and ball method (ASTM E28).

(g) Color

The daytime CIE chromaticity coordinates of the material must fall within an area having the following corner points:

<table>
<thead>
<tr>
<th>Table 855:0B Daytime CIE Chromaticity Coordinate Corner Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1               2               3               4</td>
</tr>
<tr>
<td>x   y           x   y           x   y           x   y</td>
</tr>
<tr>
<td>Yellow .435 .429 .510 .489 .460 .400 .560 .440</td>
</tr>
</tbody>
</table>
The yellow material must meet the specified color requirements listed in Table 855:0B for yellow before and after 500 hours for yellow of Weather-Ometer exposure. Weather-Ometer exposure will be in accordance with ASTM G155 using Exposure Cycle I with a quartz inner filter glass and Type “S” Borosilicate outer filter glass.

The nighttime CIE chromaticity coordinates for yellow thermoplastic, when utilizing a retro-reflectometer capable of measuring night color of pavement markings in accordance with ASTM E1710, must fall within an area having the following corner points during the life of the stripe:

<p>| Table 855:0C |</p>
<table>
<thead>
<tr>
<th>Nighttime CIE Chromaticity Coordinate Corner Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
<tr>
<td>x</td>
</tr>
<tr>
<td>Yellow</td>
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</tbody>
</table>

Traffic stripe materials shall be characterized as non-hazardous as defined by the Resource Conservation and Recovery Act (RCRA) 40 CFR 261, and the material shall not exude fumes which are hazardous, toxic or detrimental to persons or property. Provide supporting independent analytical data or product material safety data sheets (MSDS) identifying non-hazardous designations.

Additionally, ensure the traffic stripe materials contain no more than 5.0 ppm lead by weight when tested in accordance with the RCRA reference above. Provide supporting independent analytical data.

(h) Formulation

| Table 855:0D |
| Yellow | % by Weight |
| Binder | 20 min |
| C.I. Pigment Yellow 83 | 1.5 min |
| Calcium Carbonate | 20-42 |
| Glass Traffic Beads | 30-45 |
| Total | 100 |
855.04 CONSTRUCTION METHODS

B. Application of Markings (Add the following:)

In the event that temperatures and conditions are not conducive to the installation of permanent pavement markings within the specified time frame, the Engineer may allow and accept the installation of temporary pavement markings in lieu of permanent markings at no additional cost to the Department. Maintain the temporary markings until temperatures and conditions are conducive for permanent striping.

E. Retro-reflectivity

(1) Minimum Retro-reflectivity (Replace with the following:)

Ensure longitudinal markings meet the minimum retro-reflectivity values in accordance with Table 855:2:

<table>
<thead>
<tr>
<th></th>
<th>White</th>
<th>Yellow</th>
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<tbody>
<tr>
<td>mcd/m²/lx</td>
<td>Contract unit price adjustment</td>
<td>mcd/m²/lx</td>
</tr>
<tr>
<td>≥ 450</td>
<td>100%</td>
<td>≥ 300</td>
</tr>
<tr>
<td>400 - 449</td>
<td>75%</td>
<td>275 - 299</td>
</tr>
<tr>
<td>250 - 399</td>
<td>50%</td>
<td>225 - 274</td>
</tr>
<tr>
<td>&lt; 250</td>
<td>Remove and replace</td>
<td>&lt; 225</td>
</tr>
</tbody>
</table>

(2) Measurement (Replace with the following:)

Measure retroreflectivity of markings within ten (10) calendar days of placement, after removing loose beads.

Measure marking retroreflectivity in the direction of traffic, except the Department will allow yellow skip lines to be measured in either direction of traffic. One measurement (multiple readings) will represent each 2,500 ft [762 m] lot of single-color longitudinal stripe. The Department will not allow readings for adjacent lots to be taken closer than 1,000 ft [305 m] from each other.
For solid longitudinal stripes, one measurement represents the average of five readings per lot, taken at 3 ft [1 m] intervals along a randomly selected 15 ft [4.5 m] section of solid stripe.

For longitudinal skip stripes, one measurement represents the average of six readings per lot, two readings taken from each of three adjacent skip stripes. The Department will not allow readings taken within the first or last 1 ft [0.3 m] of skip stripes.

For non-compliant measurements, the Engineer will require additional measurements to determine the extent of non-compliance.

The Department will not require measurements of the following:

- Stop bars, crosswalks, gores, words, symbols
- Longitudinal striping installed using hand line machines
- Projects less than 1 mi (1.6 km) long

Obtain the Engineer's approval in writing before using a mobile retro-reflectometer system as an alternative measurement method.
OKLAHOMA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISIONS
FOR
CONSTRUCTION ZONE PAVEMENT MARKINGS

These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

857.01 DESCRIPTION (Add the following:)

This work consists of removing pavement markings along with other debris from asphalt concrete and Portland cement concrete pavement surfaces.

857.02 MATERIALS (Add the following:)

Provide potable water. Lake or river water will not be allowed. Use of chemicals, abrasive materials, grinders, detergents or salt water will not be allowed.

857.03 EQUIPMENT (Revise as follows:)

A. General

Apply pavement markings in accordance with the manufacturer’s recommendations. Use a paint machine and a bead dispenser in accordance with Subsection 854.03, “Equipment,” to apply the painted construction traffic stripe. Use equipment for removing pavement markings that will not damage the pavement surface or pavement material texture.

(Add the following:)

B. Hydroblasting Equipment

Use cleaning or pavement marking removal equipment capable of removing 100% of the pavement marking using high-pressure water. Ensure the equipment is capable of maintaining 36,000 psi water pressure at a maximum flow rate of 16 gpm. Provide a self-propelled vehicle with all functions programmable and repeatable for long lines of road marking removal. The removal head must be capable of rotating at a minimum of 1,500 rpm. Ensure the equipment is capable of removing a minimum of 1,200 linear feet of 4 inch strip per hour.

Use trolley mounted water jetting equipment to remove pavement markings in areas inaccessible to the truck mounted equipment such as hatched areas, words, arrows and symbols. Ensure the equipment is capable of maintaining 36,000 psi water pressure. The removal head must be capable of rotating at a minimum of 1,500 rpm.
Use equipment capable of removing the traffic stripe from the surface, including cracks, to thoroughly remove all dust, dirt, and other foreign materials without causing damage to the surface by etching or exposing coarse aggregate. Use a wet vacuum in conjunction with the removal head to remove all debris to a secure holding tank on the truck. After removal of the pavement markings leave the surface clean and ready to accept the new road marking once drying has occurred.

Operate all equipment in the same direction as traffic flow.

Ensure all equipment meets applicable OSHA requirements.

857.04 CONSTRUCTION METHODS

D. Removal (Replace with the following:)

If a detour or permanent pavement markings conflict with the permanent pavement markings of the next traffic control phase, remove as approved by the Engineer before switching traffic. Remove existing pavement markings and replace with temporary markings before roadway opens to traffic. Remove temporary pavement markings before installing final striping.

When additional pavement marking is necessary due to overlays, redirection of traffic, restoration, or Engineer direction, start the pavement marking within 24 hr of notification from the Engineer.

Remove the removable pavement marking and adhesive, as directed by the Engineer. Install additional pavement markings according to traffic conditions, as approved by the Engineer. Immediately dispose of removed pavement marking tape and pavement markers.

Remove pavement markings without damaging the pavement surface, or pavement material texture. Pavement material texture will be considered damaged if more than 5 mils are removed below the original stripe. Repair any damage to the pavement surface and joints caused by the Contractor’s operation at no additional cost to the Department. Obtain the Engineer’s approval of the proposed method of repair prior to performing the repair.

The Department will not allow painting over or blotting out the existing pavement markings. When removing pavement markings, immediately remove the residue using a vacuum attachment operated concurrently with the operation, or by other methods approved by the Engineer.

When the method of Hydro-blasting is utilized, the work shall be performed at locations shown on the plans or as directed by the Engineer. Thoroughly remove the specified pavement markings such that the markings are no longer visible to highway users, and/or to the satisfaction of the Engineer.

Operation of the ultra-high pressure water jets shall be performed and supervised by qualified personnel certified by the equipment manufacture. Do not perform work unless the ambient temperature and pavement temperature is a minimum of 34 degrees Fahrenheit.
Use collection systems to prevent the escape of debris. If spills or releases occur, immediately cease operations, clean up the debris, and take appropriate corrective actions to prevent similar releases from occurring.

Properly dispose of wastes generated during the pavement marking removal, in compliance with all applicable federal, state and local laws, regulations, and rules.

Ensure the work site is clear of visible debris at the end of each work day.

857.05 METHOD OF MEASUREMNT (Add the following:)

Pavement Marking Removal (Traffic Stripe) will be measured by linear foot of four inch wide traffic stripe where a narrower or wider stripe is to be removed, that is, prorated to a four inch strip. Count each unit of arrows, words or symbols to be removed.
General Decision Number: OK20200020 01/03/2020 OK20
Superseded General Decision Number: OK20190020
State: Oklahoma
Construction Type: Highway

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number Publication Date
0 01/03/2020

SUOK2011-007 04/18/2011

Rates Fringes

CARPENTER (Excludes Form Work)
Choctaw County...........$ 12.87
Hughes County.............$ 11.75
Love County................$ 12.45
Pittsburg County.........$ 12.49
Pottawatomie County.....$ 12.14
Remaining Counties......$ 12.53

CEMENT MASON/CONCRETE FINISHER
Carter County..............$ 11.80
Choctaw County............$ 12.00
Love County..............$ 12.95
Pittsburg County..........$ 13.70
Pottawatomie County......$ 12.28
Remaining Counties.......$ 12.65

FORM WORKER..............$ 12.19

GUARDRAIL INSTALLER (Includes Guardrail/Post Driver Work)......$ 9.70

IRONWORKER, REINFORCING........$ 13.63

LABORER
Air/Power Tool Operator (Includes Handheld Concrete Saws and Chipping


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<td>$10.40</td>
<td>$10.01</td>
<td>$10.37</td>
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<td>Bryan and Haskell Counties</td>
<td>Carter County</td>
<td>Choctaw County</td>
<td>Coal County</td>
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<td>Traffic Control (Includes Flagger, Setting Up and Moving Cones/Barrels)</td>
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<td>Vibrating Plate</td>
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**POWER EQUIPMENT OPERATOR:**
- Asphalt Paver Screed: $13.99
- Asphalt Paving Machine: $13.11
- Asphalt Plant: $14.70
- Backhoe/Trackhoe: $14.46
- Choctaw County: $14.56
- McCurtain County: $12.52
- Pittsburg County: $16.83
- Remaining Counties: $14.05
- Bobcat/Skid Loader: $12.62
- Broom: $11.02

**Bulldozer:**
- Choctaw County: $14.56
- Love County: $14.35
- McCurtain County: $13.02
- Pittsburg County: $14.89
- Remaining Counties: $14.34

**Concrete Paving Machine:** $14.42

**Concrete Saw:**
- Pittsburg County: $16.42
- Remaining Counties: $15.02

**Crane:** $16.17

**Distributor Truck:** $13.25

**Excavator:** $14.08

**Grader/Blade:** $17.04

**Loader (Front End):**
- Remaining Counties: $13.10
- Seminole County: $13.39

**Mechanic:** $17.37

**Milling Machine:** $14.16

**Mixer:** $14.56

**Oiler:** $16.06

**Roller (Asphalt):** $12.61

**Roller (Dirt Compaction):** $11.86

**Rotomill:** $17.33

**Scraper:** $14.62

**Striping Machine:** $12.13

**Tractor/Box Blade:** $12.46

**Transfer Material Machine:** $12.38

**Trencher:** $14.66

**TRUCK DRIVER:**
- Concrete Truck: $14.22
- Dump Truck: $14.42
- Flatbed Truck: $16.18
- Lowboy/Float: $14.99
- Off the Road Truck: $12.63
- Single Axle Truck (Includes Pilot Car): $13.15
- Straight Truck: $15.92
- Tandem Axle/Semi Trailer: $16.61

**Carter County:** $16.61

**Choctaw County:** $14.43

**Love County:** $14.06

**Pittsburg County:** $15.68

**Remaining Counties:** $14.76

**Seminole County:** $16.12
Water Truck.................$ 12.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leaves each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.
Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CEA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION
NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (DOT) operates the above toll-free "hotline" Monday Through Friday, 8:00 a.m. to 5:00 p.m., eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.
During the performance of this Agreement, the Contractor, for itself, its assignees and successors in interest, agrees as follows:

1. Compliance with Regulations:
The Contractor shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, 49 CFR, 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 by it during the contract, shall not discriminate on the grounds of race, color, sex, age, national origin, disability/handicap, or income status, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment:
In all solicitations, either by competitive bidding or negotiation, made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, age, national origin, disability/handicap, or income status.

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 Oklahoma Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Oklahoma Department of Transportation, or the Federal Highway Administration, 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 provision of this contract, the Oklahoma 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 paragraphs 1 through 6 in every subcontract, including procurements 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 subcontract or procurement as the Oklahoma Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the Contractor may request the Oklahoma Department of Transportation to enter into such litigation to protect the interests of the State; and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
9-7-76
This is a Federal Aid Project and
the provisions of 40 O.S.
Supplemental 1955 Sect. 193 and 194
relative to residence requirements
are not applicable to the
contractor's employees.
OKLAHOMA DEPARTMENT OF TRANSPORTATION
BAMS/LAS - LETTING AND AWARD SYSTEM
SPECIAL PROVISIONS
CF000501 CERTIFICATION FOR FEDERAL-AID CONTRACTS

02-07-90

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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.

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file 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.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such sub-recipients shall certify and disclose accordingly.
OKLAHOMA DEPARTMENT OF TRANSPORTATION
BAMS/LAS - LETTING AND AWARD SYSTEM
SPECIAL PROVISIONS
CP000502 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION

DATE: August 5, 2019

CF000502 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION

REQUIRES CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

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

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

J. GENERAL

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

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

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

Contracting agencies may reference Form FHWA-1273 in bid proposal or

1 OF 30
request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

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

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

II. NONDISCRIMINATION

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

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (25 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

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

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

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

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

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

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

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

2. EEO Officer: The contractor will designate and make known to the contracting officers, an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.
3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

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

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

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

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 advertisement will be placed in publications having a large circulation among minority groups 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 minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group 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 all 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 condition, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

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

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

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

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.
b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulation, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

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

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

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

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

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

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

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable
minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

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

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

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conforming under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

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

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially
responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee’s social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at https://www.dol.gov/whd/forms/wh347.pdf or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under SS 5.5(a)(3)(i) of Regulations, 29 CFR part 5, the appropriate information is being maintained under Sect. 5.5(a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than 12 of 30
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permissible deductions as set forth in Regulations, 29 CFR part 3;  

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

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

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

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

4. Apprentices and trainees  

a. Apprentices (programs of the USDOL).  

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

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio 13 of 30.
permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor’s or subcontractor’s registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

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

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

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for 15 of 30
debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

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

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

10. Certification of eligibility.

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

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


V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of 20 of 30
Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

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

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

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

1. Instructions for Certification - First Tier Participants:

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

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

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

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

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

2. Instructions for Certification - Lower Tier Participants:

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

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

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

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

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

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

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

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

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

i. Except for transactions authorized under paragraph 'e' of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

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

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

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

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

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

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

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

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

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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 (lc) 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 (lc) 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.

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

1. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

a. withholding payments to the contractor under the contract until the contractor complies; and/or

b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.
This Appendix E shall be included in all subcontracts.

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

Fertinent Non-Discrimination Authorities:

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub- recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 - 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

These requirements apply to materials or equipment secured by the Contractor for a specific Federal-aid highway project. In general, the requirements are not applicable to materials and equipment that come into Contractor or supplier inventories independent of a Federal-aid contract.

XII. Cargo Preference Act (CPA) Requirements

Federal Grant, Guaranty, Loan and Advance of Funds Agreements.

In order to insure a fair and reasonable participation by privately owned United States-flag commercial vessels in transporting cargoes which are subject to the Cargo Preference Act of 1954 and which are generated by U.S. Government Grant, Guaranty, Loan and/or Advance of Funds Programs, the head of each affected Department or Agency shall require appropriate clauses to be inserted in those Grant, Guaranty, Loan and/or Advance of Funds Agreements and all third party Contracts executed between the borrower/grantee and other parties, where the possibility exists for ocean transportation of items procured, contracted for or otherwise obtained by or on behalf of the grantee, borrower, or any of their contractors or subcontractors. The clauses required by this part shall provide that at least fifty percent (50%) of the freight revenue and tonnage of cargo generated by the U.S. Government Grant, Guaranty, Loan or Advance of Funds be transported on privately owned United States-flag commercial vessels. These clauses shall also require that all parties provide to the Maritime Administration the necessary shipment information as set forth in § 381.3. A copy of the appropriate clauses required by this part shall be submitted by each affected Agency or Department to the Secretary, Maritime Administration, for approval no later than thirty (30) days after the effective date of this part. The following are suggested acceptable clauses with respect to the use of United States-flag vessels to be incorporated in the Grant, Guaranty, Loan and/or Advance of Funds Agreements as well as contracts and subcontracts resulting therefrom:

(a) Agreement Clauses. Use of United States-flag vessels:

(1) Pursuant to Pub. L. 664 (43 U.S.C. 1241(b)) at least fifty percent (50%) of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available.

(2) Within twenty (20) days following the date of loading for shipments originating within the United States or within thirty (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 (a)(1) of this
section shall be furnished to both the Contracting Officer (through the Prime Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

(b) Contractor and Subcontractor Clauses. Use of United States-flag vessels: The Contractor agrees:

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

(2) To furnish within twenty (20) days following the date of loading for shipments originating within the United States or within thirty (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 Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

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

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows: The covered area is in the county or counties as indicated in the description on the proposal.

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These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 days of award of any construction subcontract in excess of $10,000, at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
CONSTRUCTION CONTRACT SPECIFICATIONS *
EXECUTIVE ORDER 11246

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

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

3. If the Contractor is participating (pursuant to 41 CFR-4.5) in a
   Hometown Plan approved by the U. S. Department of Labor in the covered
   area either individually or through an association, its affirmative
   action obligations on all work in the Plan area (including goals and 
   timetables) shall be in accordance with that Plan for those trades which
   have unions participating in the Plan. Contractors must be able to 
   demonstrate their participation in and compliance with the provisions of 
   any such Hometown Plan. Each Contractor or Subcontractor participating 
   in an approved Plan is individually required to comply with its 
   obligations under the EEO clause, and to make a good faith performance
   by other Contractors or Subcontractors toward a goal in an approved Plan 
   does not excuse any covered Contractor's or Subcontractor's failure to 
   take good faith efforts to achieve the Plan goals and timetables.

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

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

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

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

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and
female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations responses. c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken. d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations. e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above. f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations: by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed. g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents. General Foreman, etc. prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter. h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the contractor does or anticipates doing business. i. Direct its recruitment efforts, both oral and
written, to minority female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process. j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce. k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3. l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or prepare for, through appropriate training, etc., such opportunities. m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these Specifications are being carried out. n. Insure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes. o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations. p. Conduct a review, at least annually, if all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling anyone or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligations to comply, however, is the Contractor's and failure of such a group to fulfill an
obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women has been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be
required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

16. In addition to the reporting requirements set forth elsewhere in this contract, the Contractor and subcontractors holding subcontracts not including material suppliers, of $10,000 or more, shall submit for every month of July during which work is performed employment data as contained under Form PR-1391 (Appendix C to 23 CFR Part 230), and in accordance with the instructions included thereon.

* THESE STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246) SHALL BE INCLUDED IN, AND SHALL BE A PART OF, ALL SOLICITATIONS FOR OFFERS AND BIDS ON ALL FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION CONTRACTS OR SUBCONTRACTS IN EXCESS OF $10,000. EXECUTION OF THE CONTRACT BY THE SUCCESSFUL BIDDER AND ANY SUBSEQUENT SUBCONTRACTS WILL BE CONSIDERED THE CONTRACTOR'S AND SUBCONTRACTOR'S COMMITMENT TO THE EEO PROVISIONS CONTAINED IN THESE STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246).
1. Purpose. The purpose of the On-The-Job Training (OJT) Program is to provide training for minority, female, and socially and economically disadvantaged individuals, in order that they may develop marketable skills and gain journeyman status in the skilled classifications in which they are being trained.

A copy of the OJT Training Program may be obtained from the Oklahoma Department of Transportation Civil Rights Division, or the Association of Oklahoma General Contractors (AOGC). It is the Contractor’s responsibility to familiarize themselves with the OJT Program requirements to ensure compliance with the program when assigned an annual goal.

2. Description. The training of minorities, women, and socially and economically disadvantaged individuals toward journeymen status is a primary objective of this OJT Program. Accordingly, the Contractor shall make every effort to enroll eligible Trainees to the extent that such persons are available within a reasonable area of recruitment. The Contractor is responsible for demonstrating the steps taken in pursuance thereof prior to a determination of compliance with this Special Provision. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether the applicant is a member of a minority group or not. The prospective Trainee must express interest in entering the OJT Program, as well as exhibit sufficient commitment to completing the training.

3. Trainee Assignment. Training assignments are determined based on a three year average of the Contract volume of State and Federally funded work awarded to a Contractor by the Oklahoma Department of Transportation during the three previous state fiscal years (July 1st to June 30th). The Oklahoma Department of Transportation Civil Rights Division will notify Contractors meeting the selection criteria of their annual training goal assignment prior to January 1st.

**ANNUAL GOAL BASED ON THREE (3) YEAR AVERAGE CONTRACT (STATE & FEDERALLY FUNDED) VALUE WITH THE DEPARTMENT**

<table>
<thead>
<tr>
<th>Contract Amount</th>
<th>Minimum Trainees Required Annually</th>
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<tbody>
<tr>
<td>&gt; $50,000,000</td>
<td>3</td>
</tr>
<tr>
<td>$30,000,000 to $50,000,000</td>
<td>2</td>
</tr>
<tr>
<td>$15,000,000 to $30,000,000</td>
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Pg. 1 of 2
No employee of the Contractor shall be employed as a Trainee in any classification in which they have successfully completed a training course leading to journeyman status, or in which they have been employed as a journeyman. The Contractor should satisfy this requirement by including appropriate questions in the employee application, or by other suitable means. Regardless of the method used, the Contractor's records should document the findings in each case.

4. Program Requirements. Fulfill all of the requirements of the OJT Program including the maintenance of records and submittal of monthly reports documenting program performance. Trainees shall be paid at least sixty percent (60%) of the appropriate minimum journeyman’s rate specified in the Contract for the first half of the training period, seventy-five percent (75%) for the third quarter, and ninety percent (90%) for the last quarter. Contractors will be reimbursed for each training hour in accordance with the OJT Program Manual.

Furnish the Trainee with a copy of the program that will be followed during the training. Maintain Trainee performance records, and furnish periodic reports which document the Trainee’s performance in accordance with the OJT Program Manual. Upon completion of the training, provide each Trainee with a certification showing the type and length of training completed.

5. Compliance. Fulfillment of contractual responsibilities is achieved by having provided acceptable training to the number of Trainees required by the annual goal assignment within the calendar year (January 1st to December 31st).

When the annual training goal cannot be achieved with female or minority Trainees, the Contractor must produce adequate documentation of a Good Faith Effort to the Oklahoma Department of Transportation Civil Rights Division. Good faith efforts are those efforts designed to achieve equal opportunity through positive, aggressive, and continuous resulted measures (23 CFR 230.409(g)(4)). Good faith efforts should be taken as Trainee hiring opportunities arise.

Noncompliance with this Special Provision or the OJT Program may be cause for corrective measures in accordance with the ODOT Standard Specifications Subsection 102.04, “Refusal of Proposals,” and Subsection 108.10, “Default of Contract.”
Section 112(c) of Title 23 USC requires as a condition precedent to approval, by the Federal Highway Administration, of the contract for this work that there be filed a sworn affidavit or as unsworn statement subject to Federal perjury laws executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract.

The sworn affidavit shall be in the form provided and executed by the bidder before a person who is authorized by the laws of this state to administer oaths. The original of such affidavit shall be filed with the Oklahoma Department of Transportation prior to award of the contract. The unsworn statement shall be in the form provided and subject to Federal perjury statutes. The original of such statement shall be filed with the Oklahoma Department of Transportation prior to award of the contract.

TO COMPLY WITH ABOVE REFERENCED SECTION 112(c) OF TITLE 23 USC - BIDDERS SHALL EXECUTE THE BIDDERS AFFIDAVIT OR UNSWORN STATEMENT SUBJECT TO FEDERAL PERJURY LAWS INCLUDED IN THIS PROPOSAL.
The Oklahoma Department of Transportation is committed to implementing the Disadvantaged Business Enterprise Program (DBE) as mandated in 49 CFR Part 26. The stated objectives of the program are:

* To ensure nondiscrimination in the award and administration of U.S. DOT assisted contracts;

* To create a level playing field on which DBEs can compete fairly for U.S. DOT assisted contracts;

* To ensure that the program is narrowly tailored in accordance with the applicable law;

* To ensure that only firms that fully meet the eligibility standards are permitted to participate as DBEs;

* To help remove barriers to the participation in U.S. DOT assisted contracts;

* To assist in the development of DBE firms so that they may compete successfully in the marketplace outside of the DBE program.

Failure of the contractor, subcontractor, material supplier or service contractor to carry out the requirements set forth shall constitute a breach of contract, and after notification by the Department, may result in termination of the contract by the State or such action as the State deems appropriate.

BIDDER'S ACTION

When ODOT has established a DBE contract goal, ODOT awards the contract only to a bidder who makes responsible good faith efforts to meet or exceed the goal. ODOT determines that a bidder has made good faith efforts if the bidder does either of the following things, as per 49 CFR 26.53:

(1) Documents that it has obtained enough DBE participation to meet the goal; or

(2) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder does document adequate good faith efforts, ODOT must not deny award of the contract on the basis that the bidder failed to meet the goal.
SPECIAL PROVISIONS

In the solicitations for DOT-assisted contracts for which a contract goal has been established, award of the contract will be conditioned on meeting the requirements of this section. All bidders or offerors will be required to submit the following at the time of bid within AASHTOWare Project Bids:

* DBE Form 6 - Prime Contractor - Confirmation of Intent to Subcontract Federal-Aid Projects;
* The names and addresses of DBE firms that will participate in the contract;
* A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
* The dollar amount of the participation of each DBE firm participating;
* Written documentation of the bidder's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
* Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment (i.e. subcontractor's quote).

If the contract DBE goal cannot be met, evidence of good faith efforts are to be submitted on the DBE Form 5 - Prime Contractor - Good Faith Efforts and submitted at the time of bid within AASHTOWare Project Bids.

If the bidder to whom ODOT proposes to award the contract is able to demonstrate good faith efforts, ODOT may reduce the contractual DBE goal to the bidder's proposed adjusted goal. Acceptance by ODOT of the bidder's proposed adjusted goal does not release the bidder from its contractual obligation to continue to make efforts throughout the duration of the project to utilize DBEs on the project.

All bidders shall review and notarize the completed pages 13 of 14 and 14 of 14 of this Special Provision. The DBEs listed on these forms shall be considered binding, and changes of committed DBEs may only be made after the contract is fully executed, and may only be changed through the procedures established in the DBE Program Manual.

All bidders shall submit with their bid completed and signed quote(s) from each DBE to be subcontracted in order to achieve the contract DBE goal, along with the respective DBE Form 6. All DBE firms included in the bid must be currently certified by ODOT as eligible to participate in the DBE program. Failure to submit the required DBE documents, or to use an ODOT certified DBE will render the bid non-responsive.

The DBEs submitted on this form shall be considered binding and changes of committed DBEs may only be made after the contract is fully executed, and may only be changed through the procedures established in the DBE Program Manual.
The steps taken by the bidder to obtain DBE participation shall be documented and shall include, but is not limited to the good faith efforts found in this Special Provision.

It is the contractor's responsibility to submit the information necessary for ODOT to ascertain compliance with the good faith efforts requirement. Extra cost involved in finding and utilizing DBEs will not be accepted as an adequate reason for the bidder's failure to meet the project DBE goal as long as such costs are reasonable.

Good Faith Effort Process (GFE)

Administrative Reconsideration Process - Construction

If ODOT determines that the apparent successful bidder has failed to meet the requirements, prior to awarding the contract, ODOT will provide the bidder an opportunity for administrative reconsideration.

1. If the ODOT Disadvantaged Business Enterprise Liaison Officer (DBELO) determines that the Bidder did not demonstrate good faith efforts to meet the contract goal, the DBELO shall notify the Bidder in writing, via the email address provided from the contact(s) listed on the submitted DBE Form 6.

2. The notice shall state that the Bidder is entitled to administrative reconsideration. ODOT's independent administrative reconsideration official is the Director of Capital Programs and/or designee, provided that such designee did not participate in the original determination. The DBELO shall provide the administrative reconsideration official with a copy of the notice to the Bidder.

3. The Bidder has five business days from the date of the notice from the DBELO to submit a request for administrative reconsideration to the email addresses provided in the notice. The request shall include the Bidder’s basis for the appeal and any supporting documentation that the Bidder would like considered as part of the reconsideration. The request shall also include a statement as to whether the Bidder would like a hearing and specify whether the Bidder would like an in-person or a telephone hearing. If the Bidder does not include a request for a hearing, the right to a hearing is waived.

4. If the Bidder has requested a hearing, the administrative reconsideration official will establish a date and time for the hearing and send written notice via email to the DBELO and Bidder at least two business days in advance of the hearing. If schedules permit, the parties may waive the two day requirement.
5. The administrative reconsideration official may request additional documentation from the Bidder and/or the DBELO. A copy of all requests and responses shall be provided to the other party and the other party shall be given an opportunity to respond.

6. The administrative reconsideration official shall issue the final determination as to whether the Bidder made good faith efforts to meet the contract goal.

In instances where a DBE is participating in a contract as a joint venture, the joint venture must submit the specific units of work which will be performed by the DBE joint venturer. The DBE joint venturer's portion of the contract work will be submitted as the Contractors' commitment and the advertised goal of the contract becomes the contractual obligation.

In instances where a successful bidder's DBE commitment exceeds the actual DBE contract goal, the advertised goal of the contract remains the contractual obligation.

ASSURANCE OF NON DISCRIMINATION

The contractor, sub recipient, 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 U.S. 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 Oklahoma Department of Transportation deems appropriate.

GOOD FAITH EFFORTS

The steps taken by the bidder to obtain DBE participation shall be documented and shall include, but are not limited to the following good faith efforts: (APPENDIX B ~ TO CFR 49, PART 26)

ODOT verifies that all information is complete and accurate and adequately documents the bidder's good faith efforts. As per 49 CFR Part 26, Appendix A, the following is a list of types of actions which can be considered as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive.

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Solicit through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business match-making meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Request for Proposals, and written notices to all DBEs listed in ODOT's Directory.

The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations. Such steps should include, but are not limited to:

- Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved.

- Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner.

- Negotiating in good faith with interested DBEs. Incur reasonable additional costs to obtain DBE Participation. Price alone is not a sufficient reason to reject a DBE. The bidder must demonstrate that the cost is excessive and unreasonable. Reasonableness is evaluated not only in terms of the dollar and percentage difference from one bidder to another, but also in light of the percentage of the total contract.

- As necessary, revise the DBE participation plan in order to obtain DBE participation. In the event the contractor is unable to obtain DBE participation under the original plan or is receiving DBE quotes in other areas, it should consider revising the plan, unbundling and forgoing self-performance or portions of the contract.

- Provide assistance to DBEs. Assistance may include providing the DBE help to understand technical and contract requirements of the project, obtain bonds and insurance for the project, and connect with others in the industry to obtain supplies, equipment or other materials for the project. The bidder should be careful not to compromise the independence or potential commercially useful function of the DBE, therefore in no instances should bidders arrange supply purchases, negotiate on behalf of a DBE, lend equipment to DBEs, or directly pay DBE employees.

If ODOT determines that the apparent successful bidder has failed to meet the requirements, prior to awarding the contract, ODOT will provide the bidder an opportunity for administrative reconsideration.
CONTRACTOR ACTIONS AFTER AWARD OF THE CONTRACT

Counting DBE Participation Toward the Goal

Submit executed subcontracts and/or sub-agreements in pdf format to the Department using the following email address: constructionsubcontracts@odot.org. Submit all additional and/or modified subcontracts or sub-agreements to the Department via the same email address.

All subcontracts must be reviewed and approved by the Department prior to the subcontractor performing contract work. If a subcontractor performs contract work prior to approval of the subcontract by the Department, then the Contractor will be subject to one or more of the following:

- No pay for specific work items;
- Withhold progressive estimates in entirety; or
- Impose other severe sanctions as deemed appropriate.

When a DBE participates in a contract, only the value of the work actually performed by the DBE is counted toward the contract goal. The entire amount of that portion of a contract that is performed by the DBE's own forces is counted, including the cost of supplies and materials obtained by the DBE for the work on the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE purchases or leases from a prime contractor or its affiliate).

Fees or commissions charged by a DBE firm for providing a bona fide service such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of a U.S. DOT assisted contract, count toward the goal, provided those fees are determined to be reasonable and not excessive compared with fees customarily allowed for similar services.

When a DBE performs as a participant in a joint venture, the portion of the total dollar value of the contract equal to the clearly defined portion of the work that the DBE performs with its own forces may be counted toward the goal.

Only expenditures to a DBE contractor who performs a commercially useful function may be counted toward a DBE goal.
COMMERCIAL USEFUL FUNCTION

A DBE performs a commercially useful function (CUF) when it is responsible for the execution of the work of its contract and is carrying out its responsibilities by actually performing, managing and supervising the work involved. The DBE must be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

To determine whether a DBE is performing a CUF, ODOT will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid is commensurate with the work it is actually performing and the DBE credit claimed, and other relevant factors.

A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is acting as a pass-through, ODOT will examine similar transactions, particularly those in which DBEs do not participate.

Use of Joint Checks

A joint check is a two party check between a DBE, a prime contractor, and the regular dealer of materials/supplies. Typically, the prime contractor issues the check as payor to the DBE and supplier jointly to guarantee payment to the supplier for materials/supplies used by the DBE.

A joint check may be used when the following conditions are met:

* The second party (typically the prime contractor) acts solely as a guarantor
* The DBE must release the check to the supplier
* The use of joint checks is a commonly recognized business practice in the industry
* ODOT approves the practice before it is used

7 of 14
The use of joint checks will not be approved if it conflicts with the commercially useful function (CUF) requirements of 49 CFR Section 26.55. All aspects of the CUF requirements must be fulfilled by the DBE to include negotiating the purchase and delivery of the materials required for the performance of the contract.

The use of joint checks should be short term in nature and there shall be no exclusive ongoing relationship between one prime and one DBE in the use of joint checks, which may bring the DBE's independence into question.

The DBE shall notify the Civil Rights Office prior to the use of joint checks, providing full and prompt disclosure of the circumstances and a request for approval. The Civil Rights Office will review the request and determine whether approval will be granted.

**Lease of Use of Prime Contractors' Equipment**

The DBE may lease equipment necessary to perform work, where the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the DBE firm. 49 CFR Section 26.55(a)(1) does not allow materials purchased or equipment leased from a prime contractor to count toward the DBE goal. If a DBE uses or leases equipment from the prime contractor, the prime contractor cannot claim credit for the value of that equipment lease toward the DBE goal. If a DBE uses a prime contractor's equipment, it shall be for an unusual circumstance of limited duration, and the DBE shall provide the ODOT a written agreement between the DBE and the prime contractor.

**TRUCKING**

The certified DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

The DBE, itself, must own and operate at least one fully licensed, insured, and operational truck used on the contract.

The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs. ODOT does not permit additional non-DBE trucks to count toward the DBE goal.
MANUFACTURERS AND MATERIAL SUPPLIERS

If the materials or supplies are obtained from a certified DBE manufacturer, 100 percent of the cost of the materials or supplies will be counted toward the DBE goal. A manufacturer is a firm that operates the or maintains a factory or establishment that produces, on the premises, materials required under the contract as described by the specifications.

If the materials or supplies are purchased from a certified DBE regular dealer, 60 percent of the cost of the materials or supplies will be counted toward the DBE goal. A regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment described by the specification and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating or maintaining a place of business as provided for in the above paragraph if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad-hoc or contract-by-contract basis.

In order for a firm to qualify as a DBE supplier of metal and/or concrete pipe, the firm must also fabricate the pipe. Metal or concrete pipe is specialty pipe which is project specific and is inspected during the manufacturing process. This arrangement provides for no warehousing of metal or concrete pipe and essentially requires the manufacturer to be the supplier. Merely ordering pipe from the fabricator, and in turn selling it to contractors is not consistent with normal industry practice. Contractors normally purchase pipe directly from the manufacturer, thus eliminating the middleman. Supplying metal or concrete pipe is viewed as brokering and is considered inconsistent with DBE program requirements.

SUBSTITUTION/REPLACEMENT OF DBEs

Substitution or replacement of a DBE will only be permitted or allowed after award and execution of the U.S. DOT assisted contract.

As per the 49 CFR 26.53 and the DBE Program Manual, a prime contractor may not terminate, for convenience; a DBE (or an approved substitute DBE firm) listed in their contract and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without ODOT’s prior written consent. The contractor will notify
the DBE subcontractor in writing as to reasons for termination and/or substitution. The DBE subcontractor will have five (5) days to respond to the contractor with any objection to termination and/or substitution. The contractor must then submit a request with documentation to the ODOT Civil Rights Division for approval before proceeding with termination and/or substitution.

When the contractor obtains a substitute DBE, the contractor shall provide the Civil Rights Division with copies of the substitute's subcontract, the Notification Change of DBE Participant (DBE Form 4), and supporting documentation prior to work being performed.

If the contractor is unable to replace the DBE with another DBE, then the contractor must provide ODOT with evidence that they have made a good faith effort (APPENDIX B ~ TO CFR 49, PART 26).

If a contractor fails to comply with this section, the contractor will not be entitled to any payment for work material unless it is performed or supplied by the listed DBE(s). Furthermore, appropriate administrative remedies as listed in the titled Administrative Remedies will be taken.

PROMPT PAYMENTS

To ensure that all prime contractors' obligations under U.S. DOT contracts are met, the prime contractor shall pay all subcontractors for satisfactory performance of their contracts no later than fifteen calendar days after receipt of each progressive payment from ODOT. The prime contractor must further make prompt return of retainage held to the subcontractor or DBE within fifteen days after the subcontractor's work is satisfactorily completed, whether the prime contractor's work is complete or not. The term "satisfactorily completed" is defined as when; 1) ODOT finds the work completed in accordance with the Plans and Specifications, 2) any required paperwork, including material certification, payrolls, etc., have been received and approved by ODOT or 3) the Department has determined the final quantities on the subcontractor's portion of the work.

In the event, prime contractor fails to comply with prompt payment requirements or a pattern and practice of prompt payment violations is recognized and all other efforts for remedy have been exhausted, the agency shall invoke administrative actions including but not limited to the withholding of bid proposals.

Prime contractors must include in their subcontract agreements notifying subcontractors of their right to prompt payment and return of retainage under 49 CFR part 26.29.
Administrative Remedies

The following administrative remedies will be invoked when the federal DBE contractual requirements are not met by a contractor, and if the contractor has failed to provide evidence of a sufficient good faith effort to meet said provisions:

- Suspension of processing progressive estimates
- Refusal to issue proposals
- Refuse to award or approve subcontractors or material suppliers
- Suspension of work on the project
- Suspension of prequalification
- Contractor Performance suspension
- Contractor Debarment

RECORD KEEPING REQUIREMENTS

The prime contractor will keep such records as are necessary to determine compliance with the DBE contract obligations. The records kept by the contractor will indicate:

1. The name(s) of DBEs or other subcontractors, the type of work being performed, and payment for work, services and procurement.

2. Documentation of correspondence, verbal contracts, telephone calls, etc., to obtain services of DBEs on the project.

3. The prime contractor shall maintain a copy of the DBE trucking firm's list of trucks to be used on that project. This shall be provided to the prime by the DBE prior to the DBE beginning the work of their hauling agreement. The prime contractor shall submit this list along with the actual hauling subcontract/agreement for approval by the Department.

Upon request, the prime contractor shall submit all purchase orders, contracts, agreements, and financial transactions, including canceled checks, executed with DBEs with the reference to records referred to in this provision, in such form, manner, content prescribed by ODOT.

Once the project begins, prime contractors will be required to submit Monthly Payment Log Forms (DBE Form 2) to the Resident Engineer each month for the duration of the project. The DBE Form 2 will record payments made to all DBE firms providing materials or services to the project, whether listed in the Contract to meet a project goal or not. Listed on the forms should be all payments made, including final payment and return of retainage. The forms should be submitted even if there is no contractual DBE goal listed in the contract and/or the prime contractor is a DBE. These forms must be received by the Resident Engineer no later than the 15th of the following month.
For contracts with DBE participation, regardless of a contractual DBE goal, the contractor shall submit to the Resident Engineer a DBE Final Payment Report (DBE Form 3A), which replaces the Summary Form 1. The contractor should list all DBEs as in the contract and summarize total amounts paid to DBEs and the project goal amount for each DBE. DBE Prime Contractors must also list all DBEs as in the contract and summarize total amounts paid to other DBEs and the project goal amount for each DBE. In instances where the contract is performed as a joint venture and one of the members of the joint venture is a DBE, the joint venture should summarize the total amounts paid to the DBE joint venturer for work performed.
As provided in this Special Provision, "DISADVANTAGED BUSINESS ENTERPRISES PROGRAMS" the undersigned bidder will use the Department certified DBE service/suppliers/subcontractors listed below to meet the percentage goals of the total contract amount for this project:

CONSULTANTS, SUBCONTRACTORS, SERVICE, REGULAR DEALERS (MATERIAL SUPPLIERS), & FABRICATORS

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NOTE: ONLY THOSE DBEs LISTED ON THE CERTIFIED LIST IN THEIR AREAS OF EXPERTISE CAN BE USED TO FULFILL DBE GOAL REQUIREMENTS.

SUBTOTAL (1) __________________
OKLAHOMA DEPARTMENT OF TRANSPORTATION
BAMS/LAS - LETTING AND AWARD SYSTEM
SPECIAL PROVISIONS

REGULAR DEALERS (MATERIAL SUPPLIERS)

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NOTE: BROKERAGE, PACKAGERS, AND PASS THROUGHs DO NOT QUALIFY AS DBE PARTICIPATION. MATERIAL SUPPLIERS AND OWNER/OPERATORS DO NOT QUALIFY AS SUBCONTRACTORS.

SUBTOTAL (2) ______________________

TOTAL (1+2) ______________________

% OF BID ______________________

________________________________________
COMPANY NAME

BY: ____________________________________

TITLE: __________________________________

Subscribed and sworn before me this ______ day of ______ year ______.

Notary Public ____________________________

My commission expires ____________________

SEAL

14 OF 14
This Special Provision supplements and where in conflict supersedes the provisions of Sections 104.06, 105.18, 108.07, 109.04 and 109.10 of the 2009 Standard Specifications for Highway Construction, English and Metric, as applicable. Units of measurement are provided in the subsections in both English and Metric equivalents. The units applicable for this project will be those specified in the project plans.

CONTRACT DISPUTE RESOLUTION PROCEDURE

SECTION 1.

(a) Contractors and Resident Engineers should use all reasonable efforts to reach accord as to changes and perceived changes in the nature and quantity of work to be performed. However, if the Contractor and the Resident Engineer cannot reach an immediate agreement which can be supported by a supplemental agreement under the contract or a change in plans, it will be the responsibility of the Contractor to initiate a claim. Claims must be initiated by providing oral notice of intent to file a claim followed, with written confirmation of the notice within seven (7) calendar days as provided in the Standard Specifications Section 104.06. The Contractor must provide written notice of intent to file a claim to the Resident Engineer identifying work which the Contractor believes is not covered by the contract before starting on the disputed work. If the Contractor believes that work in progress may, due to changed conditions, have become subject to a claim, the Contractor must submit his written notice of intent to file a claim before continuing with the affected work. The submission of a notice of intent to file a claim by a contractor in accordance with the Standard Specification Section 104.06 is a mandatory prerequisite for the consideration by the Department of any claim submitted under the terms of this contract. Failure to provide the required notice of intent to file a claim shall constitute a waiver of the claim. It is a condition precedent to any recovery on a claim under this Contract, that the Contractor must provide a written notice of intent to file a claim to the Resident Engineer pursuant to this Section 1.

(b) The claim must be submitted in the form required by Section 105.18 within ninety (90) calendar days of completion of the disputed or affected work. Failure to submit the claim within ninety (90) calendar days will constitute a waiver of the claim.
days will preclude recovery of extra compensation or award of additional time for the disputed or affected work.

(c) The claim will be complete and will contain all of the information and the certification required by Section 105.18 when submitted. Requests for additional compensation will be documented as required by Section 109.04. Only those items listed in Section 109.04 will be considered as compensable for disputed or affected work. Requests for extension of contract time for completion of disputed or affected work will be considered in accordance with Section 108.07. Requests for extension of contract time must be supported by a critical path method (CPM) schedules prepared in accordance with the Standard Specification Section 108.03(b) reflecting both the planned construction schedule and the actual sequence of the construction. Compensation for delays caused by disputed or affected work will be paid only for those items listed in Section 109.10.

(d) The Resident Engineer will review and respond to the claim pursuant to the provisions of Section 105.18(D). Time for claims review by the Resident Engineer as specified in Section 105.18 will begin upon receipt of the claim by the Resident Engineer and determination by the Resident Engineer that the claim is complete. A claim is complete when the claim contains all information specified by Section 105.18 and such additional supporting information or documents as the Resident Engineer may deem necessary for proper evaluation of a specific claim. If the Resident Engineer requires additional information or documentation, the Contractor shall have fifteen (15) calendar days from the date of the Resident Engineer's request to provide the required information or documentation. Failure to provide requested information or documentation within the specific time will preclude recovery of extra compensation or award of additional time for the disputed or affected work. It is specifically agreed by the parties herein that, as a condition precedent to appeal the denial of a Contractor's claim to the Director of Operations, the Resident Engineer must deny the Contractor's claim in whole or in part pursuant to, and in compliance with, the provisions of this Section 1.

SECTION 2.

(a) In the event that a Contractor's claim is denied in whole or in part by the Resident Engineer, the Contractor may appeal this denial to the Director of Operations by:

1. Forwarding a copy of his claim in person or by certified mail with all supporting documents, the written response of the Resident Engineer if any, or a statement by the Contractor that no written response was issued by the Resident Engineer pursuant to Section 105.18(D), and any written agreement concerning the claim.
2. Submit a statement setting forth in detail the grounds upon which the Contractor appeals the Resident Engineer's decision.

3. The appeal must be submitted to the Director of Operations within thirty (30) calendar days of the denial of the claim. If the appeal is not submitted within this time frame, the decision of the Resident Engineer shall become final and binding.

4. It is a condition precedent to any recovery on a written appeal of any denial of a Contractor's claim under this Contract, that the Contractor must provide a written appeal to the Director of Operations at the Department of Transportation at 200 NE 21st St., Oklahoma City, OK 73105-3264

(b) Upon receipt of the appeal and all documents set forth in Subsection (a) of this section, the Director of Operations shall review the Contractor's claim and determine if additional documentation, information, or other factual data are required to make a final decision on the Contractor's claim. If additional information is required, the Director of Operations shall, within thirty (30) calendar days, notify the Contractor in writing stating what additional information is required. The Contractor shall thereafter have fifteen (15) calendar days to provide the requested information unless otherwise agreed in writing. Failure to provide the requested information within the time provided shall void any claims dependent upon such additional information and shall result in the decision of the Resident Engineer becoming final and binding as to all matters for which additional information was requested. Within forty-five (45) calendar days of receipt of the requested additional information, or if additional information is not requested within forty-five (45) calendar days of the receipt of the appeal, the Director of Operations may dispose of the claim by change order or supplemental agreement in accordance with Section 104.04 of the Standard Specifications. If no agreement is executed between the Department and the Contractor within that forty-five (45) calendar days, the Director of Operations within five (5) calendar days thereafter shall issue his decision on each item of the Contractor's appeal. The decision shall state, as to each item of the appeal, whether the item is approved in whole or in part, or disapproved. If all or part of an item is disapproved, the Director of Operations shall cite his basis for disapproval. The Director of Operations' decision shall be mailed to the Contractor by certified mail. In the event that the Director of Operations shall fail to issue his decision in the time provided in this section and any extensions agreed to in writing by the Department and the Contractor, the claim shall be deemed denied as to any matter not previously agreed to in writing and the Contractor may proceed with his claim as set forth in Section 3 to mediate the claim dispute or the Contractor will forfeit any further
right to pursue the claim in any forum. It is specifically agreed by the parties herein that, as a condition precedent to mediating a Contractor's claim, the Contractor's appeal must be denied in whole or in part by the Director of Operations pursuant to, and in compliance with, the provisions of this Section 2.

SECTION 3.

(a) If the Contractor is dissatisfied with the final decision of the Director of Operations, the Contractor must request mediation of his claim in accordance with the most current Edition of the Construction Industry Mediation Rules of the American Arbitration Association, as such rules are herein modified. The request for mediation shall be made within forty-five (45) calendar days of the date of the Director of Operations' final decision or denial of the claim pursuant to the provisions of Section 2.

(b) The Construction Industry Mediation Rules of the American Arbitration Association as applicable to Contractor's claims resulting from contracts with the Department are modified and amended to provide that the mediation shall be held at the Department of Transportation Building in Oklahoma City, Oklahoma, or at any other convenient location agreeable to the mediator and the parties.

(c) Mediation may be continued as required to promote optimum utilization and success with this dispute resolution procedure. If mediation is considered at an impasse by the mediator, the mediator may terminate mediation as provided by the Mediation Rules. It is specifically agreed by the parties herein that, as a condition precedent to filing any legal action in the District Court of the State of Oklahoma, the Contractor's claim must be mediated pursuant to this Section 3, and the mediation must have been terminated under the Mediation Rules without a settlement agreement of the parties.

SECTION 4.

(a) If mediation is unsuccessful and the Contractor desires to further pursue resolution of a disputed claim, the Contractor may seek relief by filing an action in district court within ninety (90) days of the termination of mediation as provided by the laws of the State of Oklahoma. In all such instances, only those claims which have been presented for consideration in accordance with the Standard Specifications and the dispute resolution procedure provided in these special provisions may be the subject of an action in district court. In all such actions, venue shall be the District Court in Oklahoma County. It is specifically agreed by the parties to this contract that, as an exception to 12 O.S. Section 936, actions brought under this contract shall not be subject to the award of costs or attorney's fees to the prevailing party. It is specifically agreed by the parties that,
as a condition precedent to the filing of any Contractor claim, counterclaim, third-party claim or set off, and any recovery thereon in a legal action in district court, such Contractor claim, counterclaim, third-party claim or set off must have been included as part or all of the Contractor's claim presented pursuant to Sections 1, 2, and 3 of this Contract Dispute Resolution Procedure or it will be waived by the Contractor in any further action.

(b) The Department and the Contractor may agree to jointly petition for any action to be referred for binding arbitration by order of the district court. As a part of any joint petition for binding arbitration, the parties shall stipulate that such arbitration shall be conducted under the most current Edition of Construction Industry Arbitration Rules of the American Arbitration Association and that such rules shall be modified and amended as follows:

1. Hearings shall be held at the Department of Transportation building in Oklahoma City, Oklahoma, except as may be otherwise agreed by the arbitrator and the parties.

2. Except as mutually agreed by the parties, the dispute shall be heard and determined by one neutral arbitrator.

3. The arbitrator shall not award interest, costs of the prosecution, or defense of the claim, or attorney fees.

4. The decision or award by the arbitrator when made shall be final and non-appealable except as provided in the Uniform Arbitration Act, 12 OS Section 1851 et seq. Both the Contractor and the Department of Transportation shall be bound by the arbitration award for all purposes, and judgment may be entered upon it in accordance with applicable law.
CZ002850

NO. 2 PROPOSAL SHEET

Jan., 1962
Rev. October 1986
Rev. January 1988

The undersigned, as bidder, declares under oath that the only person or parties interested in the foregoing proposal as principals are those named herein: that this proposal is made without either, directly or indirectly, entering into any agreement, participating in any collusion or otherwise taking any action in restraint of free competitive bidding in connection therewith; that the undersigned has no financial interest in, or other affiliations in a business way with any other bidder for the contract on this project; that careful examination of the form of contract, instructions to bidders, profiles, grades, specifications, an the plans has been made, and that careful examination of the locations, conditions and classes of materials of the proposed work has been made; and the undersigned agrees to provide all the necessary machinery, tools, apparatus, and other means of construction, and will do all the work and furnish all the materials called for in the contract and specifications in the manner prescribed therein and according to the requirements of the Engineer, at the unit price as above set forth.

It is understood that in case of any discrepancy between the plans, general specifications and the special provisions, the plans will govern over Standard Specifications and Supplemental Specifications; Supplemental Specifications will govern over Standard Specifications; Special Provisions will govern over Standard Specifications, Supplemental Specifications and plans.

The undersigned further proposes to enter into the contract and furnish satisfactory bond to the Department of Transportation within ten days of award to the undersigned; to commence work as directed by the work order from the Construction Engineer; and to complete the entire work within the allotted contract time after work is authorized. The time limit and other limiting conditions herein set forth are hereby accepted and if such requirements are changed by bidder, it is understood that such change will invalidate this bid.

In considering award of contract the Oklahoma Transportation Commission may require a schedule of equipment the bidder proposes to use on this project and a schedule showing progress to be made during construction.

Attached is a Certified or Cashier’s Check or Bid Bond equal to five percent (5%) of the bid made payable to the Oklahoma Department of Transportation as a guarantee of good faith and which if the contract is awarded to the undersigned, it is agreed will be forfeited as liquidate damages to the State of Oklahoma in the event of failure of the undersigned to enter into contract and furnish satisfactory bond to the Department of Transportation within ten days after award.
I ______________________, as the prospective participant or as the authorized agent of the Firm, Association or Corporation submitting this bid, and with full knowledge and authority, do hereby make and sign this unsworn statement under penalty of perjury:

A. I have read and agree to be bound by the provisions of Special Provisions Text CZ002300, Special Provisions For Contract Dispute Resolution which provides a required succession of actions for contract dispute resolution which is incorporated with this bid and made a part of this bid proposal.

B. I have read and agree to comply with and be bound by the provisions of Special Provisions Text 109-8(a-b)09, Special Provisions For Payments To Subcontractors, to which requires prompt payment for services or materials provided by subcontractors, service companies or material suppliers which is incorporated with this bid and made a part of this bid proposal. (49 CFR 26.29)

C. I understand that the provisions of FHWA Form 1273 are incorporated by reference into this agreement and that all subcontracts which may be entered into for the purposes of performing work required in this bid shall be subject to the provisions of FHWA Form 1273 shall have FHWA Form 1273 incorporated therein.

D. I state under penalty of perjury that neither I nor any owner, officer or employee of the above named firm, association or corporation I represent, have either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with the bid submitted herewith. (23 CFR 635.112)

E. I hereby make the following disclosures concerning business relationships:

1. As the prospective participant or as the authorized agent of the above named firm, association or corporation, I am authorized to submit this bid. As the maker of this unsworn statement, I hereby disclose the nature and existence of any partnership, joint venture, or other business relationship presently in effect or which existed within one (1) year prior to the date of this statement with the architect, consulting engineer, or other party to the project, or any of their employees is as follows: ______________________

1 OF 5
2. That any such business relationship presently in effect or which existed within one (1) year prior to the date of this statement between any officer or director of the above named company, and any officer or director of the architectural or engineering firm, or other party to the project is as follows: __________

3. That the names of all persons having any such business relationship and the positions they hold with their respective companies or firms are as follows: __________

(If none of the business relationships herein above mentioned exist, maker of this unsworn statement should so state by entering the word NONE after each statement. 61 O.S. Section 108)

F. For purposes of submission of this competitive bid, I certify:

1. I am the duly authorized agent of the above named firm, the bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the fact pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to the bid to which this statement is attached;

2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and

3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:

   a. to any collusion among bidders in a restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,

   b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor

   c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract.
4. I certify, if awarded the contract, whether competitively bid or not, neither the Contractor nor anyone subject to the Contractor's direction or control has paid, given or donated, or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement is attached. (74 O.S. Section 85.22)

G. I certify that neither I nor any owner, officer or other principal of the firm, organization or corporation submitting this bid;

1. Are presently excluded or disqualified;

2. Are presently indicted for or otherwise criminally charged by a governmental entity, (Federal, State or local) with commission of, or have been convicted or subject to civil judgment within the past three (3) years for, any of the following offenses:
   a. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;
   b. Violation of Federal or State antitrust statutes, including those prescribing price fixing between competitors, allocation of customers between competitors, and bid rigging;
   c. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or
   d. Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects my present responsibility;

3. Have had one or more public transactions, (Federal, State or local), terminated within the preceding three (3) years for cause or default. (49 CFR 29.335)

H. I understand that if the project which is subject to this bid proposal is financed in whole or part by federally furnished funds, that if I or the firm, association or corporation I represent or any owner, officer, employee or agent thereof knowingly makes a false statement, representation, report or claim as to the character, quality, quantity or cost of materials used or to be used, the quantity or quality of work performed or to be performed, or make any false statement or representation as to a material fact in any statement, certificate or report, that I, other responsible individual, or the firm, association or corporation I represent, may be subject to prosecution under the laws of the United States. (18 USC Sections 1001, 1020)
Name of Contractor as shown on Prequalification Application

Date and Place

Signature of Prospective Participant

Printed name of Prospective Participant

The Maker of this Statement's title or position with Prequalified Contractor

UNSWORN STATEMENT UNDER PENALTY OF PERJURY INFORMATION:

By affixing his/her signature to this unsworn statement, the bidder understands that he/she is under penalty of perjury and is fully bound thereby.

4 OF 5
STATE OF ____________________________ )  SS:
COUNTY OF __________________________) 

I, __________________________, of lawful age, and having been first duly sworn, on oath states:

1. That I am the agent authorized by the bidder to submit the attached bid proposal to the State of Oklahoma. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the preparation of this bid.

2. That the bidder has registered and fully participates in the Status Verification System, as required by Title 25 O.S. Section 1313(B)(1), to verify the work eligibility status of all new employees of the bidder.

FURTHER AFFIANT SAITH NOT.

________________________________________
AFFIANT

Subscribed and sworn before me this ___ day of ____________, 20__.

____________________________
NOTARY PUBLIC

My Commission Expires: ____________
My Commission Number: ____________

5 OF 5