

The Latrobe Community Revitalization Program (hereafter LCRP) is seeking Construction Bid Proposals for a exterior façade renovation of the following property: The “512 Building” located on 512 Ligonier Street, Latrobe, PA 15650 using Community Block Development Grant (hereafter CDBG) and private owner funding. All federal laws and guidelines of the CDBG Program will be in effect. We have provided documents for prevailing wage, FLS, non collusion amongst others, which can be found within this packet file. Please see below to ensure a successful bid is sent:

- Proposals are due on **Wednesday, February 10th, 2021**. Completed proposals with total project cost on company letterhead **can be emailed to: trunzo@latroberevitalization.org**. Questions, please call 724-805-0112. They can also be mailed to LCRP BOX 920, Latrobe, PA 15650 (Due to mail delays, please ensure proposal is postmarked Saturday, February 6th, 2021)
- Please print, fill out and include the Certificate of Compliance, Non Collusion and all needed signed forms which are in this packet. In addition, please provide a copy of insurance listing the LCRP as additionally insured.
- Please include within your overall budget a one year maintenance bond cost estimate, which can be prepared by your insurer. Bond purchase required only for awarding bid.
- Awarded contractor will be contacted no later than **Monday, February 15th, 2021**.
- A mandatory pre construction meeting will be held with contractor, LCRP and County staff shortly thereafter.
- Work can begin immediately after the preconstruction meeting and must be completed no later than **Saturday, May 15th, 2021**.

512 Ligonier Street, Latrobe, PA 15650 (Thompson Street side elevation)



All masonry joints on exterior surface will be cut or raked approximately $\frac{1}{2}$ to $\frac{3}{4}$ " in depth or $1\frac{1}{2}$ times the width of the joint. The inset area underneath the porch highlighted in green will remain as –is. The area underneath the water table and concrete deck of the porch do not need repointed, only cleaned. Existing mortar on the building shall be removed leaving a square cut at the back of the joint. Joints shall be cleaned of all loose particles and dust, and dampened at time of filling. Any damaging or cuts of face bricks will result in replacing of brick units. Restoration work will be completed by cleaning entire surface brick area with mild detergent. Mortar joint profile should match existing joints on house. Included in the scope of work is protecting all windows and adjacent finished surfaces including woodwork, stone and roofing. Contractor is asked to please provide examples of resume of previous historic restoration projects, including recommendations.

Mortar shall consist of a mixture of six parts screened river sand, four parts lime, and one part white Portland cement, non staining and clean potable water. *Specifically: components shall be Sand ASTM C-144, Lime ASTM C-207, Type O., Hydrated, Cement ASTM C-150, not exceeding .06 alkali.*

County of Westmoreland, PA

Contractor's Certification of Compliance

Section 3

County of Westmoreland, PA's Certification of Compliance with Regulations to Section 3 of the Housing and Urban Development Act of 1968 as Required for Participation in all HUD Programs.

PURPOSE, AUTHORITY AND RESPONSIBILITY

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (hereinafter Section 3) requires that to the greatest extent feasible, opportunities for training and employment in a Section 3 covered project be given lower income residents of the project area and that contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

(hereinafter called the Contractor), upon being awarded a

contract for _____
in the County of Westmoreland, to the extent feasible, will make a good faith effort to train and employ lower income residents and shall make a good faith effort to utilize the services of businesses located in or substantially owned by persons who live within the project boundaries.

The Contractor has been informed by the County, that the HUD Area Office Director has determined that the project area boundaries for the Section 3 covered assistance are the corporate limits of the County.

To complete the project, it is estimated that the Contractor's work force needs will be as reflected in the Table of Manpower Utilization Training and Work Force Needs.

To complete the project, it is also estimated that the Contractor will be subcontracting for supplies and services for which certain business concerns eligible under Section 3 could provide. In order to comply with the regulations for utilization of businesses under Section 3, the Contractor will adopt the Affirmative Action Plan. The Contractor will also require each subcontractor, if any, to adopt an Affirmative Action Plan.

WORK FORCE NEEDS TABLE (EMPLOYEES)

OCCUPATION CATEGORY <u>1/</u>	APPROX. NUMBER OF SKILLED EMPLOYEES REQUIRED	TOTAL NUMBER OF SKILLED EMPLOYEES PRESENTLY ON PAYROLL	TOTAL NUMBER OF SKILLED EMPLOYEES TO BE HIRED	TOTAL NUMBER OF LOWER INCOME RESIDENTS TO BE HIRED

1/ The following are the occupational category classifications that should be inserted in the Table:

1. Professional
2. Technicians
3. Office/Clerical
4. Tradesman:
 - Carpenter
 - Electrician
 - Laborer
 - Other

Employment Certification

- A. The Contractor hereby certifies that the above table represents the approximate number of employee positions that are needed and which are not presently filled by regular and permanent employees, and which new employees will be required in the execution of the _____ contract and also represents the number of lower income County residents that the Contractor proposes to make a good faith effort to employ.
- B. The Contractor certifies that it will make a good faith effort to employ the number of lower income employees stated above by contacting such community based organizations and service agencies in addition to advertising through the County's newspapers and erecting signs on the project site contractor's employment posters.
- C. The Contractor, prior to subcontracting any portion of the work covered by this contract will require a Manpower Utilization Table to be prepared and certification similar to paragraph A, B, and C to be executed.

**MANPOWER UTILIZATION TRAINING TABLE
(TRAINEES)**

OCCUPATION CATEGORY <u>1/</u>	APPROX. NUMBER OF TRAINEES REQUIRED	TOTAL NUMBER OF TRAINEES PRESENTLY ON PAYROLL	TOTAL NUMBER OF TRAINEES TO BE HIRED	TOTAL NUMBER OF LOWER INCOME TRAINEES TO BE HIRED

1/ The following are the occupational category classifications that should be inserted in the Table:

1. Professional
2. Technicians
3. Office/Clerical
4. Tradesman; • Carpenter • Electrician • Laborer • Other

Trainee Certification

- A. The Contractor hereby certifies that the above table represents the approximate number of trainee positions that are required in the execution of the _____ contract and also represents the number of lower income residents of the County of Westmoreland that the Contractor proposes to utilize in filling trainee positions.
- B. The Contractor certifies that it will make a good faith effort to fulfill the number of lower income trainees stated above by utilizing such community based organizations.
- C. The Contractor certifies that trainees to be utilized on this project in no event is less than the number of trainees determined by the Secretary of Labor for each occupation.
- D. The Contractor, prior to subcontracting any portion of the work covered by this contract will require a Manpower Utilization Table to be prepared and certifications similar to paragraph A, B, and C to be executed.

Reporting

The Contractor will report to the County on a regular basis (monthly or quarterly) the results of employee and trainee employment of lower income residents of the County. The Contractor reports will include not only his efforts, but the efforts of subcontractors, if any.

_____, the Contractor will, to the greatest extent feasible, abide by the requirements of Section 3 of the Housing and Urban Development Act of 1968, 12, U.S.C. 1701u, in carrying out it's contract.

Date _____

Contractor

Project Name

**CONTRACTOR'S ACTION PLAN
FOR BUSINESS UTILIZATION
SECTION 3**

- A. The Contractor shall utilize, to the maximum extent feasible, eligible Section 3 business concerns located in _____, PA in contracting for work to be performed in connection with the completion of the contract. Eligible Section 3 businesses are those which qualify as "small" under the Small Business Administration size standards and which are socially and economically disadvantaged.
- B. The Contractor has established a goal of _____ % of the total contract amount which he expects to award to eligible Section 3 business concerns. Table 1, Business Utilization Table sets forth the classification of subcontracts, the estimate of each subcontractor dollar amount, whether a Section 3 business is intended to be utilized and the dollar amount of proposed subcontracts to Section 3 businesses.
- C. To achieve the goal specified in paragraph "B", the Contractor shall:
1. Make full use of minority business listings made available by the HUD Area Office, Small Business Administration, as compiled by the County.
 2. Take steps to insure that subcontracts which are typically let on a negotiated rather than a bid basis are also let on a negotiated basis, whenever feasible.
 3. Where competitive bids are solicited, include as part of the bid documents the Contractor's goals for Section 3 as it relates to the work for which bids are being solicited, require each bidder to submit their Utilization Goals and Affirmative Action Plan for achieving Section 3 Business Utilization.
 4. Insert the Section 3 contract language required by 24 CFR 135.38 in all subcontracts; and require to be executed by the subcontractor a certification of compliance with Section 3, similar to the Contractor's Certification of Compliance and an Affirmative Action Plan for Business Utilization.
- D. The Contractor will report to the County on a regular basis (monthly or quarterly) the results of the affirmative efforts and undertakings per paragraphs A, B, and C above, including the efforts of its subcontractors.

Signature/Contractor

Date

Approved/County of Westmoreland

Date

BUSINESS UTILIZATION TABLE

PROPOSED SUBCONTRACTS	SUBCONTRACT DOLLAR AMOUNT ESTIMATE	USE OF SECTION 3 BUSINESSES		PROPOSED SUBCONTRACTS TO SECTION 3 BUSINESSES DOLLAR AMOUNT
		YES	NO	
TOTALS	\$			\$

1/ The following are the examples of services which may be required by Subcontractors and these classifications should be inserted in the Table if applicable:

- | | |
|------------------------------------|--|
| 1. Selling bricks | 8. Window installation |
| 2. Selling lumber | 9. Air conditioning sales and/or installations |
| 3. Selling cement, sand and gravel | 10. Floor tile sales and/or installations |
| 4. Making steel cast | 11. Door sales and/or installations |
| 5. Selling electric supplies | 12. Landscaping |
| 6. Selling kitchen appliances | 13. Carpeting |
| 7. Selling bathroom fixtures | 14. Stationery and/or advertising |
| | 15. Other (Specify): _____ |

This list should also include professional services, and all of the construction trades, i.e., plumbing, electrical, drywall, carpenters, etc. which are intended to be subcontracted.

"General Decision Number: PA20210105 01/01/2021

Superseded General Decision Number: PA20200105

State: Pennsylvania

Construction Type: Building

County: Westmoreland County in Pennsylvania.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.95 for calendar year 2021 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 \$10.95 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 2021. 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	01/01/2021

ASBE0002-005 08/01/2020

Rates	Fringes
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ASBESTOS WORKER/HEAT & FROST
INSULATOR

MECHANICAL- Duct, Pipe & Mechanical System Insulation and Industrial Work (Including Duct and Pipe).....	\$ 42.03	26.90
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BOIL0154-007 01/01/2017

Rates	Fringes
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BOILERMAKER.....	\$ 40.90	27.27
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BRPA0009-011 06/01/2020

	Rates	Fringes
TILE FINISHER.....	\$ 26.47	15.90
TILE SETTER.....	\$ 32.58	20.25

BRPA0009-051 06/01/2019

	Rates	Fringes
BRICKLAYER (Including Pointing, Caulking, Cleaning and Brick Refractory Work).....	\$ 32.35	22.26
MASON - STONE.....	\$ 32.35	22.26

Additional \$0.75 to the base wage for Brick Refractory work

CARP0142-013 06/01/2020

	Rates	Fringes
CARPENTER (Including Acoustical Ceiling Installation, Drywall Hanging, Metal Stud Installation, Floor Laying-Hardwood, Carpet and Vinyl; Form Work, and Scaffold Building).....	\$ 35.48	18.31

CARP0443-004 06/01/2020

	Rates	Fringes
MILLWRIGHT.....	\$ 41.68	19.97

CARP2235-007 01/01/2020

	Rates	Fringes
PILEDRIVERMAN.....	\$ 35.40	19.70

* ELEC0005-018 12/25/2020

	Rates	Fringes
ELECTRICIAN (Alarm Installation, Installation of Sound and Communication System and Low Voltage Wiring, HVAC/Temperature Controls Installation Only).....	\$ 43.61	28.27

* ENGI0066-040 06/12/2017

	Rates	Fringes
POWER EQUIPMENT OPERATOR Backhoe/Excavator/Trackhoe, Bobcat/Skid Steer/Skid Loader, Bulldozer, Compactor, Crane*, Drill Rig Caissons, Drill, Gradall, Grader/Blade, Man Lift/Outside Elevator, Mechanic, Paver (Asphalt,		

Aggregate, and Concrete),		
Scraper, Forklift (Lull)....\$ 34.49		20.15
Broom/Sweeper,		
Compressor, Concrete Pump,		
Highlift, Hoist, Pump,		
Roller, Tugboat, Forklift		
(ridden or self-propelled)..\$ 29.58		20.15
Loader.....\$ 34.49		20.15
Oiler.....\$ 27.25		20.15

*Add to Crane rate:

Booms 101-150 jibs- Add \$	0.75
Booms 151-200 jibs- Add \$	1.50
Booms 201-251 jibs- Add \$	2.25

IRON0003-025 06/01/2020

	Rates	Fringes
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IRONWORKER (Ornamental, Reinforcing, Rigger and Structural; Metal Buildings: Metal Siding/Wall Panels Installation).....\$ 37.29		32.40
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LAB00125-006 06/01/2014

	Rates	Fringes
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LABORER Mason Tender - Cement/Concrete.....\$ 24.34		9.75
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LAB00373-001 01/01/2017

	Rates	Fringes
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LABORER (Asbestos Abatement (Removal from Floors, Walls, and Ceilings)).....\$ 22.60		15.44
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LAB01451-001 01/01/2019

	Rates	Fringes
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LABORER Common or General; Mason Tender- Brick.....\$ 22.37		17.60
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PAIN0057-033 06/01/2020

	Rates	Fringes
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PAINTER (Brush, Roller, and Spray, excluding work on Industrial sites).....\$ 28.80		20.72
PAINTER (Drywall Finishing/Taping).....\$ 30.10		20.50

PAIN0057-034 06/01/2020

	Rates	Fringes
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PAINTER (INDUSTRIAL: Brush and Roller Only).....	\$ 33.55	20.72
PAINTER (INDUSTRIAL: Spray and Sandblaster Only).....	\$ 33.55	20.72

PAIN0751-006 09/01/2020		
	Rates	Fringes
GLAZIER.....	\$ 31.00	25.73

PLAS0031-016 06/01/2015		
	Rates	Fringes
PLASTERER.....	\$ 27.97	14.26

PLAS0526-015 06/01/2019		
	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 31.27	19.39

PLUM0354-010 06/01/2017		
	Rates	Fringes
PIPEFITTER (Industrial).....	\$ 37.88	22.90

PLUM0354-018 06/01/2017		
	Rates	Fringes
PLUMBER.....	\$ 33.83	22.90

PLUM0354-019 06/01/2019		
	Rates	Fringes
PIPEFITTER (Includes HVAC Pipe Installation, Excludes Work on Industrial Sites).....	\$ 34.77	24.25

ROOF0037-005 06/01/2020		
	Rates	Fringes
ROOFER (Excludes Metal Roof Installation and Waterproofing).....	\$ 32.17	17.75

SHEE0012-011 07/01/2020		
	Rates	Fringes
SHEET METAL WORKER (Includes HVAC Duct and Metal Roof Installation).....	\$ 37.96	28.05

* UAVG-PA-0032 01/01/2019		
	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 38.16	21.93

	Rates	Fringes
LABORER: Asphalt Raker.....	\$ 20.92	9.09
LABORER: Landscape.....	\$ 18.10	0.00
LABORER: Luteman.....	\$ 21.13	8.23
ROOFER: Waterproofing Only.....	\$ 23.13	2.51
TRUCK DRIVER: Dump Truck.....	\$ 23.36	7.60

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

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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 leave 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/CBA 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.

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END OF GENERAL DECISION

"

(To be submitted with Bid Proposal)

Contract/Bid No. _____

State of Pennsylvania)
) ss:
County of Westmoreland)

I state that I am _____ of _____
(Title) (Name of firm)

and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and/or officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

1. The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other Contractor, bidder, or potential bidder.
2. Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before bid opening.
3. Not attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.
4. The bid of my firm is mad in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.
5. _____, its affiliates, subsidiaries, officers, directors, and
(Name of Firm)

employees are not currently under investigation by any governmental agency and have not in the last four years have been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any contract awarded pursuant to this bid. According to the Pennsylvania Antibid-Rigging Act, 73 P.S. §§ 1611 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with bids.
2. This Non-Collusion Affidavit must be executed by the member, officer, or employee of the bidder who makes the final decision on prices and the amount quoted in the bid.
3. Bid rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the bidder with responsibilities for the preparation, approval, or submission of the bid.
4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents, and an Affidavit must be submitted separately on behalf of each party.
5. The term “complementary bid” as used in the Affidavit has the meaning commonly associated with that term in the bidding process, and includes the knowing submission of bids higher than the bid of another firm, any intentionally high or noncompetitive bid, and any other form of bid submitted for the purpose of giving a false appearance of competition.
6. Failure to file an Affidavit in compliance with these instructions will result in disqualification of the bid.

I certify under penalty of perjury under Pennsylvania law that I know the contents of this Affidavit signed by me and that the statements are true and correct.

Name

Date

Applicability

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

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (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.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

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

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

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

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee 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 HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee 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, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work 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. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls 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 <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

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

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

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

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

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, 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.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

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

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

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

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

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

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

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, 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 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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

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

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

SUPPLEMENTARY CONDITIONS

TO THE FEDERAL LABOR STANDARDS

SUPPLEMENTARY CONDITIONS TO THE CONSTRUCTION CONTRACT

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 2502-0598
(Exp. 9/30/2021)

Public Reporting Burden for this collection of information is estimated to average 0.2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.

Article 1: Labor Standards

A. Applicability. The Project or program to which the construction work covered by this Contract pertains is being assisted or insured by the United States of America, and the following Federal Labor Standards Provisions are included in this Contract or related instrument pursuant to the provisions applicable to such Federal assistance or insurance. Any statute or regulation contained herein shall also include any subsequent amendment or successor statute or regulation. The terms of this Supplementary Conditions to the Construction Contract (HUD-92554M) takes precedence over all provisions of the "General Conditions of the Contract for Construction" (AIA Document A201) inconsistent with said Supplementary Conditions.

B. Minimum Wages. Pursuant to Section 212 of the National Housing Act, as amended, 12 U.S.C. 1715c, the minimum wage provisions contained in this paragraph B do not apply to those projects with Security Instruments insured under Section 221(h) (1) designed for less than 9 families and they do not apply to those projects with Security Instruments insured under either Section 220 or 233 designed for less than 12 families.

1. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the Project) shall 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 (40 U.S.C. 3141(2)(B)(ii)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions

made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii)) and the Davis-Bacon poster (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.

(ii) (a) Any class of laborers or mechanics that is not listed in the wage determination and that is to be employed under this Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee 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 HUD or its designee to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 ("**Administrator**"). The Administrator, or an authorized representative, shall approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise HUD or its designee or shall notify HUD or its designee within the thirty (30) day period that additional time is necessary.

(c) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, shall issue a determination within thirty (30) days of receipt and so advise HUD or its

designee or shall notify HUD or its designee within the thirty (30) day period that additional time is necessary.

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs B.1.(ii)(b) or (c) of this Article, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit that is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

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

2. Withholding. HUD or its designee 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 (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the Project), all or part of the wages required by the Contract, HUD or its designee may, after written notice to the Contractor, sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

3. Payrolls, records, and certifications.

(i) 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 (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the Project). 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 (40 U.S.C. 3141(2)(B)(ii))), 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 (40 U.S.C. 3141(2)(B)(ii)), 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.

(ii)(a) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor shall submit the payrolls to the applicant, sponsor, or Owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls 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, whether paper (Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347.pdf> or its successor site), or electronically pursuant to Program Obligations. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant sponsor, or Owner, as the case may be, for transmission to HUD or its designee, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee.

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or

supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete.

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

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

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

(d) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Sections 3801 et seq of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under subparagraph B.3.(i) of this Article available for inspection, copying, or transcription by authorized representatives of HUD or its designee 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, HUD or its designee may, after written notice to the Contractor, sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices shall 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, or with a State Apprenticeship Agency recognized by such Office, or if a person is employed in his or her first ninety (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, or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where the 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, or a State Apprenticeship Agency recognized by such Office, withdraws approval of an apprenticeship program, the Contractor shall no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees shall 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's 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 shall no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

5. Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Contract.

6. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 10 of this paragraph B and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage determination, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all Contract clauses referenced in this subparagraph.

7. Contract termination and debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor or 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 HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act (40 U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act (40 U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Department . . . makes, passes, utters or publishes any statement, knowing the same to be false . . . shall be fined under this title or imprisoned not more than two years, or both."

C. Contract Work Hours and Safety Standards Act.

1. **Applicability and Definitions.** This paragraph C of Article 1 is applicable only if a direct form of federal assistance is involved, such as Section 8, Section 202/811 Capital Advance, grants etc., and is applicable only where the prime contract is in an amount greater than \$100,000. As used in this paragraph C, the terms "laborers" and "mechanics" include watchmen and guards.

2. **Overtime requirements.** No contractor or subcontractor contracting for any part of the Contract work that 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 (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

3. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the immediately preceding subparagraph C.2, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, the 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 such subparagraph, 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 (40) hours without payment of the overtime wages required by the clause set forth in such subparagraph.

4. **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall, upon its own action or upon written request of an authorized representative of the 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 under any other Federal contract with the same prime contractor, or under any other Federally-assisted contract subject to the Contract Work

Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph 3 of this paragraph C.

5. **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 5 of this paragraph C 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 such subparagraphs 1 through 5.

D. Certification.

For projects with Security Instruments insured under the National Housing Act, as amended, that are subject to paragraph B of this Article 1, the Contractor is required to execute the Contractor's Prevailing Wage Certificate within HUD-92448 as a condition precedent to insurance by HUD of the Loan, or an advance thereof, made or to be made by the Lender in connection with the construction of the Project.

Article 2: Equal Employment Opportunity

A. **Applicability.** This Article 2 applies to any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee.

B. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, disability or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided setting forth the provisions of this nondiscrimination clause.

C. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

D. The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a

notice to be provided advising the said labor union or workers representatives of the Contractor's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

E. The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.

F. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

G. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations or order of the Secretary of Labor, or as otherwise provided by law.

H. The Contractor shall include the provisions of paragraphs A through H of this Article 2 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as HUD or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance. *Provided, however,* that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD or the Secretary of Labor, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Article 3: Equal Opportunity for Businesses and Lower Income Persons Located Within the Project Area

A. This Article 3 is applicable to projects covered by Section 3, as defined in 24 CFR Part 135.

B. The work to be performed under this Contract is on a project assisted under a program providing Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and very-low income residents of the unit of local government or the metropolitan area (or non-metropolitan county) as determined by HUD in which the Project is located and contracts for work in connection with the Project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the Project.

Article 4: Health and Safety

A. This Article 4 is applicable only where the prime contract is in an amount greater than \$100,000.

B. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

C. The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926, and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

D. The Contractor shall include the provisions of this Article 4 in every subcontract so that such provisions shall be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as HUD or the Secretary of Labor shall direct as a means of enforcing such provisions.

SUPPLEMENTAL LABOR STANDARD PROVISIONS

1. REGULATIONS PURSUANT TO COPELAND ACT ("ANTI-KICKBACK ACT")

The Contractor shall comply with the applicable regulations of the Secretary of Labor, United States Department of Labor, made pursuant to the so-called "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 862; Title U.S.C., Section 874; and Title 40 U.S.C., Section 276c), and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to insure compliance therewith by all subcontractors subject thereto, and shall be responsible for the submission of affidavits required by subcontractors thereunder, except as said Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions from the requirements thereof.

2. FRINGE BENEFITS NOT EXPRESSED AS HOURLY WAGE RATES

The Local Public Agency or Public Body shall require, 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 wage rate and the Contractor is obligated to pay cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon a cash equivalent of fringe benefit, the question accompanied by the recommendation of the Local Public Agency or Public Body, shall be referred, through the Secretary of Housing and Urban Development, to the Secretary of Labor for determination.

3. POSTING WAGE DETERMINATION DECISIONS AND AUTHORIZED WAGE DEDUCTIONS

The applicable wage poster of the Secretary of Labor, United States Department of Labor, and the applicable wage determination decisions of said Secretary of Labor with respect to the various classification of laborers and mechanics employed and to be employed upon the work covered by this Contract, and a statement showing all deductions, if any, in accordance with the provisions of this Contract, to be made from wages actually earned by persons so employed or to be employed in such classifications, shall be posted at appropriate conspicuous points at the site of the work.

4. SPECIFIC COVERAGE OF CERTAIN TYPES OF WORK BY EMPLOYEES

The transporting of materials and supplies to or from the site of the Project or Program to which this Contract pertains by the employees of the Contractor or of any subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the Project or Program to which this Contract pertains by persons employed by the Contractor or by any subcontractor, shall, for the purposes of this Contract, and without limiting the generality of the foregoing provisions of this Contract, be deemed to be work to which these Federal Labor Standards Provisions are applicable.

ATTACHMENT TO FEDERAL LABOR STANDARDS PROVISIONS

**COPELAND ACT AND REGULATIONS PROMULGATE
PURSUANT THERETO BY THE SECRETARY OF LABOR
UNITED STATES DEPARTMENT OF LABOR**

**TITLE 18, U.S.C., SECTION 874
(June 25, 1948, Ch. 645, Sec. 1, 62 Stat. 740, eff. Sept. 1, 1948)**

**[Replaces former section 1 of the Copeland Act of June 13, 1934, (48 Stat. 948) which
was codified as 40 USC Sec. 276b prior to its repeal by 62 Stat., eff. Sept 1, 1948]**

KICKBACKS FROM PUBLIC WORKS EMPLOYEES

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

**SECTION 2 OF THE ACT OF JUNE 13, 1934, AS AMENDED (48 STAT. 948,
62 STAT. 862, 63 STAT. 108, 72 STAT. 967, 40 U.S.C., sec. 276c)**

The Secretary of Labor shall make reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States, including a provision that each contractor and subcontractor will furnish weekly a statement with respect to the wages paid each employee during the preceding week. Section 1001 Title 18 (United States Code) shall apply to such statements.

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Pursuant to the aforesaid Copeland Act, the Secretary of Labor, United States Department of Labor, has promulgated the regulations hereinafter set forth, which regulations are found in Title 29, Subtitle A, Code of Federal Regulations, Part 3. The term "this part" as used in the regulations hereinafter set forth, refers to Part 3 last above mentioned. Said regulations are as follows:

**TITLE 29 - LABOR**

**Subtitle A - Office of the Secretary of Labor**

# Code of Federal Regulations

## Title 29 - Labor

Volume: 1

Date: 2013-07-01

Original Date: 2013-07-01

Title: PART 3 - CONTRACTORS AND SUBCONTRACTORS ON PUBLIC BUILDING OR PUBLIC WORK FINANCED IN WHOLE OR IN PART BY LOANS OR GRANTS FROM THE UNITED STATES

Context: Title 29 - Labor. Subtitle A - Office of the Secretary of Labor.

### Pt. 3

## PART 3—CONTRACTORS AND SUBCONTRACTORS ON PUBLIC BUILDING OR PUBLIC WORK FINANCED IN WHOLE OR IN PART BY LOANS OR GRANTS FROM THE UNITED STATES

### Sec.

3.1 Purpose and scope.

3.2 Definitions.

3.3 Weekly statement with respect to payment of wages.

3.4 Submission of weekly statements and the preservation and inspection of weekly payroll records.

3.5 Payroll deductions permissible without application to or approval of the Secretary of Labor.

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3.7 Applications for the approval of the Secretary of Labor.

3.8 Action by the Secretary of Labor upon applications.

3.9 Prohibited payroll deductions.

3.10 Methods of payment of wages.

3.11 Regulations part of contract.

**Authority:** R.S. 161, sec. 2, 48 Stat. 848; Reorg. Plan No. 14 of 1950, 64 Stat. 1267; 5 U.S.C. 301; 40 U.S.C. 3145; Secretary's Order 01-2008; and Employment Standards Order No. 2001-01.

**Source:** 29 FR 97, Jan. 4, 1964, unless otherwise noted.

### § 3.1 Purpose and scope.

This part prescribes "anti-kickback" regulations under section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c), popularly known as the Copeland Act. This part applies to any contract which is subject to Federal wage standards and which is for the construction, prosecution, completion, or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States. The part is intended to aid in the enforcement of the minimum wage provisions of the Davis-Bacon Act and the various statutes dealing with federally assisted construction that contain similar minimum wage provisions, including those provisions which are not subject to Reorganization Plan No. 14 (e.g., the College Housing Act of 1950, the Federal Water Pollution Control Act, and the Housing Act of 1959), and in the enforcement of the overtime provisions of the Contract Work Hours Standards Act whenever they are applicable to construction work. The part details the obligation of contractors and subcontractors relative to the weekly submission of statements regarding the wages paid on work covered thereby; sets forth the circumstances and procedures governing the making of payroll deductions from the wages of those employed on such work; and delineates the methods of payment permissible on such work.

### § 3.2 Definitions.

As used in the regulations in this part:

(a) The terms *building* or *work* generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, powerlines, pumping stations, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals; dredging, shoring, scaffolding, drilling, blasting, excavating, clearing, and landscaping. Unless conducted in connection with and at the site of such a building or work as is described in the foregoing sentence, the manufacture or furnishing of materials, articles, supplies, or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the

materials from which they are manufactured or furnished) is not a *building* or *work* within the meaning of the regulations in this part.

(b) The terms *construction*, *prosecution*, *completion*, or *repair* mean all types of work done on a particular building or work at the site thereof, including, without limitation, altering, remodeling, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work, by persons employed at the site by the contractor or subcontractor.

(c) The terms *public building* or *public work* include building or work for whose construction, prosecution, completion, or repair, as defined above, a Federal agency is a contracting party, regardless of whether title thereof is in a Federal agency.

(d) The term *building or work financed in whole or in part by loans or grants from the United States* includes building or work for whose construction, prosecution, completion, or repair, as defined above, payment or part payment is made directly or indirectly from funds provided by loans or grants by a Federal agency. The term includes building or work for which the Federal assistance granted is in the form of loan guarantees or insurance.

(e) Every person paid by a contractor or subcontractor in any manner for his labor in the construction, prosecution, completion, or repair of a public building or public work or building or work financed in whole or in part by loans or grants from the United States is *employed* and receiving *wages*, regardless of any contractual relationship alleged to exist between him and the real employer.

(f) The term *any affiliated person* includes a spouse, child, parent, or other close relative of the contractor or subcontractor; a partner or officer of the contractor or subcontractor; a corporation closely connected with the contractor or subcontractor as parent, subsidiary, or otherwise, and an officer or agent of such corporation.

(g) The term *Federal agency* means the United States, the District of Columbia, and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States and of the District of Columbia, including corporations, all or substantially all of the stock of which is beneficially owned by the United States, by the District of Columbia, or any of the foregoing departments, establishments, agencies, and instrumentalities.

[29 FR 97, Jan. 4, 1964, as amended at 38 FR 32575, Nov. 27, 1973]

### **§ 3.3 Weekly statement with respect to payment of wages.**

(a) As used in this section, the term *employee* shall not apply to persons in classifications higher than that of laborer or mechanic and those who are the immediate supervisors of such employees.

(b) Each contractor or subcontractor engaged in the construction, prosecution, completion, or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the United States, shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by this part 3 and part 5 of this title during the preceding weekly payroll period. This statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages, and shall be on the back of Form WH 347, "Payroll (For Contractors Optional Use)" or on any form with identical wording. Copies of Form WH 347 may be obtained from the Government contracting or sponsoring agency or from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site.

(c) The requirements of this section shall not apply to any contract of \$2,000 or less.

(d) Upon a written finding by the head of a Federal agency, the Secretary of Labor may provide reasonable limitations, variations, tolerances, and exemptions from the requirements of this section subject to such conditions as the Secretary of Labor may specify.

[29 FR 97, Jan. 4, 1964, as amended at 33 FR 10186, July 17, 1968; 47 FR 23679, May 28, 1982; 73 FR 77511, Dec. 19, 2008]

### **§ 3.4 Submission of weekly statements and the preservation and inspection of weekly payroll records.**

(a) Each weekly statement required under § 3.3 shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State

**§ 3.8 Action by the Secretary of Labor upon applications.**

The Secretary of Labor shall decide whether or not the requested deduction is permissible under provisions of § 3.6; and shall notify the applicant in writing of his decision.

**§ 3.9 Prohibited payroll deductions.**

Deductions not elsewhere provided for by this part and which are not found to be permissible under § 3.6 are prohibited.

**§ 3.10 Methods of payment of wages.**

The payment of wages shall be by cash, negotiable instruments payable on demand, or the additional forms of compensation for which deductions are permissible under this part. No other methods of payment shall be recognized on work subject to the Copeland Act.

**§ 3.11 Regulations part of contract.**

All contracts made with respect to the construction, prosecution, completion, or repair of any public building or public work or building or work financed in whole or in part by loans or grants from the United States covered by the regulations in this part shall expressly bind the contractor or subcontractor to comply with such of the regulations in this part as may be applicable. In this regard, see § 5.5(a) of this subtitle.

agency in charge at the site of the building or work, or, if there is no representative of a Federal or State agency at the site of the building or work, the statement shall be mailed by the contractor or subcontractor, within such time, to a Federal or State agency contracting for or financing the building or work. After such examination and check as may be made, such statement, or a copy thereof, shall be kept available, or shall be transmitted together with a report of any violation, in accordance with applicable procedures prescribed by the United States Department of Labor.

(b) Each contractor or subcontractor shall preserve his weekly payroll records for a period of three years from date of completion of the contract. The payroll records shall set out accurately and completely the name and address of each laborer and mechanic, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Such payroll records shall be made available at all times for inspection by the contracting officer or his authorized representative, and by authorized representatives of the Department of Labor.

(Reporting and recordkeeping requirements in paragraph (b) have been approved by the Office of Management and Budget under control number 1215-0017)

[29 FR 97, Jan. 4, 1964, as amended at 47 FR 145, Jan. 5, 1982]

### **§ 3.5 Payroll deductions permissible without application to or approval of the Secretary of Labor.**

Deductions made under the circumstances or in the situations described in the paragraphs of this section may be made without application to and approval of the Secretary of Labor:

(a) Any deduction made in compliance with the requirements of Federal, State, or local law, such as Federal or State withholding income taxes and Federal social security taxes.

(b) Any deduction of sums previously paid to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A *bona fide prepayment of wages* is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of the advanced funds.

(c) Any deduction of amounts required by court process to be paid to another, unless the deduction is in favor of the contractor, subcontractor, or any affiliated person, or when collusion or collaboration exists.

(d) Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing either from principal or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families and dependents: *Provided, however,* That the following standards are met:

(1) The deduction is not otherwise prohibited by law;

(2) It is either:

(i) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or

(ii) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees;

(3) No profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise; and

(4) The deductions shall serve the convenience and interest of the employee.

(e) Any deduction contributing toward the purchase of United States Defense Stamps and Bonds when voluntarily authorized by the employee.

(f) Any deduction requested by the employee to enable him to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes.

(g) Any deduction voluntarily authorized by the employee for the making of contributions to governmental or quasi-governmental agencies, such as the American Red Cross.

(h) Any deduction voluntarily authorized by the employee for the making of contributions to Community Chests, United Givers Funds, and similar charitable organizations.

(i) Any deductions to pay regular union initiation fees and membership dues, not including fines or special assessments: *Provided, however,* That a collective bargaining agreement between the contractor or subcontractor and representatives of its employees provides for such deductions and the deductions are not otherwise prohibited by law.

(j) Any deduction not more than for the "reasonable cost" of board, lodging, or other facilities meeting the requirements of section 3(m) of the Fair Labor Standards Act of 1938, as amended, and part 531 of this title. When such a deduction is made the additional records required under § 516.25(a) of this title shall be kept.

(k) Any deduction for the cost of safety equipment of nominal value purchased by the employee as his own property for his personal protection in his work, such as safety shoes, safety glasses, safety gloves, and hard hats, if such equipment is not required by law to be furnished by the employer, if such deduction is not violative of the Fair Labor Standards Act or prohibited by other law, if the cost on which the deduction is based does not exceed the actual cost to the employer where the equipment is purchased from him and does not include any direct or indirect monetary return to the employer where the equipment is purchased from a third person, and if the deduction is either

(1) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of employment or its continuance; or

(2) Provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees.

[29 FR 97, Jan. 4, 1964, as amended at 36 FR 9770, May 28, 1971]

### **§ 3.6 Payroll deductions permissible with the approval of the Secretary of Labor.**

Any contractor or subcontractor may apply to the Secretary of Labor for permission to make any deduction not permitted under § 3.5. The Secretary may grant permission whenever he finds that:

(a) The contractor, subcontractor, or any affiliated person does not make a profit or benefit directly or indirectly from the deduction either in the form of a commission, dividend, or otherwise;

(b) The deduction is not otherwise prohibited by law;

(c) The deduction is either (1) voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of employment or its continuance, or (2) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; and

(d) The deduction serves the convenience and interest of the employee.

### **§ 3.7 Applications for the approval of the Secretary of Labor.**

Any application for the making of payroll deductions under § 3.6 shall comply with the requirements prescribed in the following paragraphs of this section:

(a) The application shall be in writing and shall be addressed to the Secretary of Labor.

(b) The application need not identify the contract or contracts under which the work in question is to be performed. Permission will be given for deductions on all current and future contracts of the applicant for a period of 1 year. A renewal of permission to make such payroll deduction will be granted upon the submission of an application which makes reference to the original application, recites the date of the Secretary of Labor's approval of such deductions, states affirmatively that there is continued compliance with the standards set forth in the provisions of § 3.6, and specifies any conditions which have changed in regard to the payroll deductions.

(c) The application shall state affirmatively that there is compliance with the standards set forth in the provisions of § 3.6. The affirmation shall be accompanied by a full statement of the facts indicating such compliance.

(d) The application shall include a description of the proposed deduction, the purpose to be served thereby, and the classes of laborers or mechanics from whose wages the proposed deduction would be made.

(e) The application shall state the name and business of any third person to whom any funds obtained from the proposed deductions are to be transmitted and the affiliation of such person, if any, with the applicant.

[29 FR 97, Jan. 4, 1964, as amended at 36 FR 9771, May 28, 1971]

## **SUPPLEMENTARY GENERAL TERMS AND CONDITIONS**

### **1. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT PROVISIONS (CWHSSA)**

The Contractor, if the contract is in excess of \$100,000 and all of his subcontractors, shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations contained in 29 CFR Part 5.

Under Section 103 of the Act, the wages of every laborer and mechanic employed by any Contractor or subcontractor, shall be computed on the basis of a standard work week of forty (40) hours and work in excess of the standard work week is permissible, provided the worker is compensated at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in any work week.

Section 107 of the Act provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health or safety, as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market.

### **2. "SECTION 3" COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES**

This Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u) as amended, the HUD regulations issued pursuant thereto at 24 CFR Part 135, and any applicable rules and orders of HUD issued thereunder prior to the execution of this Agreement. The Section 3 clause, set forth in 24 CFR, 135.20(b) provides:

"Every applicant, recipient, contracting party, contractor, and subcontractor shall incorporate, or cause to be incorporated, in all contracts for work in connection with a Section 3 covered project, the following clause (referred to as a Section 3 clause):

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- C. The Contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous

places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- D. The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.

The Contractor agrees to abide by the Section 3 clause set forth above and will also cause this Section 3 clause to be inserted in any subcontracts entered into with third parties for work covered by this agreement.

### **3. LEAD BASED PAINT HAZARD**

The Contractor is hereby specifically made aware of the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act and their respective regulations at 24 CFR Part 35, which are applicable to the construction or rehabilitation of residential structures. To the extent that the subject matter of this contract involves residential structures, the Contractor will comply with the lead based paint regulations.

### **4. COMPLIANCE WITH AIR AND WATER ACTS**

This Agreement is subject to the requirements of the Clean Air Act, as amended 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency (EPA) with respect thereto, at 40 CFR Part 15, as amended from time to time.

The Contractor and any of its subcontractors for work funded under this Agreement which is in excess of \$100,000, agree to the following requirements:

- 1) A stipulation by the contractor or subcontractors that any facility to be utilized in the performance of any non-exempt contract or subcontract is not listed on the List of Violating Facilities Issued by the Environmental Protection Agency pursuant to 40 CFR 15.20.
- 2) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

- 3) A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
- 4) Agreement by the Contractor that he will include or cause to be included the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the contractor will take such action as the Government may direct as a means of enforcing such provision.

In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

## 5. EQUAL EMPLOYMENT OPPORTUNITY

- 1) If the contract amount is \$10,000 or less, the following conditions shall apply:

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

- a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the local public agency setting forth the provisions of this nondiscrimination clause.
- b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- c) The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

- 2) If the contract amount exceeds \$10,000, the following conditions shall apply:

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

- a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the local public agency setting forth the provisions of this nondiscrimination clause.

- b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
  - c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - d) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and by rules, regulations and relevant orders of the Secretary of Labor.
  - e) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Department of Housing and Urban Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
  - f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations or order of the Secretary of Labor or as otherwise provided by law.
  - g) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Department of Housing and Urban Development may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department of Housing and Urban Development, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- 3) The Notice incorporated herein as Exhibit 4 shall be included in, and shall be part of, all solicitations for offers and bids on Federal and federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in designated geographical areas.
- 4) The Specifications set forth in Exhibit 5 shall be included in all Federal and federally assisted construction contracts and nonconstruction contracts, as applicable, in excess of \$10,000; and in construction subcontracts in excess of \$10,000 necessary in whole or in part to the performance of nonconstruction Federal contracts and subcontracts covered under Executive Order 11246.

**6. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES OF PUBLIC BODY, MEMBERS OF LOCAL GOVERNING BODY OR OTHER PUBLIC OFFICIALS**

No member, officer, or employee of the Public Body, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official or such locality or localities who exercise any functions or responsibilities with respect to the program during his tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Agreement.

**7. PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION**

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining HUD approval of the application for additional assistance, or any other approval or concurrence of HUD required under this Agreement, Title I of the Housing and Community Development Act of 1974 or HUD regulations with respect thereto; Provided, however, that reasonable fees or bonafide technical consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

**8. PENNSYLVANIA STEEL PRODUCTS PROCUREMENT ACT (NO. 1978-3)**

If any steel products are to be used or supplied in the performance of the contract, only steel products produced in the United States shall be used or supplied in the performance of the contract or any subcontracts thereunder. This provision shall not apply in any case where the head of the public agency in writing, determines that the type of steel products necessary to the performance of the contract are not produced in the United States in sufficient quantities to meet the requirements of the contract.

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO  
ENSURE EQUAL EMPLOYMENT OPPORTUNITY  
(EXECUTIVE ORDER 11246)**

1. The 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:

| <u>TIMETABLES</u>    | <u>GOALS FOR MINORITY<br/>PARTICIPATION IN<br/>EACH TRADE</u> | <u>GOALS FOR FEMALE<br/>PARTICIPATION IN<br/>EACH TRADE</u> |
|----------------------|---------------------------------------------------------------|-------------------------------------------------------------|
| Until further notice | 6.3%                                                          | 6.9%                                                        |

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

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal 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 minorities or females 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 Awarding Agency and the Director of the Office of the Federal Contract Compliance Programs within ten (10) working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is the geographical area(s) where the contract is to be performed.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65977, Oct. 3, 1980]

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY 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 and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to CFR 60-4.5) in a Hometown Plan approved by 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 Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO Clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in Paragraphs a 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. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in the following sixteen (16) steps, 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.

The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

- a. The contractor must 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 must assign two (2) or more women at each construction project. The contractor shall specifically ensure that all supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minorities or women working at such facilities.

To demonstrate compliance:

Contractors may produce copies of memorandums to supervisory staff, or minutes or notes of staff meetings or EEO officer's meetings with supervisors to inform them of the contractor's obligation to maintain a working environment free of harassment, intimidation, and coercion and to, where possible, assign two (2) or more women to each construction project. Contractors should also have copies of reports, diaries, analyses, etc., relating to the monitoring of the work environment by the EEO officer.

- b. The contractor must establish and maintain a current list of minority and women's recruitment sources, provide written notification to minority and women's recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organization's responses. The list of recruitment sources must be sufficiently comprehensive to meet the contractor's minority and female personnel needs.

To demonstrate compliance:

The contractor must have a current listing of recruitment sources for minority and female craft workers. It must have copies of recent letters to community resource groups or agencies specifying the contractor's employment opportunities and the procedures one should follow when seeking employment. It must note the responses received and the results on the bottom of the reverse side of the letters or establish a follow up file for each organization notified.

- c. The contractor must 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 individual. If such individual was not referred back to the contractor by the union or, if referred, was not employed by the contractor, this shall be documented in the file with the reasons, along with whatever additional actions the contractor may have taken.

To demonstrate compliance:

The contractor must have a file of the names, addresses, telephone numbers, and crafts of each minority and female applicant showing the date of contact and whether or not the person was hired and (if not) the reason; whether or not the person was sent to a union for referral and what happened; and follow up contacts when the contractor was hiring.

- d. The contractor must provide immediate written notification to the Director when the union(s) with which the contractor has a collective bargaining agreement fail to refer to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process impeded the contractor's efforts to meet its obligations.

To demonstrate compliance:

The contractor must have copies of all letters to unions, responses from unions, minutes of meetings, etc., relating to the claim that the union is impeding the contractor's efforts to comply. In addition, the contractor must have copies of the letters sent to the Director and the appropriate OFCCP regional office to verify its claim that the union is impeding the contractor's efforts to comply.

- e. The contractor must develop on-the-job training opportunities and/or participate in training programs for the area that 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 those programs to the sources compiled under Item 2 above.

To demonstrate compliance:

The contractor must have records of contributions in cash, equipment supplied or contractor personnel provided as instructors for Bureau of Apprenticeship and Training approved or Department of Labor funded training programs and records of the hiring and training of minorities and women from such programs. Supply copies of letters informing minority and women's recruitment schools of these programs.

- f. The contractor must disseminate its 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 women 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.

To demonstrate compliance:

The contractor must have written EEO policies that include the name and contact information on the contractor's EEO officer and must (a) include the policy in any company policy manuals; (b) post a copy of the policy on all company bulletin boards (in the office and on all job sites); (c) put in records, such as reports or diaries, that each minority and female employee is aware of the policy and that it has been discussed with them; (d) record that the policy has been discussed regularly at staff meetings; (e) make copies of newsletters and annual reports that include the policy; and (f) make copies of letters to union and training programs requesting their cooperation in helping the contractor meet its EEO obligations.

- g. The contractor must 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 all on-site supervisory personnel prior to the initiation of work at any job site. The contractor must make and maintain a written record identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

To demonstrate compliance:

The contractor must have written records (memorandums, diaries, minutes of meetings) identifying the time and place of meetings, persons attending, subject matter discussed, and disposition of subject matter.

- h. The contractor must disseminate its EEO policies externally by including it in any advertising in the news media, specifically including minority and women's media, and providing written notification to, and discussing the contractor's EEO policy with, other contractors and subcontractors with whom the contractor anticipates doing business.

To demonstrate compliance:

The contractor must have copies of letters sent, at least every six (6) months or at the start of each new major contract, to all recruitment sources (including labor unions and training programs) requiring compliance with the policy; all subcontractors and suppliers, at least at the time the subcontract is signed, requiring compliance with the policy.

- i. The contractor must direct recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and women students, and to minority and women's recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one (1) month prior to the date for acceptance of applications for apprenticeship or other training by any recruitment sources, the contractor must send written notification to such organizations, describing the openings, screening procedures, and tests to be used in the selection process.

To demonstrate compliance:

The contractor must have written records of contacts (written communications, telephone calls, or personal meetings) with minority and women's community organizations and recruitment sources, and schools and training organizations, specifying the date(s), individuals contacted, results of the contact, and any follow-up. It must have copies of letters sent to these organizations at least one (1) month prior to acceptance of applications for training (apprenticeship or other) describing the openings, screening procedures, and tests to be used in the selection process.

- j. The contractor must encourage present minority and female employees to recruit other minority persons and women and provide, where reasonable, after-school, summer and vacation employment to minority and female youth both on-site and in other areas of its work force.

To demonstrate compliance:

The contractor must have copies of diaries, telephone logs, or memos indicating contacts (written and oral) with minority and women employees requesting their assistance in recruiting other minorities and women, and record results. If contractor normally provides after-school, summer, and vacation employment, it must have copies of letters to organizations under Item 9 describing those opportunities and must have responses received and results noted on letters or in a follow-up file.

- k. The contractor must validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3. A contractor with over 100 employees must conduct the annual adverse impact analysis required by 41 CFR Part 60-3.15(A). Where there is adverse impact in a selection process, the contractor must analyze the components to determine the source of the adverse selection process [Part 6003.6(A)] or demonstrate the business necessity of its procedures [Part 60-3.3(A)].

To demonstrate compliance:

The contractor must meet the documentation requirements of Part 60-3.15.

- l. The contractor must conduct, at least annually, an inventory, and evaluation (at least) of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for such opportunities by appropriate training.

To demonstrate compliance:

The contractor must have written records (memo, letters, personnel files, etc.) showing that the company makes annual reviews of minority and female personnel for promotional opportunities and notifies these employees of training opportunities (formal or on-the-job) and encourages their participation.

- m. The contractor must 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.

To demonstrate compliance:

The contractor must have evidence (letters, memos, personnel files, reports) that: (a) the activity under Item 12 above, has been carried out; (b) any collective bargaining agreements have an EEO Clause and the provisions do not operate to exclude minorities and women; (c) the EEO officer reviews all monthly work force reports, hiring, terminations, and training provided on-the-job; (d) the EEO officer's job description identified his or her responsibility for monitoring all employment activities for discriminatory effects; and (e) the contractor initiated corrective action for whatever the contractor had identified as possible discriminatory effect.

- n. The contractor must ensure that all facilities and company activities are nonsegregated, except for providing separate or single-user toilets and necessary changing facilities to assure privacy between sexes.

To demonstrate compliance:

The contractor must have incorporated the "Certification of Nonsegregated Facilities" from the contractor's federally-involved contract documents into all subcontracts and purchase orders; have records that announcements to parties, picnics, etc. have been posted and have been available to all employees; have records that all employment benefits have been offered to all employees; have written copies of contracts (written or verbal) with supervisory staff regarding the provision of adequate toilet and changing facilities to assure privacy between the sexes.

- o. The contractor must document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitation to minority and women's contractor associations and other business associations.

To demonstrate compliance:

The contractor must have copies of letters or other direct solicitation of offers for subcontracts from minority or female contractors with a record of the specific responses and any follow up the contractor has done to obtain a price quotation or to assist a minority or female contractor in preparing or reducing a price quotation; have a list of all subcontracts awarded to minority or female contractors with dollar amounts; have copies of solicitations sent to minority and women's contractor associations or other business associations.

- p. The contractor must conduct a review, at least annually, of all supervisors' adherence to and performance under the contract's EEO policies and affirmative action obligations.

To demonstrate compliance:

The contractor must have copies of memos, letters, reports, minutes of meetings, or interviews with supervisors regarding their employment practices as they relate to the contractor's EEO policy and affirmative action obligations, and written evidence that supervisors were notified when their employment practices adversely or positively impacted on the contractor's EEO and affirmative action posture.

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 any one 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 obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these Specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
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, the 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. It is the policy of the County of Westmoreland to ensure that contractors take positive steps to maximize the utilization of minority business enterprises in all contracts administered by the County.
17. The Contractor will utilize his best efforts to carry out this policy (No. 16 above) in the award of his subcontracts to the fullest extent consistent with efficient performance of this contract.

## SECTION 504 OF THE REHABILITATION ACT OF 1973

This contract is subject to the requirements of Section 504 of the Rehabilitation Act of 1973 which protects handicapped individuals from discrimination in employment and insures handicapped access to buildings and facilities that are constructed or improved in whole or in part with federal funds. The recipient hereby provides the following assurances:

- a) The recipient will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b) The recipient agrees to comply with the rules, regulations and relevant order of the Secretary of the U.S. Department of Housing and Urban Development (HUD) issued pursuant to the Act.
- c) In the event of the recipient's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of the U.S. Department of Housing and Urban Development (HUD) issued pursuant to the Act.
- d) The recipient agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices state the Contractor's obligation under the law to take affirmative action to employ and advance in employment, qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e) The recipient will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 504 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- f) The recipient will include the provisions of this clause in every subcontract unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 504 of the Act, so that such provisions will be binding upon each subcontractor or vendor.
- g) For projects involving the new construction of non-housing facilities, the recipient agrees to design and construct said facilities to be readily accessible to and useable by individuals with handicaps.
- h) For projects involving alterations to non-housing facilities, the recipient agrees to meet the minimum set-aside of units that are to be made accessible for persons with mobility, hearing and vision impairments.
- i) For new housing construction, the recipient agrees to meet the minimum set-aside of units that are to be made accessible for persons with mobility, hearing and vision impairments.
- j) For projects involving the substantial alteration of multi-family housing involving fifteen (15) or more units, the recipient agrees to undertake the project in a manner which renders the facility (to the maximum extent feasible) accessible to the handicapped.

To the extent that funds awarded and activities funded under this contract are to be used for or involve construction, reconstruction, alteration, repair, improvement, or maintenance of public works, such as a building or structure, the Contractor agrees to perform in accordance with the following:

(a) Steel Products Procurement Act

In the performance of any contract awarded pursuant to this Contract, the Contractor, subcontractors, materialmen, or suppliers shall use only steel products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two or more such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel-making process. Steel products include not only cast iron products, but also machinery and equipment listed in United States Department of Commerce Standard Industrial Classifications 25 (furniture and fixtures), 35 (machinery, except electrical), and 37 (transportation equipment), and made of, fabricated from, or containing, steel components. If a product contains both foreign and United States steel, it shall be determined to be a United States steel product only if at least 75 percent of the cost of the articles, materials, and supplies have been mined, produced, or manufactured, as the case may be, in the United States. Transportation equipment shall be determined to be a United States steel product only if it complies with Section 165 of P.L. 97-424 (96 Stat. 2136).

When unidentified steel products are supplied under a contract, before any payment will be made, the Contractor must provide documentation including, but not limited to invoices, bills of lading, and mill certification that the steel was melted and manufactured in the United States. If a steel product is identifiable from its face, the Contractor must submit certification which satisfies the using agency that the Contractor has fully complied with this provision. The Department or Contracting Agency shall not provide for or make any payments to any person who has not complied with the Steel Products Procurement Act (hereinafter referred to as the "SPPA"). Any such payments made to any person by the Department or Contracting Agency which should not have been made as a result of the SPPA shall be recoverable directly from the Contractor, subcontractor, manufacturer, or supplier who did not comply with the SPPA.

In addition to the withholding of payments, any person who willfully violates any of the provisions of the SPPA shall be prohibited from submitting any bids to any public agency for a period of five years from the date of the determination that a violation has occurred. In the event the person who violates the provisions of the SPPA is a subcontractor, manufacturer, or supplier, such person shall be prohibited from performing any work for, or supplying any materials to, a public agency for a period of five years from the date of the determination that a violation has occurred.

The Contractor shall include the provisions of the SPPA in every subcontract and supply contract so that the provisions of the SPPA shall be binding upon each subcontractor and supplier.

(b) Trade Practices Act

In accordance with the Trade Practices Act of July 23, 1968, P.L. 686 (71 P.S. § 773.101 et seq.), the Contractor cannot and shall not use or permit to be used in the work any aluminum or steel products made in a foreign country which is listed below as a foreign country which discriminates against aluminum or steel products manufactured in Pennsylvania. The countries of Argentina, Brazil, South Korea, and Spain have been found to discriminate against certain products manufactured in Pennsylvania. Therefore, the purchase or use of those countries' products, as listed below, is not permitted:

- (1) Argentina: carbon steel wire rod and cold-rolled carbon steel sheet.
- (2) Brazil: welded carbon steel pipes and tubes; carbon steel wire rod; tool steel; certain stainless steel products, including hot-rolled stainless steel bar; stainless steel wire rod and cold-formed stainless steel bar; prestressed concrete steel wire strand; hot-rolled carbon steel plate in coil; hot-rolled carbon steel sheet; and cold-rolled carbon steel sheet.
- (3) South Korea: welded carbon steel pipes and tubes; hot-rolled carbon steel plate; hot-rolled carbon steel sheet; and galvanized steel sheet.
- (4) Spain: certain stainless steel products, including stainless steel wire rod, hot-rolled stainless steel bars; and cold-formed stainless steel bars; prestressed concrete steel wire strand; and certain steel products, including hot-rolled steel plate, cold-rolled carbon steel plate, carbon steel structural shapes; galvanized carbon steel sheet, hot-rolled carbon steel bars, and cold-formed carbon steel bars.

Penalties for violation of the above paragraphs may be found in the Trade Practices Act, which penalties include becoming ineligible for public works contracts for a period of three years.

This provision in no way relieves the Contractor of responsibility to comply with those provisions of this Contract which prohibit the use of foreign-made steel and cast iron products.

(c) Public Works Contractor's Bond Law of 1967

Prior to the award of any contract for any work on the project, the Contractor to whom the contract is to be awarded must furnish the following bonds which shall become binding upon the award of such Contract:

- (1) A performance bond at 100 percent of the contract amount, conditioned upon the faithful performance of the Contract in accordance with the plans, specifications, and conditions of the Contract. Such bond shall be solely for the protection of the contracting Agency which awarded said Contract.
- (2) A payment bond at 100 percent of the contract amount. Such bond shall be solely for the protection of claimants supplying labor or materials to the Grantee, its contractor or to any of its subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the work. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

**CONTRACTOR'S PLAN FOR UTILIZATION OF  
MINORITY BUSINESS ENTERPRISES (MBE)  
AND WOMEN'S BUSINESS ENTERPRISES (WBE)**

- A) The Contractor shall utilize, to the maximum extent feasible, eligible MBE/WBE business concerns in contracting for work to be performed in connection with the completion of the contract. A Minority Business Enterprise is a business enterprise that is controlled by one or more socially or economically disadvantaged persons, such disadvantage may arise from cultural, racial, chronic economic circumstances or similar cause. A Women's Business Enterprise is a woman-owned business or businesses or efforts of a woman or women to establish, maintain or develop such a business or businesses. A women-owned business is described as a business that is at least 51 percent owned by a woman or women who also control and operate it.
- B) The Contractor has established a goal \_\_\_\_% of the total contract amount which he expects to award to eligible MBE's and WBE's. The Schedule for Participation of Small, Minority and Women's Businesses sets forth the classification of subcontracts, the estimate of each subcontractor dollar amount and the percent of each to the total contract.
- C) To achieve the goals specified in paragraph "B", the Contractor shall:
1. Make full use of minority and women-owned business listings made available by the Westmoreland County Department of Planning.
  2. Take steps to insure that subcontracts which are typically let on a bid rather than a negotiated basis are let on a negotiated basis, whenever feasible.
  3. Where competitive bids are solicited, include as part of the bid documents the contractor's goals for MBE/WBE as it relates to the work for which bids are being solicited; require the successful bidder to submit the Schedule for Participation of Small, Minority and Women Businesses Plan for achieving stated goals.
  4. Insert the MBE/WBE contract language in all subcontracts, and require to be executed by the subcontractor, a certification of compliance with the Contractor's Plan for Utilization of MBE/WBE.
- D) The Contractor will report to the County on a monthly, quarterly, or per project basis, the results of the affirmative efforts undertaken per paragraphs A, B, and C above, including the efforts of its subcontractors.

\_\_\_\_\_  
Signature/Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contracting Agency

\_\_\_\_\_  
Date

# **SCHEDULE FOR PARTICIPATION OF SMALL, MINORITY, AND WOMEN BUSINESSES**

Contractor: \_\_\_\_\_ Project \_\_\_\_\_ Name: \_\_\_\_\_  
 Date: \_\_\_\_\_ Project Number: \_\_\_\_\_  
 Small Business Goal: Percent \_\_\_\_\_ Contract \_\_\_\_\_ Amount: \_\_\_\_\_  
 Minority Business Goal: Percent \_\_\_\_\_  
 Women Business Goal: Percent \_\_\_\_\_

| Proposed Supplier<br>and/or<br>Subcontractor | Small Business (SBE)<br>Minority Business (MBE)<br>Women Business (WBE) | Description of<br>Work to Perform | Dollar Amount<br>Subcontract | % Total<br>Contract |
|----------------------------------------------|-------------------------------------------------------------------------|-----------------------------------|------------------------------|---------------------|
|                                              |                                                                         |                                   |                              |                     |
|                                              |                                                                         |                                   |                              |                     |
|                                              |                                                                         |                                   |                              |                     |
|                                              |                                                                         |                                   |                              |                     |
|                                              |                                                                         |                                   |                              |                     |
|                                              |                                                                         |                                   |                              |                     |
| Total                                        | ////////////////////                                                    | ////////////////////              | \$                           | %                   |