

## **FEDERAL REQUIREMENTS**

**A. 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.

**1. Minimum wages and fringe benefits**

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

**ii. Frequently recurring classifications**

**A.** In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to 29 CFR 5.5(a)(1)(iii), provided that:

1. The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
  2. The classification is used in the area by the construction industry; and
  3. The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.
- B.** The Administrator will establish wage rates for such classifications in accordance with 29 CFR 5.5(a)(1)(iii)(A)(3). Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

**iii. Conformance**

**A.** The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be

classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

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 used 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.** The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.
- C.** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov). The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- D.** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov), refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- E.** The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under 29 CFR 5.5 (a)(1)(iii)(C) and (D). The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to 29 CFR 5.5 (a)(1)(iii)(C) or (D) must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

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

**v. Unfunded plans**

If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in 29 CFR 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

## 2. Withholding

### i. Withholding requirements

The U. S. Department of Housing and Urban Development may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in 29 CFR 5.5(a) for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in 29 CFR 5.5(a)(3)(iv), HUD may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, 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.

### ii. Priority to withheld funds

The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- A. A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- B. A contracting agency for its procurement costs;
- C. A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- D. A contractor's assignee(s);
- E. A contractor's successor(s); or
- F. A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

## 3. Records and certified payrolls

### i. Basic record requirements

- A. Length of record retention.** All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.
- B. Information required** Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.
- C. Additional records relating to fringe benefits.** Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(v) that the wages of any laborer or mechanic include the amount of any

costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

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

**ii. Certified payroll requirements**

**A. Frequency and method of submission** The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to HUD if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system

**B. Information required** The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i)(B), except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.*, the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).

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

1. That the certified payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information and basic records are being maintained under 29 CFR 5.5 (a)(3)(i), and such information and records are correct and complete;
2. That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly

from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

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(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.
- D. **Use of Optional Form WH-347** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the “Statement of Compliance” required by 29 CFR 5.5(a)(3)(ii)(C).
- E. **Signature** The signature by the contractor, subcontractor, or the contractor’s or subcontractor’s agent must be an original handwritten signature or a legally valid electronic signature.
- F. **Falsification** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.
- G. **Length of certified payroll retention** The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

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

iv **Required disclosures and access**

- A. **Required record disclosures and access to workers** The contractor or subcontractor must make the records required under 29 CFR 5.5(a)(3)(i)–(iii), and any other documents that HUD or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by 29 CFR 5.1, available for inspection, copying, or transcription by authorized representatives of HUD or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.
- B. **Sanctions for non-compliance with records and worker access requirements** If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.
- C. **Required information disclosures** Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to HUD if the agency is a party to

the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

#### 4. **Apprentices and equal employment opportunity**

##### i. **Apprentices**

- A. **Rate of pay** Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- B. **Fringe benefits** Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.
- C. **Apprenticeship ratio** The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to 29 CFR 5.5(a)(4)(i)(D). Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in 29 CFR 5.5(a)(4)(i)(A), must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.
- D. **Reciprocity of ratios and wage rates** Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

- ii **Equal employment opportunity** The use of apprentices and journeymen under this part must 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 must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (11), along with the applicable wage determination(s) and such other clauses or contract modifications as the U.S. Department of Housing and Urban Development may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.

**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 the contracting agency, 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 any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

iii. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

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

i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;

ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;

iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5; or

iv. Informing any other person about their rights under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5.

**B. Contract Work Hours and Safety Standards Act (CWHSSA)**

The Agency Head must cause or require the contracting officer to insert the following clauses set forth in 29 CFR 5.5(b)(1), (2), (3), (4), and (5) in full, or (for contracts covered by the Federal Acquisition Regulation) by reference, in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses must

be inserted in addition to the clauses required by 29 CFR 5.5(a) or 4.6. As used in this paragraph, the terms “laborers and mechanics” include watchpersons and guards.

- 1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in 29 CFR 5.5(b)(1) the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in 29 CFR 5.5(b)(1), in the sum of \$31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 CFR 5.5(b)(1).
- 3. Withholding for unpaid wages and liquidated damages**
  - i. Withholding process** The U.S Department of Housing and Urban Development or the recipient of Federal assistance may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in 29 CFR 5.5(b) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.
  - ii Priority to withheld funds** The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:
    - A.** A contractor’s surety(ies), including without limitation performance bond sureties and payment bond sureties;
    - B.** A contracting agency for its reprocurement costs;
    - C.** A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor’s bankruptcy estate;
    - D.** A contractor’s assignee(s);
    - E.** A contractor’s successor(s); or
    - F.** A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.
- 4. Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in 29 CFR 5.5(b)(1) through (5) and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 CFR 5.5(b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss,

due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

- 5 Anti-retaliation** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:
- i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in 29 CFR part 5;
  - ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or 29 CFR part 5;
  - iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or 29 CFR part 5; or
  - iv. Informing any other person about their rights under CWHSSA or 29 CFR part 5.
- C. CWHSSA required records clause** In addition to the clauses contained in 29 CFR 5.5(b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other laws referenced by 29 CFR 5.1, the Agency Head must cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of 3 years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made and actual wages paid. Further, the Agency Head must cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job.
- D. Incorporation of contract clauses and wage determinations by reference** Although agencies are required to insert the contract clauses set forth in this section, along with appropriate wage determinations, in full into covered contracts, and contractors and subcontractors are required to insert them in any lower-tier subcontracts, the incorporation by reference of the required contract clauses and appropriate wage determinations will be given the same force and effect as if they were inserted in full text.
- E. Incorporation by operation of law** The contract clauses set forth in this section (or their equivalent under the Federal Acquisition Regulation), along with the correct wage determinations, will be considered to be a part of every prime contract required by the applicable statutes referenced by 29 CFR 5.1 to include such clauses, and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Administrator grants a variance, tolerance, or exemption from the application of this paragraph. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

**F. HEALTH AND SAFETY**

The provisions of this paragraph (F) 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 or her 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 29 CFR 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 U.S.C. § 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.

**FEDERAL EQUAL EMPLOYMENT OPPORTUNITY/  
AFFIRMATIVE ACTION REQUIREMENTS**

1. EQUAL OPPORTUNITY CLAUSE. 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 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' representative 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 of the 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 the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency 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 clause 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, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
  - g. The contractor will include the provisions of Paragraph 1a through 1g 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 administering agency 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 administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

2. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (Executive Order 11246).

- a. The Offeror’s or Bidder’s attention is called to the “Equal Opportunity Clause” and the “Standard Federal Equal Employment Specifications” set forth herein.
- b. 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 Participation in Each Trade</u>	<u>Goals for Female Participation in Each Trade</u>
	28.3%	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 non-federally involved construction.

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

- c. The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within ten 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 contract is to be performed.
- d. As used in this notice, and in the contract resulting from this solicitation, the “covered area” is the Standard Metropolitan Statistical Area of Los Angeles-Long Beach, specifically the County of Los Angeles, State of California.

3. STANDARD FEDERAL EQUAL EMPLOYMENT SPECIFICATIONS (Executive Order 11246)

a. As used in these specifications:

- (1) "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- (2) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- (3) "Employer identification number" means the Federal Social Security Number used on the Employer's Quarterly Federal Tax Return, United States Treasury Department Form 941.
- (4) "Minority" includes:
  - (a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (b) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or Southern American, or other Spanish culture or origin, regardless of race);
  - (c) 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
  - (d) 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).

b. 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.

c. If the contractor is participating (pursuant to 41 CFR Part 60-4.5) in a Hometown Plan approved by the United States Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the Equal Opportunity 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 make good faith efforts to achieve the Plan goals and timetables.

- d. The contractor shall implement the specific affirmative action standards provided in Paragraphs 3g(1) through 3g(15) 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 or minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs Office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
- e. 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 minority or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- f. 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 United States Department of Labor.
- g. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - (1) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - (2) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - (3) Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the

union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the contractor may have taken.

- (4) Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
- (5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under Paragraph 3g(2), above.
- (6) Disseminate the contractor's equal employment opportunity (EEO) policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- (7) 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 on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (8) Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
- (9) Direct its recruitment efforts, both oral and written, to minority, female, and community organizations; to schools with minority and female students; and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment sources, the contractor shall send written notification to organizations such as the above, describing the opening, screening procedures, and tests to be used in the selection process.

- (10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after-school, summer, and vacation employment to minority and female youth, both on the side and in other areas of a contractor's work force.
  - (11) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - (12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - (13) 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.
  - (14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - (15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - (16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.
- h. Contractors are encouraged to participate in voluntary associations that assist in fulfilling one or more of their affirmative action obligations described in Paragraphs 3g(1) through (16), above. 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 Paragraphs 3g(1) through (16) of these specifications; provided that the contractor actively participates in the group, makes every effort to ensure 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 work force 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.
- i. 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 minority women is underutilized).

- j. 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.
- k. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- l. 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.
- m. 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 3g 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 Part 60-4.8.
- n. 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 thereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone number, construction trade, union affiliation, if any, employee identification number, and assigned social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
- o. 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).
- p. The Director, from time to time, shall issue goals and timetables for minority and female utilization which shall be based on appropriate work force, demographic or other relevant data and which shall cover construction projects or construction contracts performed in specific geographic areas. The goals, which shall be applicable to each construction trade, shall be published as notices in the Federal Register, and shall be inserted by the contracting officers and applicants, as applicable, in the Notice required by 41 CFR 60-4.2. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed.

4. **SPECIFIC EEO REQUIREMENTS.** For a federally assisted construction contract in excess of \$10,000, the contractor/subcontractor shall:
  - a. Forward the following EEO certification forms to the contract awarding authority prior to contract award: Certification of Nonsegregated Facilities and Certification with Regard to the Performance of Previous Contracts or Subcontracts Subject to the Equal Opportunity Clause and the Filing of Required Reports.
  - b. Submit a notification of subcontracts awarded to the Director, Office of Federal Contract Compliance Programs, United States Department of Labor – ESA, 200 Constitution Avenue, NW, Room C3325, Washington, DC 20210, within ten working days of award of any subcontract in excess of \$10,000, listing the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
  - c. Send a notice of the contractor’s commitment to equal employment opportunity to labor unions or representatives of workers prior to commencement of construction work.
  - d. Display an equal employment opportunity poster in a conspicuous place available to employees and applicants for employment.
  - e. For contracts in excess of \$10,000, bind subcontractors to the Federal equal employment opportunity requirements by including the provisions of Paragraphs 1 through 3, above, in the subcontract.
5. **CIVIL RIGHTS ACT OF 1964.** Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
6. **SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.** No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
7. **THE AGE DISCRIMINATION ACT OF 1975.** No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.
8. **REHABILITATION ACT OF 1973.** No otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

## **CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISE, AND LABOR SURPLUS AREA FIRMS**

1. It is national policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction, and services. Affirmative steps shall include the following:
  - a. Including qualified small and minority businesses on solicitation lists.
  - b. Assuring that small and minority businesses are solicited whenever they are potential sources.
  - c. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
  - d. Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority businesses.
  - e. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce as required.
  - f. If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in 1a through 1e above.
2. Grantees shall take similar appropriate affirmative action in support of women's business enterprise.
3. Grantees are encouraged to procure goods and services from labor surplus areas.

## **COMPLIANCE WITH CLEAN AIR AND WATER ACTS**

(Applicable to federally assisted construction contracts and related subcontracts exceeding \$100,000)

During the performance of this contract, the contractor and all subcontractors shall comply with 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 with respect thereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner the following:

1. A stipulation by the contractor or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) 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 provisions.

## **BUILD AMERICA, BUY AMERICA ACT**

The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. BABA provides, in general, that iron and steel, construction materials, and manufactured products used in federally funded infrastructure projects be produced in the United States. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

**CONTRACTOR'S NOTIFICATION OF SUBCONTRACTS AWARDED**

PROJECT NAME: \_\_\_\_\_

PROJECT LOCATION/AWARDING AGENCY: \_\_\_\_\_

PROJECT NO.: \_\_\_\_\_

SUBCONTRACTOR'S NAME, ADDRESS AND TELEPHONE NUMBER	EMPLOYER IDENTIFICATION NUMBER	CONTRACTOR LICENSE NUMBER	CONTRACT AMOUNT	ESTIMATED STARTING DATE	ESTIMATED COMPLETION DATE	CRAFTS TO BE USED

**INFORMATION TO BE PROVIDED BY CONTRACTOR ON ALL SUBCONTRACTS, REGARDLESS OF TIER, WITHIN 10 WORKING DAYS OF AWARD. CONTRACTOR CERTIFIES THAT EACH SUBCONTRACTOR HAS BEEN NOTIFIED THAT THIS IS A FEDERALLY FUNDED/ASSISTED CONSTRUCTION PROJECT AND BEEN PROVIDED WITH A COPY OF FORM HUD-4010.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title [printed]

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company Name

**CERTIFICATION OF NON-SEGREGATED FACILITIES**  
**Federally Assisted Projects**

The Federally assisted construction contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Federally assisted construction contractor certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Federally assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. The Federally assisted construction contractor agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his files.

**NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.**

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature and Title

\_\_\_\_\_  
Date

**CERTIFICATION**  
**WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR**  
**SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE**  
**AND THE FILING OF REQUIRED REPORTS**

The bidder / proposed subcontractor hereby certifies that s/he has / has not participated in a previous contract or subcontract subject to the Equal Opportunity Clause, as required by Executive Orders 10925, 11114, or 11246, and that s/he has / has not filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Date: \_\_\_\_\_ Project No.: \_\_\_\_\_ Contract Award: \$ \_\_\_\_\_

Awarding Agency: \_\_\_\_\_

Contractor Name: \_\_\_\_\_ Total Number Employees: \_\_\_\_\_

Affiliate Company: \_\_\_\_\_

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

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

NOTE: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)) and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts that are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts or subcontracts of \$10,000 or under are exempt.)

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

**FEDERAL LOBBYIST REQUIREMENTS  
CERTIFICATION**

Name of Firm: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Telephone: \_\_\_\_\_

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Acting on behalf of the above-named firm as its Authorized Official, I make the following Certification to the Department of Housing and Urban Development (HUD):

- 1) No Federal appropriated funds have been paid, by or on behalf of the above-named firm to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, loan, or cooperative agreement, and any extension, continuation, renewal, amendment, or modification thereof; and
  - 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the above-named firm shall complete and submit Standard Form–LLL, “Disclosure Form to Report Lobbying” in accordance with its instructions; and
  - 3) The above-named firm shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
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This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into the transaction imposed by Section 1352 Title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Authorized Official:

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

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

**NOTICE OF EQUAL EMPLOYMENT OPPORTUNITY**

To: \_\_\_\_\_  
[Name of Labor Union or Workers' Representative]

\_\_\_\_\_  
[Address]

Awarding Authority: \_\_\_\_\_

Project Name and Number: \_\_\_\_\_

The undersigned currently holds a contract with \_\_\_\_\_ involving Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development (HUD) or a subcontract with a prime contractor holding such contract.

You are advised that under the provisions of the above contract or subcontract and in accordance with Executive Order 11246, the undersigned is obligated not to discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. This obligation not to discriminate in employment includes, but is not limited to, the following:

- HIRING, PLACEMENT, UPGRADING, TRANSFER, OR DEMOTION; RECRUITMENT, ADVERTISING, OR SOLICITATION FOR EMPLOYMENT; TREATMENT DURING EMPLOYMENT; RATES OF PAY OR OTHER FORMS OF COMPENSATION; SELECTION FOR TRAINING, INCLUDING APPRENTICESHIP; AND LAYOFF OR TERMINATION.

This notice is furnished to you pursuant to the provisions of the above contract or subcontract and Executive Order 11246.

Copies of this notice will be posted by the undersigned in conspicuous places available to employees or applicants for employment.

\_\_\_\_\_  
[Contractor/Subcontractor]

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[Title]

## **WORKERS' COMPENSATION CERTIFICATION**

I certify, by my signature below, that I am aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and that I will comply with such provisions before commencing the performance of work on this contract.

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

Project Name: \_\_\_\_\_

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

Address: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

Signature: \_\_\_\_\_

**CERTIFICATION OF UNDERSTANDING  
AND AUTHORIZATION**

Project Name: \_\_\_\_\_

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

This is to certify that the principals and the authorized payroll officer, below, have read and received a copy of the Federal Labor Standard Provisions (HUD-4010) and a copy of the Contractor's Guide to Prevailing Wage Requirements for Federally Assisted Construction Projects, and that they understand the labor standards clauses pertaining to the above-listed project.

The following person is designated as the payroll officer for the undersigned and is authorized to sign the Statement of Compliance form that will accompany each weekly payroll report for the contractor listed below during the duration of this project:

\_\_\_\_\_  
Contractor Business Name

\_\_\_\_\_  
License Number

\_\_\_\_\_  
Payroll Officer Name (print)

\_\_\_\_\_  
Payroll Officer (signature)

\_\_\_\_\_  
Name of Person Authorized to Sign (print)

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



## STATEMENT OF COMPLIANCE

CONTRACTOR/SUBCONTRACTOR	CONTRACT NUMBER
FIRST DAY AND DATE OF PAY PERIOD	LAST DAY AND DATE OF PAY PERIOD

I do hereby certify under penalty of perjury:

- (1) That I pay or supervise payment to employees of the above-referenced contractor on the above-referenced contract; that all persons employed on said project for the above-referenced time period have been paid their full weekly wages earned; that no rebates have been or will be made either directly or indirectly to or on behalf of said contractor from the full weekly wages earned by any person; and that no deductions have been made either directly or indirectly from the full weekly wages earned by any person other than permissible deductions.
- (2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; and that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates:
  - (a)  Specified in the applicable wage determination incorporated into the contract.
  - (b)  Determined by the Director of Industrial Relations for the county or counties in which the work is performed.
- (3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency.
- (4) That fringe benefits as listed in the contract:
  - (a)  Have been or will be paid to the approved plan(s), fund(s), or program(s) for the benefit of listed employee(s), except as noted below.
  - (b)  Have been paid directly to the listed employee(s), except as noted below.
  - (c)  See exceptions noted below.

EXCEPTION CRAFT	EXPLANATION

REMARKS:

NAME (PLEASE PRINT)	TITLE
SIGNATURE	DATE

On federally funded projects, permissible deductions are defined in regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c).

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

## **INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE**

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This statement of compliance meets the needs of the state and federal payroll requirements to pay fringe benefits in addition to payment of minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the fringes to the various preapproved plans, funds, or programs or by making these payments to the employees as part of their weekly wage payments.

The contractor must **show on the face of his or her payroll all monies paid to the employees** whether as basic rates or as total hourly wage amounts in lieu of fringes. The contractor shall report in the statement of compliance that **he or she is paying to others** fringes required by the contract and not paid directly to the employees in lieu of fringes.

Detailed instructions follow:

### **Contractors required to pay Federal Wage Rates:**

Such a contractor shall check paragraph 2(a) of the statement to indicate that the wage rates for laborers or mechanics contained in the payroll are not less than the applicable wage rates specified in the applicable wage determination incorporated into the contract.

### **Contractors required to pay the State Prevailing Wage Rates as determined by the Director of Industrial Relations:**

Such a contractor shall check paragraph 2(b) of the statement to indicate that the wage rates for laborers or mechanics contained in the payroll are not less than the applicable wage rates determined by the Director of Industrial Relations for the county or counties in which the work is performed.

### **Contractors who pay all required fringe benefits:**

A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decisions shall continue to show on the face of his or her payroll the basic hourly rate and overtime rate paid to his or her employees, just as he or she has always done. Such a contractor shall check paragraph 4(a) of the statement to indicate that he or she is also paying approved plans, funds, or programs within the time required from the receipt of those sums, not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

### **Contractors who pay no fringe benefits:**

A contractor who does not pay fringe benefits to an approved plan shall pay a like amount to the employee. This payment can be reported by inserting in the straight time hourly rate column of his or her payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Inasmuch as it is not necessary to pay time and one-half on wages paid in lieu of fringes, the overtime rate shall be not less than one and one-half the basic predetermined rate, plus the required cash in lieu of fringes at the straight-time rate. To simplify computation of overtime, it is suggested that the straight-time basic rate and payment in lieu of fringes be separately stated in the hourly rate column, thus \$14.56/5.11. In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he or she is paying fringe benefits directly to his or her employees. Any exceptions shall be noted in Section 4(c).

### **Use of Section 4(c) Exceptions**

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obligated to pay the deficiency directly to the employees as wages in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employees as wages in lieu of fringes, and the hourly amount paid to plans, funds, or programs as fringes.



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
REPORT OF ADDITIONAL CLASSIFICATION AND RATE**

**HUD FORM 4230A**

OMB Approval Number 2501-0011  
(Exp. 01/31/2010)

1. FROM (name and address of requesting agency)	2. PROJECT NAME AND NUMBER
	3. LOCATION OF PROJECT (City, County and State)

4. BRIEF DESCRIPTION OF PROJECT	5. CHARACTER OF CONSTRUCTION <input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Other (specify) <input type="checkbox"/> Highway
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6. WAGE DECISION NO. (include modification number, if any)  <input type="checkbox"/> COPY ATTACHED	7. WAGE DECISION EFFECTIVE DATE
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8. WORK CLASSIFICATION(S)	HOURLY WAGE RATES	
	BASIC WAGE	FRINGE BENEFIT(S) (if any)

9. PRIME CONTRACTOR (name, address)	10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)
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**Check All That Apply:**

- The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision.
- The proposed classification is utilized in the area by the construction industry.
- The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision.
- The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s).
- Supporting documentation attached, including applicable wage decision.

**Check One:**

- Approved, meets all criteria. DOL confirmation requested.**
- One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.**

<p style="text-align: center;">_____</p> <p style="text-align: center;"><b>Agency Representative</b> (Typed name and signature)</p>	<p style="text-align: center;">_____</p> <p style="text-align: center;"><i>Date</i></p>	<p><b>FOR HUD USE ONLY</b> <b>LR2000:</b></p> <p><b>Log in:</b></p> <p><b>Log out:</b></p>
	<p style="text-align: center;">_____</p> <p style="text-align: center;"><i>Phone Number</i></p>	

<b>Report of Additional Classification and Wage Rate</b>	<b>U.S. Department of Housing and Urban Development Office of Labor Relations</b>	OMB Approval No. 2501-0011 (Exp. 01/31/2010)
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Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered non-sensitive and does not require special protection. This information is required to obtain benefits. 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.

Employers engaged on HUD-assisted construction projects subject to Davis-Bacon wage requirements must pay no less than the wages determined to be prevailing by the Secretary of Labor to all laborers and mechanics engaged on the construction work. On occasion, the applicable Davis-Bacon wage decision does not contain all of the work classifications and wage rates needed to complete the construction work. This information collection facilitates the addition of needed work classifications and wage rates for the construction work involved. This form is used by HUD and local agencies administering HUD programs to report employer request(s) for additional classification and wage rates so that an appropriate wage rate can be approved by the Department of Labor for the construction work. This information collection is required by Department of Labor regulations at 29 CFR 5.5. While no assurances of confidentiality are pledged to respondents, HUD generally discloses these data only in response to a Freedom of Information request.

### Instructions

#### General:

Contractors/Employers: Do not need to complete this form. Submit a written, signed request to the responsible contracting agency naming the work classifications and the wage rates, including any fringe benefits, that are proposed.

Local Agency Staff: Complete items 2 through 10. Submit one copy of this form to the responsible HUD Labor Relations Office with a copy of the applicable Davis-Bacon wage decision and the written request from the employer naming the work classifications and wage rates that are proposed. (The employer's request must be made in writing and must be signed.)

1. For HUD or State CDBG Office use. Enter the name and address of HUD Office (or State CDBG office) submitting the report and to which the DOL reply should be sent.
2. Enter the name and number of the project or contract involved.
3. Enter the location of the project involved: city, county and state.
4. Describe the construction involved, e.g., new construction or rehabilitation, number and type of buildings, number of stories, number of units (as applicable). For example: New construction: 3 – 4-story buildings; 120 units.
5. Enter the character of construction as defined by DOL for Davis-Bacon prevailing wage rate purposes.
6. Enter the number of the Davis-Bacon wage decision applicable to the construction work. Include the number of wage decision modifications (if any) applicable to the work.
7. Enter the effective date of the wage decision for the project. (See DOL regulations at 20 CFR 1.6.)
8. Enter the work classifications and corresponding hourly basic wage rates and fringe benefit rates (if any) requested.
9. Self-explanatory.
10. If the requesting employer is not the prime contractor, enter the name and address of the subcontractor/employer making the request.

Remainder of Form: HUD Labor Relations/State CDBG use.

HUD Labor Relations/State CDBG Staff: Evaluate the employer's request against the criteria for approval (see DOL Regulations, 29 CFR Part 5, and related contract labor standards provisions). The criteria are reflected in "checklist" form to ensure that each factor is considered and to ensure that supporting documentation, including a copy of the applicable wage decision, is attached. Check the box next to each criterion that is met; do not check the box next to any criterion that is not met.

If the request meets all criteria, check the appropriate box, enter the name and telephone number of the HUD/State CDBG agency representative, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision and the written request from the employer involved.

If the request fails to pass all criteria, check the appropriate box, enter agency contact information, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision, the written request from the employer involved, *and* a cover letter explaining how the employer's request failed to meet one or more of the criteria.

#### Submission of Report

Completed forms shall be sent to: Branch of Construction Wage Determinations, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-3014, Washington, DC 20210.