# STATE OF MONTANA
# DEPARTMENT OF TRANSPORTATION
# BID PACKAGE

Sealed bids for construction of this project will be received by the Montana Department of Transportation, Construction Contracting Section, Room 101, 2701 Prospect, Helena, Montana until 9:00 a.m. on June 5, 2025. All bids will then be publicly opened, reviewed for correctness, and then publicly read.

Federal Aid Project(s):

IM 90-5(96)233 Homestake Pass Parking Area

Bid proposals, Plans, Standard Specifications, Detail Drawings, and Standard Contract Forms are on file for examination and may be obtained from the Construction Contracting Bureau of the Montana Department of Transportation, 2701 Prospect Avenue, P.O. Box 201001, Helena, Montana 59620-1001.

Prime bidders use the Electronic Bid System or bid on-line through Bid Express to produce a bid containing Proposal Forms, Schedule of Items, and Disadvantaged Business Enterprises (DBE) Requirements (if applicable).

## CONTRACT #04625
## AWARDED ON: JUNE 17, 2025
## TO: INTERMOUNTAIN CONSTRUCTION SERVICES, LLC

MONTANA DEPARTMENT OF TRANSPORTATION

Loran Frazier, Chairperson
Montana Transportation Commission

Christopher Dorrington
Director of Transportation

Contract No.04625
EC:ST:10327000AWD

AWARD COPY

# CURRENT QUESTIONS & ANSWERS

## 103 - HOMESTAKE PASS PARKING AREA - June 05, 2025

### Notifications
No Notices available for this project.

### Amendments
No Amendments available for this project.

### Clarifications
No Clarifications available for this project.

### Questions
**-1-**
Submitted: Tuesday 13-MAY-2025 01:34 PM
Company: White Resources Group, Inc
Contact: Estimation
1. Would the Department consider delaying the NTP until Spring of 2026? Homestake area is likely to experience freezing temps earlier in the 2025 season. The new sidewalk would have most of a year of cure time before the colder temps. 2. Is there a supplier in mind for the electric heating mat for the heated sidewalk section?
Answer
Submitted: Monday 19-MAY-2025 10:10 AM
1. MDT will not delay the current NTP to 2026.
2. No, MDT does not have a specific supplier in mind for the heated sidewalk section.

**-2-**
Submitted: Monday 19-MAY-2025 02:07 PM
Company: The Lighting Agency
Contact: Frank Dugas
On the building mount fixture type "B", it is specified with an emergency integral battery backup. This particular fixture (12" wide), is too small to fit a battery pack into. We can either provide a remote battery pak for each fixture that would be mounted inside the building adjacent to the light fixture or we could provide an emergency line voltage inverter to power all (4) fixtures. Let me know if there is preference.
Answer
Submitted: Tuesday 20-MAY-2025 07:55 AM
Provide an emergency line voltage inverter to power all (4) fixtures.

**-3-**
Submitted: Tuesday 20-MAY-2025 01:26 PM
Company: Montana Materials & Construction
Contact: Loren R Blossom
The precast vaulted toilet suppliers stated that the lead time on the toilets and buildings is about one year. If the project is awarded in June 2025, could MDT change the NTP date to June 2026?
Answer
Submitted: Tuesday 27-MAY-2025 08:49 AM
The notice to proceed will not be changed. If material delays are encountered, MDT will consider them in accordance with section 108.07.5 of the MDT standard specifications.

# CURRENT QUESTIONS & ANSWERS

**-4-**
Submitted: Tuesday 20-MAY-2025 01:29 PM
Company: Montana Materials & Construction
Contact: Loren R Blossom
Is there a geotech report available? If so, could you please post it?
Answer
Submitted: Friday 23-MAY-2025 08:10 AM
Linked are PDF Files of the available project alignment and/or structures geotechnical report(s), geotechnical report supplements, and geotechnical laboratory summaries. There is remaining geotechnical information that is voluminous and very difficult to compile in a concise manner. Contractors are welcome to come to MDT Headquarters to inspect rock samples taken for the project that are stored here or to look through the complete set of Geotechnical field investigation notes, laboratory testing, analytical, or other data in our project files. It should be noted that the project may have undergone significant changes during the design process after the original geotechnical report and supplements were issued. Thus, some of the information contained in these documents may be out of date or not applicable with regard to the advertised project. Some of the changes include but are not limited to: Project splits (for funding, ROW issues, etc.) alignment and grade changes; and changes due to environmental factors (sensitive areas, etc.). The documents can be found at the following link: **GEOTECHNICAL REPORT**

**-5-**
Submitted: Thursday 29-MAY-2025 11:18 AM
Company: Alpine Sign Inc
Contact: John
Please provide Sign Design Calculations for this project.
Answer
Submitted: Thursday 29-MAY-2025 12:55 PM
The sign design files for the requested project are posted here: **SIGN DESIGN CALCS** The requested files are only design files. The Department cannot guarantee the accuracy of the electronic data, particularly as it may be called up by your computer, nor does any data in these files supersede the data in the contract documents. In addition, the Department will not make any revisions to the electronic files prior to award. Changes needed via change ordered work, or changes that are made during construction to fit field conditions, will be provided at that time. See the requirements of Subsection 619.03.2.

**-6-**
Submitted: Friday 30-MAY-2025 08:08 AM
Company: Montana Materials & Construction
Contact: Loren Blossom
Regarding the answer to question #3. Other than the culvert that crosses the interstate the schedule is dictated by the precast buildings. Most of the other work either can't be completed or will be out of sequence if it is started this Fall. What items of work need to be completed this Fall? When will time be stopped to allow for delivery of the buildings and completion of the work? When will time be started again in the Spring?'
Answer
Submitted: Friday 30-MAY-2025 09:25 AM
Replace the culvert, culvert backfill, CAC, and plant mix for the culvert replacement

crossing the interstate and any associated erosion control measures. Once completed, MDT will allow a time suspension in accordance with section 108.07.5. Time will start back April 15, 2026.

MONTANA DEPARTMENT OF TRANSPORTATION
SCHEDULE OF ITEMS

CONTRACT ID: 04625

PROJECT: IM 90-5(96)233 10327096000 HOMESTAKE PASS PARKING AREA

SECTION: 0001 - SAFETY REST AREA

| PROP LINE NO. | ITEM NUMBER | ITEM DESCRIPTION | UNIT OF MEASURE | QUANTITY |
|---|---|---|---|---|
| 0010 | 104030010 | MISCELLANEOUS WORK | UNIT | 10,000.00 |
| 0020 | 104030011 | MISCELLANEOUS ITEMS-LS | LS | 1.00 |
| 0030 | 104030025 | MISCELLANEOUS ITEMS-INSTALL | EACH | 8.00 |
| 0040 | 104030045 | MISCELLANEOUS ITEMS-EACH | EACH | 6.00 |
| 0050 | 104030060 | MISCELLANEOUS ITEMS-CUYD | CUYD | 8.00 |
| 0060 | 104030065 | MISCELLANEOUS ITEMS A-LNFT | LNFT | 890.00 |
| 0070 | 105070000 | CONTRACTOR SURVEY AND LAYOUT | LS | 1.00 |
| 0080 | 109200005 | MOBILIZATION | LS | 1.00 |
| 0090 | 202020040 | REMOVE STRUCTURE | EACH | 4.00 |
| 0100 | 202020539 | REMOVE MISCELLANEOUS ITEMS | EACH | 4.00 |
| 0110 | 202020540 | REMOVE MISCELLANEOUS ITEMS | LS | 1.00 |
| 0120 | 203020100 | EXCAVATION-UNCLASSIFIED | CUYD | 2,647.00 |
| 0130 | 208010150 | TEMPORARY EROSION CONTROL-LS | LS | 1.00 |
| 0140 | 208010200 | TEMPORARY EROSION CONTROL-FIXED | UNIT | 500.00 |
| 0150 | 210020170 | TEST TRAILER-TRANSPORT, SETUP | MILE | 26.00 |
| 0160 | 301020340 | CRUSHED AGGREGATE COURSE | CUYD | 947.00 |
| 0170 | 301020625 | AGGREGATE TREATMENT | SQYD | 1,891.00 |
| 0180 | 401020122 | COMMERCIAL MIX-PG 58V-34 | TON | 433.00 |
| 0190 | 401020155 | COMMERCIAL MIX-3/8 IN-PG 58V-34 | TON | 183.00 |
| 0200 | 402020315 | EMULSIFIED ASPHALT-TACK COAT | GAL | 285.00 |
| 0210 | 601012082 | WATER SERVICE 2 IN | LNFT | 250.00 |
| 0220 | 603000060 | FOUNDATION MATERIAL | CUYD | 180.00 |
| 0230 | 603010025 | PLUG ENDS AND ABANDON PIPE | EACH | 2.00 |
| 0240 | 603010172 | DRAINAGE PIPE ARCH 36 IN EQ DIA | LNFT | 332.00 |
| 0250 | 603587030 | REMOVE STORM DRAIN | LNFT | 350.00 |
| 0260 | 604000140 | REMOVE DROP INLET | EACH | 2.00 |
| 0270 | 604010306 | MANHOLE STRUCTURE BASE 72 IN | EACH | 2.00 |
| 0280 | 604010662 | DROP INLET FRAME AND GRATE | EACH | 2.00 |
| 0290 | 608010011 | SIDEWALK-CONCRETE-HEATED | SQYD | 134.80 |
| 0300 | 608010060 | SIDEWALK-REINFORCED 6 IN | SQYD | 622.10 |

SECTION: 0001 - SAFETY REST AREA

| PROP LINE NO. | ITEM NUMBER | ITEM DESCRIPTION | UNIT OF MEASURE | QUANTITY |
|---|---|---|---|---|
| 0310 | 608010125 | DETEC WARNING DEVICES-TYPE 1 | SQYD | 2.20 |
| 0320 | 609010160 | GUTTER-CONC VALLEY | SQYD | 39.60 |
| 0330 | 609010200 | CURB AND GUTTER-CONC | LNFT | 522.00 |
| 0340 | 610100559 | REVEGETATION | LS | 1.00 |
| 0350 | 610100561 | EROSION CONTROL BLANKET-LONG-TERM | SQYD | 6,260.00 |
| 0360 | 610100565 | EROSION CONTROL BLANKET-HIGH- | SQYD | 249.00 |
| 0370 | 613100105 | ANCILLARY ARMOR | CUYD | 21.30 |
| 0380 | 616343920 | CONDUIT-PLASTIC 2 IN | LNFT | 893.00 |
| 0390 | 616783007 | PULL BOX-COMPOSITE TYPE 2 | EACH | 10.00 |
| 0400 | 617000000 | FOUNDATION-CONCRETE | CUYD | 3.00 |
| 0410 | 617123101 | CONDUCTOR-COPPER AWG1-600V | LNFT | 223.00 |
| 0420 | 617123110 | CONDUCTOR-COPPER AWG10-600V | LNFT | 2,540.00 |
| 0430 | 617183056 | STANDARD-STL TYPE 10-A-500-6 | EACH | 6.00 |
| 0440 | 617303300 | HIGH EFFICACY LUMINAIRE LED | EACH | 6.00 |
| 0450 | 617333100 | SERV ASSEMBLY | EACH | 2.00 |
| 0460 | 617343100 | ENCLOSURE - NEMA TYPE 3R | EACH | 2.00 |
| 0470 | 617781000 | REMOVE AND SALVAGE MISC ELECTRICAL | LS | 1.00 |
| 0480 | 618030015 | TRAFFIC CONTROL-FIXED | UNIT | 500.00 |
| 0490 | 618030080 | TRAFFIC CONTROL-LS | LS | 1.00 |
| 0500 | 619010062 | SIGNS-ALUM SHEET INCR XI | SQFT | 444.60 |
| 0510 | 619010090 | SIGNS-ALUM REFL SHEET XI | SQFT | 209.80 |
| 0520 | 619010230 | REMOVE SIGN | EACH | 22.00 |
| 0530 | 619010240 | REMOVE SIGN-GUIDE | EACH | 6.00 |
| 0540 | 619010300 | POSTS-TUBULAR STEEL | LB | 210.00 |
| 0550 | 619010310 | POSTS-STEEL U SIGN | LB | 70.00 |
| 0560 | 619010320 | POSTS-STEEL STRUCTURAL SIGN | LB | 628.00 |
| 0570 | 619010340 | POSTS-TUBULAR STEEL-SQ-PERF | LB | 176.00 |
| 0580 | 619010480 | POLES-TREATED WOOD 4 IN | LNFT | 98.00 |
| 0590 | 619010490 | POLES-TREATED WOOD 5 IN | LNFT | 86.00 |
| 0600 | 619010724 | FRANG SIGN POST BKWY-S5 X 10 | EACH | 4.00 |
| 0610 | 619010742 | FRANG SIGN POST BKWY-3.5 IN RD | EACH | 2.00 |
| 0620 | 619011090 | DELINEATOR TYPE 1 | EACH | 44.00 |
| 0630 | 620010310 | CURB MARKING-BLUE PAINT | GAL | 1.00 |
| 0640 | 620011105 | WORDS AND SYMBOLS-WHITE PAINT | GAL | 1.00 |
| 0650 | 620011125 | WORDS AND SYMBOLS-BLUE PAINT | GAL | 1.00 |
| 0660 | 620011260 | WORDS AND SYMBOLS-WHITE EPOXY | GAL | 15.00 |

SECTION: 0001 - SAFETY REST AREA

| PROP LINE NO. | ITEM NUMBER | ITEM DESCRIPTION | UNIT OF MEASURE | QUANTITY |
|---|---|---|---|---|
| 0670 | 620013960 | STRIPING-WHITE EPOXY | GAL | 28.00 |
| 0680 | 620014960 | STRIPING-YELLOW EPOXY | GAL | 12.00 |
| 0690 | 622011043 | PERM EROSION CONTROL-HIGH SURV | SQYD | 43.00 |
| 0700 | 622011084 | GEOTEXTILE STABILIZATION | SQYD | 270.00 |

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# SPECIAL PROVISIONS

## FEDERAL AID PROJECT NO(S). IM 90-5(96)233

(REVISED 4-03-25)

The following special provisions are hereby made part of the contract and supplement and/or supersede any sections of the Standard Specifications of Road and Bridge Construction, adopted by the Montana Department of Transportation and the Montana Transportation Commission and all supplements thereto in conflict therewith.

The following documents are hereby incorporated by reference into this contract:

- "Question and Answer Forum":

Question and Answer Forum

- "Standard Specifications for Road and Bridge construction":

Standard Specifications January 2025

- The most recent version of the Detailed Drawings:

Detailed Drawings

- The most recent version of the Materials Manual:

Materials Manual January 9, 2025

The latest version of the Standard Specifications, Biannual updates, and revision summaries can be found at the following website: Standard Specifications

The Question-and-Answer Forum opens at 5:00 p.m. on the bid letting advertisement date and closes at 10:00 a.m. on the Monday before the bid letting. If Monday is a state holiday, the forum will close on Friday before the bid letting at 3:00 p.m. Answers provided by the Department to the questions, clarifications, and notifications can be posted up to 5:00 p.m. on the day before the letting.

The U.S. Department of Transportation (DOT) operates a toll-free number at 1-800-424-9071, 24 hours a day - 7 days a week. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use this number to report such activities. All information will be treated confidentially, and callers may remain anonymous.

The Department attempts to provide reasonable accommodations for any known disability that may interfere with a person participating in any service, program, or activity of the Department. Alternate accessible formats of this document will be provided upon request. If reasonable accommodation is needed to participate in Department bid lettings, call the Civil Rights Bureau at 444-6331 or TTY 406-444-7696 [TTY 1-800-335-7592 (toll free)].

1. PROJECT DESCRIPTION [102]

The project site is located at the Homestake Pass Truck Parking Area adjacent to Interstate 90 (I-90), approximately 9 miles east of Butte, MT, in Jefferson County. The project includes work including upgrading the vaulted toilets, mitigating future stormwater inundation through site grading, and incorporating retention ponds. Anticipated project improvements include new lighting configurations around the new vaulted structures, new heated sidewalk areas, updated maintenance facilities and capabilities, new historical/cultural signage, and new site-related signing along I-90.

2. CONTRACT TIME [108] (REVISED 1-21-16)

The work begins on the effective date stated in the Notice to Proceed (NTP) and is to be completed in 50 Working Days. The NTP will be issued with an effective date of August 4, 2025.

3. CONTRACT DOCUMENTS [102] (REVISED 6-5-25)

The following documents are now available within the Contractors Reference Material on the Department's Contracting and Bidding webpage https://www.mdt.mt.gov/business/contracting/ :

1) Table of Contractor's Submittals. (Revised 6-5-25)

2) Traffic Control Rate Schedule (Revised 3-9-23)
3) Erosion Control Rates (Revised 1-09-25)

4. DISADVANTAGED BUSINESS ENTERPRISES (DBE) REQUIREMENTS [102] (REVISED 2-23-23)

The DBE goal for this contract is 0.00%. Use the AASHTOWare Project BidsTM Electronic Bid System (EBS) to print the DBE submittal and timing requirements. If the contract does not have a project-specific goal, the field will display in the AASHTOWare Project BidsTM bid file as a blank field.

List the DBE commitments in the EBS file. An on-line DBE Directory is available at: https://app.mdt.mt.gov/ess-dbe/.

If the DBE goal cannot be met, show a good faith effort per the Good Faith Effort Criteria and supporting forms, available at: http://www.mdt.mt.gov/publications/forms.shtml. Submit the Good Faith Effort documentation within 48 hours of the bid opening.

5. LABOR REQUIREMENTS [102] (REVISED 9-19-24)

Pay the minimum wage rates contained elsewhere in the bid package. Comply with the required contract provisions contained in the form FHWA 1273 included with this contract. To obtain more information, contact the Department's Construction Engineering Services Bureau at 2701 Prospect, Helena, MT (406)475-2258, (800)335-7592 (TTY) or (406)444-7297 (Fax).

Executive Orders 13658 and 13706 do not apply to this contract.

6. NEW SUBCONTRACTORS [102] (ADDED 4-04-24)

The contract amount will be increased by a maximum of $10,000 via change order if the Prime Contractor uses a DBE or SBE certified firm that has not worked on a federal-aid MDT contract in the past three years. The incentive amount will be applied in accordance with the following table.

| Subcontract Amount | Added Contract Amount |
|---|---|
| ≤ $15,000 | $1,000 |
| $15,001-$50,000 | $2,500 |
| $50,001-$100,000 | $5,000 |
| ≥ $100,000 | $7,500 |

Note: The table is representative for one subcontract.

Payment will be made once the subcontract has been fully executed and will be paid under the bid item NEW DBE-SBE INCENTIVE.

7. SMALL BUSINESS ENTERPRISES REQUIREMENTS [102] (ADDED 5-16-24)

Rescind "DBE requirements" and replace with "DBE and SBE requirements" within the following subsections:

1) 102.02 Contents of Bid Package.
2) 102.07 Bidding Requirements.
3) 102.08J Rejection of Bid Proposal.

8. DBE USAGE [102] (REVISED 11-16-23 M)

Contract specific goals are not placed on contracts; however, the Department has an overall 6.3% DBE goal it must achieve. To assist contractors in determining their DBE commitment level, the Department has reviewed the estimates for this contract and has established an aspirational goal of 14.4% DBE usage. Although not a contract requirement, the Department believes that the aspirational goal can realistically be achieved through race neutral measures based on current availability of DBEs and standard competitive procurement

processes. While the utilization is not mandatory to be awarded the project, continuing utilization of DBE firms on contracts supports the success of Montana's DBE Program.

Any project listing a 0% DBE aspirational goal does not mean that a DBE may not be used on that project. A 0% DBE aspirational goal may have been established due to any of the following reasons:

- Limited identified subcontracting opportunities;
- Minimal contract days; and/or,
- Small contract dollar amount.

Contractors are encouraged to identify any opportunities to subcontract to DBEs. The Department's DBE directory may be found at the following website: https://app.mdt.mt.gov/ess-dbe/.

9. SOIL BORING INFORMATION [102] (REVISED 1-16-14)

The Department routinely conducts subsurface investigations and laboratory testing to collect soil, rock and groundwater information ("geotechnical information") within the anticipated limits of upcoming projects and maintains a comprehensive set of this information in its geotechnical file. For this contract, geotechnical information has been collected by the Department and logs of boring summarizing this information have been included in the Special Provisions and Plans. "Logs of Borings" in the Special Provisions and Plans are based on an interpretation of the field investigation and laboratory testing data, and do not include all the geotechnical information that may be available. The geotechnical information contained in the "Logs of Borings" has been edited or abridged and may not reveal all the geotechnical information which might be useful or of interest to the bidder.

The comprehensive set of geotechnical information is considered too voluminous to include in the bidding package. The geotechnical information that the Department has is available for review or copying upon request. Rock core samples are regularly retained as well. All bidders are expected to fully review all of the geotechnical information prior to submitting their bid. The prime bidder is responsible for ensuring that a firm submitting a subcontractor quote for the prime's use is aware of all available geotechnical information.

Submission of a bid without fully reviewing the Department's comprehensive set of geotechnical information or accepting a quote from a subcontractor without verifying that the subcontractor reviewed all available geotechnical information is a business decision by the bidder. Failing to fully review all available geotechnical information waives the contractor from making any claim, whether termed "superior knowledge", "justifiable reliance", "differing site condition", or otherwise, against the Department for any information that may be included in the comprehensive geotechnical information file and not shown, or not fully shown, in the "Logs of Borings" contained in the contract documents.

Soil, rock, and groundwater conditions shown on the logs of boring apply only at the specific boring locations and at the time the borings were made. They are not warranted to be representative of subsurface conditions at other locations or times. Groundwater conditions commonly vary seasonally and from that encountered during drilling. Determination of a material's classification is based in part on judgment and opinion. The Department assumes no responsibility for any variation or misinterpretation of the classification of materials.

Utilize the Question and Answer forum to request additional geotechnical information or to submit questions regarding the geotechnical information. To review all available geotechnical information, submit a request in writing to the Department's Geotechnical Section to schedule a time to review the available geotechnical information. Requests for access should be made a minimum of 10 business days prior to the bid opening.

10. BIDDER'S PROPOSED AGGREGATE SOURCE(S) [103] (REVISED 4-28-22)

No later than 7 calendar days after the date of bid-opening (the date of bid opening to count as the first full day), submit to ECCB form MDT-CON-106-02-3 in accordance with Subsection 103.11.

11. PARTNERING [105] (ADDED 1-11-24 M)

In accordance with Subsection 105.05.1, this contract requires Level (II) facilitation.

12. STEEL PRICE ADJUSTMENT [106] (REVISED 11-14-24)

In accordance with Subsection 106.09.1, the base price per pound of steel for this contract is: $1.05.

13. BUILD AMERICA, BUY AMERICA (BABA) [106] (REVISED 1-11-24)

Furnish construction materials manufactured in the United States. Construction materials include articles, materials, or supplies that are or consist primarily of:

- Non-ferrous metals.
- Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables).
- Glass (including optic glass).
- Fiber optic cable (including drop cable).
- Optical fiber.
- Lumber.
- Drywall, and
- Engineered wood.

Construction materials exclude cement and cementitious materials, aggregates including stone, sand, or gravel, or aggregate binding agents (e.g., asphalt binder) or additives (e.g., polymer modifiers and admixtures).

Manufacturing processes for the construction material must occur in the United States. Manufacturing processes for each of the bulleted construction materials above are defined in 2 CFR 184.6 and are summarized below.

a) Non-ferrous metals: Initial smelting or melting through final shaping, coating, and assembly.

b) Plastics: Initial combination of plastic, polymer based, or composite materials until item is in its final form.

c) Glass: Initial batching and melting, annealing, cooling, and cutting.

d) Fiber Optic Cable: Initial ribboning, buffering, and fiber stranding and jacketing.

e) Optical Fiber: Initial preform fabrication through completion of draw.

f) Lumber: Initial debarking, treatment, and planing.

g) Drywall: Initial blending of gypsum, cutting, and drying of sandwiched panels.

h) Engineered Wood: Initial combination of constituents until item is in its final form.

BABA preference applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to a project. It does not apply to tools, equipment, and supplies brought to the construction site and removed at or before the completion of the project (e.g., temporary aluminum scaffolding). Buy America preference does not apply to equipment and furnishings that are used at or within the finished infrastructure project but are not permanently affixed to the structure (e.g., movable chairs, desks, or computer equipment used at or within the project but are not integral or permanently affixed to a structure).

2 CFR 184 applies to all construction materials on projects receiving federal financial assistance funds. Submit Form MDT-MAT-407 "Manufacturer's Certificate of Compliance" for every material identified as a construction material in the Department's Materials Manual Section MT 601 furnished to the project. For all other materials, documentation will be required upon request. Do not incorporate construction materials into the project until all required

documentation is submitted to the Department. Ensure that suppliers and manufacturers understand the BABA and contract requirements to supply the required documentation.

The Department will not accept items installed until all supporting documentation has been reviewed and is found to be in accordance with the contract requirements. Insufficient or unavailable documentation or documentation showing products containing construction materials of foreign origin are grounds for removal and replacement at the contractor's expense.

The Department has designated contract materials as "construction materials" by their respective 9-digit material codes in section MT 601 of the Montana Materials Manual. However, the Department recognizes there will be situations where a product or material may not fit the designation indicated in section MT 601. In these cases, submit documentation demonstrating or justifying the supplier or manufacturer's position that their specific item has been misclassified to the Project Manager at least 10 business days in advance of installation. The Department, in conjunction with FHWA, will review the submitted documentation and decide as to how that specific product or material will be classified. These determinations will be final and will require the appropriate necessary documentation as defined above.

The US DOT has found that it is in the public interest to issue a waiver of BABA's domestic preferences in certain situations. For Construction Materials, the domestic preference may be waived if the total value of non-compliant material is under $1,000,000 or 5% of the total applicable project costs, whichever is less. Submit actual individual material costs, minus manufacturing costs outside the defined manufacturing processes outlined above, along with justification in the form of invoices, bills of lading, or other appropriate documents to the Department if requesting the waiver.

The above waiver does not apply to iron and steel and the existing de minimis standard for iron and steel under 23 CFR 635.410(b)(4) continues to apply.

Projects with a total contract value of $500,000 or less are exempt from all domestic preference regulations including steel and iron.

14. DEPARTMENT CONSTRUCTION TRAINING [108] (REVISED 4-24-25 M)

Do not work during the Department's statewide construction training which will be held March 2, 2026 through March 6, 2026. No time will be charged for Contracts with active construction during this period.

15. NOTICE TO BIDDERS [108] (ADDED 11-21-08)

This project is funded in whole or in part by funds received from the Federal Highway Administration (FHWA), and its construction is wholly contingent on the state's continued receipt of those federal funds. If the federal funds are reduced or not received, the Department may choose to terminate the contract for convenience under the provisions of Subsection 108.10. Any bidder on this project, by submitting its bid, understands and accepts the possibility of the contract being terminated in the event federal funds are reduced or not available and by submitting a bid, each bidder waives any claims for costs or damages other than as specifically allowed by Subsection 108.10.2. In particular, bidders understand and accept that no payment will be allowed for any claimed anticipated profit for work not performed.

16. SPECIALTY ITEMS [108] (ADDED 4-15-08)

The project has work items that are specialty items as defined in 23CFR635.102. Specialty items are listed in the following table.

| TABLE 108-2<br>SPECIALTY ITEMS | |
|---|---|
| Pre-Cast Vaulted Toilets | |
| Pre-Cast Maintenance Building | |

17. ENVIRONMENTAL SPECIFICATIONS [208]

The Contractor is required to review and meet the specifications of the following subsections:

| | |
|---|---|
| Aquatic Resource Protection | Subsection 208.03.2 |
| AIS Watercraft and Equipment Inspection | Subsection 208.03.2D |
| Migratory Bird Treaty Act – Vegetation Removal | Subsection 208.03.4A(1) |
| Migratory Bird Treaty Act – Structures | Subsection 208.03.4A(2) |
| Migratory Bird Treaty Act – Structure Maintenance | Subsection 208.03.4A(3) |

18. STORM WATER PERMITTING REQUIREMENTS UNDER THE MT POLLUTANT DISCHARGE ELIMINATION SYSTEM (MPDES) [208] (REVISED 8-10-23)

A. Description. The DEQ regulates storm water discharges under the MPDES program. If the bid package contains blank erosion control plans, a construction storm water discharge permit authorization will be required. If not, a storm water discharge permit authorization may be required for this project depending on Contractor's operations. Sum the disturbance area (as defined by DEQ) identified in the contract with the area of disturbance caused by contractor operations to determine if the permit acreage threshold is exceeded. Contractor operations can include, but are not limited to, the following support activities: staging areas, access roads, material storage areas, temporary concrete, or asphalt batch plants, borrow areas, areas used for fill placement, etc. If the summed disturbance area is one acre or more, use the DEQ authorization to discharge under the MPDES General Permit for Storm Water Discharges Associated with Construction Activity (General Permit) for this project. In order to facilitate permit transfer, separate NOI packages are required for areas within the right-of-way and areas outside of the right-of-way. A NOI package includes a Notice of Intent, with a topographic map, a SWPPP, the erosion control plans, sage grouse consultation letter, if applicable, and supporting documentation.

Blank Erosion Control Plans, and a topographic map, are provided with the plans if the plans include greater than 1 acre of disturbance. Complete the erosion control plans as required by the general permit. Complete the SWPPP using DEQ's most current SWPPP Form.

B. Materials. Follow the requirements described in the Department's *Erosion and Sediment Control Best Management Practices Manual (December 2016).* Rescind Section 208 detailed drawings. Submit to the Project Manager for review and acceptance BMPs proposed for use that are not included in the Manual.

C. Construction Requirements.

1) MPDES Permit Required.

a) Submit one NOI package and the associated fees to DEQ for ground disturbance areas shown in the plans or within the right-of-way. For ground disturbance areas shown in the plans and any other areas within the right-of-way where Contractor activities causing ground disturbance are planned, the Contractor is the sole permittee until construction is complete and the General Permit is transferred to the Department or another entity.

The Department is not responsible for delays caused by incomplete or inaccurate submittals by the Contractor.

Comply with the requirements of the General Permit and implement the SWPPP. Provide an electronic copy of the NOI Package submitted to DEQ and confirmation for receipt of a complete NOI Package from DEQ to the Project Manager prior to conducting any ground disturbance activities.

Do not begin construction activities until the required copy of the NOI Package submitted to DEQ and confirmation for receipt of a complete NOI Package from DEQ is received by the Project Manager.

b) Furnish and install public signage as required by the General Permit. Include the cost of the required sign(s) in the Temporary Erosion Control Lump Sum bid item. Submit a separate NOI package and the associated fees to DEQ for ground disturbance and support activity areas outside the right-of-way and not shown in the plans. Contractor furnished material sources, staging areas, plant sites, or any other Contractor caused ground disturbance outside the right-of-way and not shown in the plans, are the Contractor's responsibility and must be submitted under a separate NOI package from the ground disturbance within the right-of-way. For all support activities outside the right-of-way which are not part of a larger commercial operation serving multiple unrelated construction activities and will not continue operation beyond the completion of the contracted road construction activity, a notice of intent package must be submitted to DEQ to obtain an authorization under the General Permit. Sand and gravel borrow area operations, gravel pits, and/or concrete batch plants that will continue operation beyond the completion of the contracted road project, are part of a larger commercial operation, or serving multiple unrelated construction activities, must obtain permit coverage under the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity (MSGP) regardless of acreage size of the activity if the activity does not already have MSGP authorization. The Contractor is the sole permittee until stabilization is complete and the General Permit is terminated or transferred to another entity. The Department is not responsible for delays caused by incomplete or inaccurate submittals to DEQ by the Contractor.

Provide copies of all NOI Packages submitted to DEQ and confirmations for receipt of complete NOI Packages from DEQ to the Project Manager prior to conducting any ground disturbance activities.

Be responsible for all temporary erosion, sediment, and pollution prevention controls for Contractor furnished material sources, staging areas, plant sites, or any other Contractor caused ground disturbance outside the right-of-way and not shown in the plans.

c) Complete and document all inspections in accordance with the requirements of the General Permit. Use DEQ’s most current self-inspection form available online at: https://deq.mt.gov/files/Water/WQInfo/Documents/WPBForms/2023-Attachment-B-MTR100000.pdf. Provide a copy of all inspection reports to the Project Manager within 7 calendar days of the inspection.

Report potential noncompliance in accordance with applicable regulations, guidance, and permit conditions. Submit to the Project Manager within 7 calendar days of sending or receiving all correspondence to or from regulatory agencies regarding potential noncompliance or violations.

The temporary erosion and sediment control measures and devices to prevent pollution and control sediment transport and soil erosion will be inspected as part of the final inspection to ensure they are maintained and functioning properly. Do not transfer or terminate the General Permit coverage until the BMPs are inspected and accepted and all records required under the permit, including inspection and monitoring reports, are furnished to the Project Manager and authorization is received from the Department. The Department may require that certain BMPs be replaced by another type of BMP as a condition of permit transfer.

Upon approval of site conditions, measures, devices and all pertinent records, the Department will notify the Contractor to begin the Permit Transfer Notification in DEQ FACTS. Once completed, provide verification that all fees have been paid and the permit is ready for transfer in DEQ FACTS. The Department is not liable for the completeness or accuracy of Contractor records completed prior to the permit transfer. Ensure permit conditions and responsibilities are met until confirmation of the transfer is received from DEQ. Defend and hold the Department harmless from any violations, claims, enforcement actions, penalties or fines issued for Contractor activities or recordkeeping that occurred prior to the transfer of the General Permit.

If the Department concurs that final stabilization has been met during the final walk-through, the Contractor may submit a Notice of Termination form to DEQ. Pay the annual fee

invoice due at the time of termination. Submit the annual fee invoice to the Project Manager for reimbursement.

2) MPDES Permit not Required.

The BMP-Administration item is included in contracts that may not meet either criteria for an MPDES permit but include ground disturbing activities. Complete BMP inspections and install BMPs, if necessary, in accordance with Section 208, if no storm water permit is required. Utilize form MDT-ENV-014, Water Pollution Control Inspection Report. A certified SWPPP Administrator is not required to conduct the inspections if no permit is required.

D. Method of Measurement. DEQ MPDES fees and monitoring costs associated with obtaining and maintaining the General Permit for ground disturbance areas both within and outside the right-of-way are not measured separately for payment.

If no permit is necessary, include the cost of all erosion control, devices, and inspections in the BMP-Administration bid item.

E. Basis of Payment. No additional payment will be made for the DEQ MPDES fees and monitoring costs associated with the General Permit. Include these costs in the Temporary Erosion Control-Lump Sum bid item.

For project including the BMP-Administration item, include the cost of all erosion control, devices, and inspections in the BMP-Administration bid item. Partial payment for the BMP-Administration will be monthly based on the lump sum contract price in accordance with Table 208-2 in Subsection 208.05.1.

Payment for BMPs required by an event or extra work, and approved by the Project Manager, will be measured and paid for in accordance with the Erosion Control Rate Schedule contained in the contract at a unit price of $1.00 per unit.

19. INCREASE IN TURBIDITY [208] (REVISED 10-8-15)

A. Description. Montana Fish, Wildlife and Parks (FWP) has determined that this project may cause a significant increase in turbidity.

B. Requirement. Contact the Department of Environmental Quality (DEQ) to determine narrative conditions required to meet short-term (318 Authorization) water quality standards and protect aquatic biota.

1) Complete and submit the Joint Application for Proposed Work in Montana's Streams, Wetlands, Floodplains, and Other Water Bodies (Application Revised 6-5-2015) and all required attachments, according to the applications instructions. Form can be down loaded from: http://dnrc.mt.gov/licenses-and-permits/stream-permitting.

2) Application fees are the responsibility of the Contractor.

3) Do not begin any work that will affect a Montana stream, wetland, floodplain, and/or other water body until a valid 318 Authorization is received from DEQ. Other permits/authorizations may also be required for the proposed work.

C. Basis of payment. Include the cost to obtain this permit in the mobilization bid item.

20. GRIZZLY BEAR – ENDANGERED SPECIES ACT

A. Description. This project is located within grizzly bear habitat. Comply with this provision to minimize impacts to the grizzly bear, which is a federally listed species under the Endangered Species Act. Not following the conditions set forth in this special provision may result in a violation of the Endangered Species Act.

B. Requirements.

1) Do not perform work between 9:00 PM and 6:00 AM. Nighttime traffic control is not subject to this restriction.

2) Follow the requirements of Subsection 208.03.4(E) for all project activities:

a) Promptly clean up any project related spills or debris.

b) Camping is allowed in designated camping areas only.

c) Store all food, food related items, petroleum products, antifreeze, garbage and personal hygiene items in a closed, hard-sided vehicle or commercially manufactured bear resistant container.

d) Remove garbage from the project site daily and dispose of it in accordance with all applicable regulations.

3) Notify the Project Manager of any animal carcasses found in the area. The Project Manager will contact MDT Maintenance to promptly remove and dispose of carcasses.

4) Notify the Project Manager of any bears observed in the vicinity of the project. The Project Manager will promptly inform the MDT District Biologist of bear observations.

5) Conduct project-related activities outside of construction limits in accordance with the requirements above and Subsection 208.03.4(E).

C. Measurement and Basis of Payment. Requirements in this provision are not measured for payment.

21. STREAM PROTECTION ACT 124 [208]

A. Description. The proposed project has been authorized by Preconstruction Stream Protection Act (SPA) 124 No.: MDT-R3-01-2025, by the Montana Department of Fish, Wildlife, and Parks (FWP); provided the General and Special Conditions listed below are followed. This Preconstruction SPA 124 authorizes the permanent features at the following locations:

| Station | Waterbody |
|---|---|
| 0+11.4 | unnamed stream |

B. General Conditions

1) Meet the specifications listed in Subsection 208.03.3.

Copies of the Preconstruction SPA 124 Authorization are available upon request from Environmental Services.

Contact the Project Manager for coordination with the District Biologist on questions regarding this authorization.

22. CLEAN WATER ACT SECTION 404 PERMIT AND SECTION 401 CERTIFICATION

A. Description. This provision describes the project work that has been authorized under Sections 404 and 401 of the Clean Water Act (CWA) and the associated conditions that must be adhered to for compliance with CWA requirements.

B. Section 404 CWA Nationwide Permit 3 Description. The permanent features of this project are authorized under a US Army Corps of Engineers Nationwide Permit 3 – Maintenance.

1) The permit for this project authorizes the following project work to be performed within waters of the US.

a) Replacement of the culvert which conveys an unnamed drainage across I-90 and outfalls into Homestake Creek at approximately station 7+47. Section 20, Township 2N, and Range 6W. Latitude 45°54'53.8"N, Longitude 112°22'32.3"W

2) This authorization is valid until March 14, 2026.

3) Obtain the Nationwide Permit 3 Fact Sheet that fully describes the Nationwide Permit 3 and lists the General Conditions that must be adhered to for this authorization to remain valid. Adhere to the General Conditions.

4) Obtain the 2021 Nationwide Permit Regional Conditions for the State of Montana, Omaha District – Corps of Engineers, Effective February 25, 2022, that also apply to this project and must be adhered to for this authorization to remain valid. Adhere to the Regional Conditions.

C. Section 404 CWA Nationwide Permit 33 Description. Obtain authorization for the temporary features of this project (e.g. work bridges, work pads, cofferdams, diversions, etc.) under a US Army Corps of Engineers Nationwide Permit 33 – Temporary Construction, Access, and Dewatering.

1) Acquire an additional Section 404 Permit and 401 Certification for temporary facilities involving placement of fill in waters of the US. MDT is not responsible for delays caused by incomplete or inaccurate submittals by the Contractor. Submit a joint application in accordance with Section 208.03.3 for projects:

a) Within the following waterways and their impoundments: Kootenai River, Missouri River, Yellowstone River, Bitterroot River, Clark Fork River (tributary to the Columbia River), Flathead River, Flathead Lake, and Milk River;

b) Located within 100 feet of the water source in natural spring areas;

c) Within the boundaries of any Tribal Reservation or Tribal trust lands;

d) Within Special River Management Zone of the Upper Yellowstone River.

D. CWA Section 401 Water Quality Certification is granted for Nationwide Permit 3 by the Montana Department of Environmental Quality (DEQ), provided that certain general and special conditions are met.

1) Obtain the water quality certification requirements issued by DEQ on December 14, 2020. Adhere to those general and special conditions.

2) Notification in accordance with General Condition E.1 has been fulfilled by MDT.

E. Copies of the Fact Sheet for Nationwide Permit 3, the 2021 Nationwide Permit Regional Conditions for the State of Montana, and the 401 General Conditions for Nationwide Permits are available upon request from Environmental Services or on the web at http://www.mdt.mt.gov/business/contracting/environmental/cwa.shtml

Coordinate with the engineering project manager if you have questions regarding this authorization. Proposed changes to the permanent structures should be directed to the project manager for coordination with the District Project Development Engineer in the Environmental Services Bureau. Temporary facility permitting and/or general permit questions should be directed to the project manager for coordination with the District Environmental Engineering Specialist.

23. PLANT MIX SURFACING MIX DESIGN TRANSFERS [401] (ADDED 5/15/2025)

Submit a mix design in accordance with Section 401. The following mix design considerations will be made for contracts requiring binder meeting the requirements of AASHTO M 332.

1) For contracts specifying 58V-34 or 58H-34, an unexpired, verified and approved PG 70-28 mix design may be considered for transfer provided it is modified to use the contract specified M 332 MSCR binder.

2) For contracts specifying 58H-34, an unexpired, verified and approved PG 64-28 or 58V-34 mix design may be considered for transfer provided it is modified to use the contract specified M 332 MSCR binder.

3) For contracts specifying 58S-34, an unexpired, verified and approved mix design utilizing the binder grades above will be considered for transfer provided it is modified to use the contract specified M 332 MSCR binder.

The contract specified binder will not be changed and not all mix designs described above may be eligible for transfer. Submit form MDT-MAT-009 to document the original mix design change of binder grade to the contract specified M 332 binder grade.

24. INSPECTION FEES

Provide payment to the appropriate inspecting agency for completing inspections for the work associated with this project. State, county, and local inspections are required for the vaulted toilets, electrical work, and other project work. Retain a receipt from the inspecting

agency for reimbursement through the project manager. Reimbursement will be paid through miscellaneous work on the actual permit cost basis. No additional compensation will be allowed for complying with this provision.

25. MONTANA PUBLIC WORKS STANDARD SPECIFICATIONS AND STANDARD DRAWINGS (MPWSS)

These contract documents include sections and standard drawings of the Montana Public Works Standard Specifications Sixth Edition, dated April 2010. References to the standards are abbreviated MPWSS. MPWSS sections and standard drawings referenced herein are changed or supplemented as described within these contract drawings and specifications.

The Owner or Project Manager will not furnish copies of the MPWSS to bidders and/or Contractors.

26. DEMOLITION NOTIFICATION

A. Description. Before demolition of structures in Montana, submit a notification form to the Montana DEQ Asbestos Control Program. The Montana Demolition Notification form MTACP02 is available through the program internet site at http://deq.mt.gov/Public/asbestos/Forms. Direct questions regarding this special construction to the Project Manager (PM).

1) An inspection of the West and East Bound Homestake Pass Truck Parking Area structures have been conducted, and the sampling of suspect materials. No asbestos-containing materials have been identified. A copy of the asbestos inspection is available from the PM. Review the inspection, verify that the condition of materials in the structures has not changed since the inspection and that the sample quantities and analytical methods conform to ARM 17.74.354, and certify the inspection with a licensed inspector before submitting the Demolition Notification Form.

B. Construction. Submit the completed form to DEQ and the project PM at least 10 days before the commencement of any demolition activities. Provide a copy of the notification acknowledgment to the PM upon receipt from the DEQ. Maintain a copy of the Asbestos Inspection Report on-site during demolition.

C. Method of Measurement and Basis of Payment. Measurement and payment for the notification are included in other items.

27. PRE-CAST CONCRETE VAULT TOILET AND MAINTENANCE BUILDING

A. Description. Provide and install double vaulted toilet structures and maintenance buildings at the locations and elevations shown in the plans.

B. Design Criteria.

1) Floor Plan. Provide access to both toilets in the front of the structure and the front of the maintenance buildings in a layout like the structure shown in the plans.

Provide a toilet structure such that the inside dimensions of the toilets meet or exceed the minimum requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and provide adequate access to the toilet.

Submit a structure floor plan for toilet vault structures and maintenance buildings showing the location and dimensions of key design components, such as the toilet riser, doors, windows, clean-outs, grab bars, etc., to the Project Manager for approval a minimum of 20 business days before the anticipated structure fabrication.

2) Structural Criteria. Perform the structure design under the supervision of a professional engineer registered in the state of Montana. At least 20 business days before structure fabrication, submit calculations and stamped drawings to the Project Manager for approval. Unless site-specific design loadings are provided in submitted engineering calculations, design the vaulted toilets to meet the following criteria:

a) Site class D, design category D seismic loading.

b) Resist a snow load of 250 pounds per square foot of roof.

c) Resist a dead load of 60 pounds per square foot of roof.

d) Resist a sustained wind load of 120 MPH and a 3-second gust of 180 MPH (with wind exposure group “C”).

e) Resist all dead loads and a 250-pound per square foot live load on the building floor.

f) Slope the roof from front to back or from the middle to the sides so that the roof drainage is directed away from the front of the building. Provide a minimum eave of 12 inches around the entire building perimeter.

g) Provide separate vaults for each toilet with separate exterior cleanouts.

C. Materials and Products.

1) Vaults. Provide separate vaults for each toilet and construct them in one piece from precast reinforced concrete. Provide vaults holding a minimum of 1200 gallons and coated with XYPEX or approved equal treatment. Apply the coating in accordance with the manufacturer’s recommendations and ensure it is free of Volatile Organic Compounds. Construct concrete vaults of sufficient wall thickness and strength to resist loads from the vaulted toilet superstructure, hydrostatic forces, lateral soil loads, and uplift from groundwater.

Provide an exterior clean-out of a minimum size of 24 inches by 18 inches, located in an exterior slab for each toilet vault. Fabricate the exterior vault clean-out cover from a minimum of 1/4 inch thick steel. Provide a hinged lid and configuration so that it can be locked with a standard padlock. Paint the cover, hinges, and locking device in accordance with the finishes section of this specification. Provide a neoprene gasket around the entire perimeter of the lid to provide an airtight seal. Secure the gasket to the steel cover or concrete vault to prevent it from being displaced. Provide a standard padlock and key(s) to the Project Manager for each clean-out.

2) Odor Elimination. Follow U.S. Forest Service Sweet Smelling Technology – Publication Number 9123 1601 in developing the building design. Provide exhaust pipes made from Polyethylene (PE) plastic pipe, 12-inch nominal size diameter with a minimum wall thickness of 0.392 inches. Provide black UV-stabilized exhaust pipes with a minimum of 2% carbon black. Provide a screen at the top of the exhaust pipes using screens from the Teton Raptor Center or an approved equal.

Seal the exhaust pipes with silicone caulk at all openings through the concrete vault, floor, and roof. Extend the exhaust pipes at least 12 inches above the roof of the building.

3) Finishes. Construct the walls, roof, and floor of the structure from concrete. Coat the interior walls and ceiling with a white-colored, modified acrylic, water-repellant, penetrating stain. Provide a non-slip floor surface that will accommodate standard custodial practices. Add silica sand to the paint or have a textured finish on the concrete to construct the non-slip surface.

Apply a low-gloss clear sealer to the exterior slab surfaces and roof using Armor WB15 or an approved equal. For weatherproofing the exterior walls, apply a transparent, non-yellowing methyl methacrylate resin sealer, a minimum of 20% solids. Provide a sealer with a low-luster finish consisting of two coats of Fosroc Preco, Nitoflor FC550, or an approved equal.

Provide a paint system for interior and exterior metal surfaces, including doors, consisting of one coat of primer and two coats of semi-gloss alkyd enamel applied in accordance with the manufacturer’s recommendations. An approved powder coating may be used as an alternative to painting the window frames, doors, door frames, and clean-out covers. Submit a plan for all finishes to the Project Manager for approval at least 20 business days before structure fabrication.

4) Toilet Riser and Floor Construction. Provide a toilet riser with a seamless design using a cross-linked polyethylene material, complete with molded plastic heavy-duty open front seat and cover assembly. Provide a riser white in color with an air-tight, stable fit in the concrete floor slab. Fabricate the toilet riser so the top of the closed riser, seat, and cover height is

between 17 and 19 inches from the floor without using shims, spacers, or other devices. Size the floor opening for the riser with a minimum gap and provide a snug fit to prevent rocking or other movement of the riser. Apply silicone caulk between the riser and concrete floor slab before installation. Apply a bead of silicone caulk to the joint between the riser and the floor after the riser is placed in the floor slab.

Slope the floor to provide drainage toward and through the door opening to facilitate cleaning and maintenance. If possible, provide a desirable maximum floor slope of 1.5%. In any case, do not exceed 2% floor slope in any direction. Form and pour the floor monolithically to achieve this slope. Provide a grouted, curved transition between the floor and the wall to facilitate cleaning and maintenance.

5) Grab Bars. Provide stainless steel grab bars with a 1-1/2 inch outside diameter and a 1-1/2 inch clearance between the bar and wall when mounted. Do not deviate from this clearance by more than 1/8 of an inch along the length of the grab bar. Provide grab bars and mountings that withstand a minimum of 300 pounds-force of top loading and 300 pounds of horizontal pull-out load. Use cast-in-place inserts to mount and anchor grab bars. Conceal mounting screws to prevent removal and vandalism. Provide grab bar lengths and locations in accordance with the ADAAG standards based on the toilet riser configuration.

6) Toilet Paper Dispensers. Install a minimum of two toilet paper dispensers in each toilet. Construct each dispenser from at least 1/4 inch steel with a rust-proof finish. Construct each dispenser to hold three standard rolls of toilet paper and be equipped with a friction device to reduce waste. Provide dispensers consisting of a slide bar type device where the bar can be easily removed to install a paper roll and have a 3/8 inch diameter hole to accommodate a standard padlock. Provide dispensers that withstand a minimum of 300 pounds-force of top loading and 300 pounds of horizontal pull-out load. Use cast-in-place inserts to mount and anchor the dispensers. Conceal mounting screws to prevent removal and vandalism. Locate the dispenser a minimum of 19 inches above the floor at an accessible location near the toilet. Provide standard padlocks and key(s) for each dispenser to the Project Manager.

7) Doors. Provide standard 36-inch wide exterior doors for the toilets and maintenance building. Provide flush panel type doors, 1-3/4 inches thick, with a minimum of 18 gauge prime- coated steel panels and a minimum of 16 gauge internal bracing channels with a fiberglass insulation core. Provide knockdown or welded-type door frames, single rabbet, with a minimum of 16 gauge prime-coated steel and a width compatible with the wall thickness. Provide rubber door silencers on the latch side of the door frame.

Provide three door hinges per door, with adjustable tension, 4-1/2 inches by 4-1/2 inches in size, with an automatic closing feature. Provide a door design that requires a maximum opening and closing force of 5 pounds force. Provide hinges with a finish compatible with the door handles.

Provide a passage-type lockset with both levers always unlocked for the two toilet doors. The inside and outside handles shall meet ADAAG specifications and be 5 inches long, with a U.S. 26D or 32D finish. Provide Best locksets for the two toilet doors. To lock the toilet doors, provide a National 151-118 Series B-832 slide bar with a 3/8-inch hole drilled in the bar for a standard padlock. Mount the slide bar on the exterior with 1/4-inch steel pop rivets approximately 6 feet above the finished floor.

For the maintenance building, provide a Best deadbolt lockset. Provide the project manager with all hardware and installation of the lockset and three sets of keys.

Provide door louvers on the toilet doors in each structure. Provide a 16 gauge cold-rolled steel security grille to protect the louvers from vandalism. Provide louvers with a fixed, inverted split Y, non-vision design fabricated from 18 gauge cold-rolled steel with a factory prime coat. Install an insect screen between louvers. Place the bottom of the louver 9 inches above the bottom of the door. Paint doors in accordance with the finishes section of this specification.

Provide door stops on all doors in each structure. Place door stops consisting of a durable bumper on the wall or door to prevent damage to the siding. Provide door stops with a

metal base and concave shape. Do not use ground-mounted stops due to the potential for tripping hazards. Provide an adjustable brush-type door sweep at the bottom of all doors.

8) Windows. Construct window frames from steel and paint per the finishes section of these specifications. Provide window glazing that is 1/4 inch thick, has a clear polycarbonate pebble finish, and is secured to the window frame with tamper-proof bolts.

9) Signage. Fabricate and place an interior sign in each toilet stating: “Please do not place trash in the toilet. It is extremely difficult and expensive to remove. Thank you.”

Fabricate the sign with 1-1/2 inch high letters. Locate the sign on a recessed wall area with beveled edges and mount the sign with tamper-proof mechanical fasteners to resist vandalism.

Exterior signage is required to denote a Unisex facility and Handicapped Accessibility. Locate the signs in a recessed wall area with beveled edges and mount the signs with tamper-proof mechanical fasteners to resist vandalism.

Place an interior sign stating the following in the maintenance building: “NON-POTABLE WATER DO NOT DRINK”. Additional details for this sign are included in the water system plans.

Locate a sign stating the following on the exterior of the maintenance building door: “AUTHORIZED PERSONNEL ONLY”. Fabricate the sign with 1-1/2 inch high letters. Mount the sign with tamper-proof mechanical fasteners to resist vandalism.

Alternative methods for mounting all signs may be proposed and will be evaluated based on resistance to tampering, theft, and vandalism.

10) Electrical. Comply with the National Electrical Code, State of Montana Electrical Code, National Electrical Safety Code, and all local, county, state, and federal codes, regulations, and ordinances.

Provide interior lighting fixtures and motion-activated switches in both toilets and the maintenance building. Provide fixtures and switches in the toilets that are water-resistant and resistant to vandalism. Provide fixtures and switches in the maintenance building that are water-resistant. Provide a specification-grade, heavy-duty, duplex 20 amp, 125 volts GFI receptacle with a weather-resistant cover plate in the maintenance building.

Complete all electrical work during building fabrication and on-site under the direction of a licensed electrician.

11) Suppliers. Known suppliers of vaulted toilets include, but are not limited to, the following companies:

Flathead Concrete Products Inc. Attention: Ric Reed
2940 Highway 2 East
Kalispell, MT 59901
rreed@flatheadconcrete.com
406-752-4259

Missoula Concrete Construction Attention: Garrett Wilson
8012 Deschamps Ln.
Missoula, MT 59808
gwilson@missoulaconcrete.com
406-549-9682

D. Construction Requirements. Install structures at the locations and elevations shown in the plans. Prepare foundations and backfill excavations per the manufacturer’s specifications and meet the approval of the Engineer. Complete the fabrication and final structure assembly to produce walls, ceilings, floors, and joints that are flush and do not have grooves, niches, gaps, or major voids. The entire finished structure – including doors, windows, and all other openings, must prohibit access to insects with openings no greater than 1/16 inch.

Submit the appropriate Materials Bureau Form 406 to document compliance with the Buy America specifications and other contract requirements for steel and other miscellaneous items incorporated into the vaulted toilets. Provide the Project Manager with the applicable completed Form 406 a minimum of 20 business days prior to beginning fabrication. Attach all required documentation to the form.

Field inspection of many precast concrete products and prefabricated steel products will take place at the point of manufacture. The District Lab, Helena Materials Bureau, or Department Representative will inspect the manufacture of these items and collect and maintain supporting documentation. Submittal of Form 406 is not required when inspection of the manufactured/fabricated product is made at the point of production and documented by the Department with a Form 19A (precast concrete products) or fabricated steel product inspection report. The manufacturer is to provide all supporting documentation at the point of production.

E. Method of Measurement. The entire Vaulted Toilet structure or maintenance building, as described above, is measured per each.

F. Basis of Payment. Include the cost of all resources necessary to complete the work for the vaulted toilets, including fabrication, transportation, vault excavation and disposal of excavated material, foundation preparation and excavation backfill, and all structural assembly, including electrical work, in the contract unit price for Miscellaneous Items-Each paid per each.

Include the cost of all resources necessary to complete the work for the maintenance buildings, including fabrication, transportation, excavation and disposal of excavated material, foundation preparation and excavation backfill, and all structural assembly, including electrical work, in the contract unit price for Miscellaneous Items-Each paid per each.

28. TRASH RECEPTACLES

A. Description. Provide and install bear-resistant, ADA-compliant trash receptacles as shown in the plans and manufactured as specified below. Coordinate with the receptacle manufacturer to allow timely delivery and installation.

B. Materials and Design Criteria.

1) Basic Design. Provide trash receptacles following the basic design shown in the plans and described within this provision. An approved proprietary product will be used for the bear-resistant, ADA-compliant trash receptacles.

The following approved product will be used: BearSaver – CE/HA Series Single Trash Enclosure with wide loading chute, ADA-compliant, item #: HA-CH.

The label on the wide loading chute will display “TRASH”. The container color will be Forest Brown. The label and container color may be substituted at the discretion of the Project Manager.

2) Exterior sealer/finish. Ensure an application of cold galvanizing compound, followed by a textured powder coat is applied to the trash receptacles per the manufacturer’s specifications during the manufacturing process.

3) Trash Receptacle Anchor. Anchor trash receptacles to the concrete pad per the manufacturer’s specifications. The trash receptacles will be placed on 6” concrete and 6” crushed aggregate course. Use reinforcing steel within the concrete pad following the manufacturer’s specifications.

4) Structural Criteria. Assure that the trash receptacles meet the basic design and will withstand additional stresses incurred during fabrication, transportation, and placement. Reject warped, cracked, broken, stained, and otherwise defective receptacles.

5) Manufacturer. The sole approved manufacturer for the bear-resistant, ADA-compliant trash receptacles is BearSaver.

BearSaver
Attention: Steve Thompson
1390 S. Milliken Ave.

Ontario, California 91761
sales@bearsaver.com
909-212-5386 (office)
714-225-4306 (cell)

C. Construction Requirements. Install trash receptacles at the locations shown in the plans.

Submit the appropriate Materials Bureau Form 406 to document compliance with the Buy America specifications and other contract requirements for steel and other miscellaneous items incorporated into the trash receptacles. Provide the Project Manager with the applicable completed Form 406 a minimum of 20 business days prior to beginning fabrication. Attach all required documentation to the form.

Field inspection of many prefabricated steel products will take place at the point of manufacture. The District Lab, Helena Materials Bureau, or Department Representative will inspect the manufacture of these items and collect and maintain supporting documentation. Submittal of Form 406 is not required when inspection of the manufactured/fabricated product is made at the point of production and documented by the Department with a fabricated steel product inspection report. The Manufacturer is to provide all supporting documentation at the point of production.

D. Method of Measurement. The Trash Receptacle, as described above, is measured per Each.

E. Basis of Payment. Include the cost of all resources necessary to complete the work, including fabrication, transportation, installation, and all assembly in the contract unit price for Miscellaneous Items-Install paid per Each. The concrete under and around the trash receptacle is measured and paid at the contract unit price per square yard for Sidewalk-Concrete 6 In.

Crushed aggregate course and reinforcing steel are included in the cost of the Sidewalk-Concrete 6 In.

29. HISTORICAL MARKERS

A. Description. Two historical signs exist at each site and need to be removed and reset at the location shown in the plans.

B. Construction Requirements. Excavate post holes for the two posts on each sign and backfill with native material. Compact the surrounding material following standard specification 203.03.3. Install the signs at the locations shown in the plans.

C. Method of Measurement and Basis of Payment. All costs for completing this work will be included in the unit price bid for Remove Miscellaneous Items paid per each.

30. ELECTRICAL

A. Description of Work. The electrical work on this project consists of installing new luminaires at the Homestake Pass eastbound and westbound truck parking areas.

B. Equipment List and Drawings. Carry out submittals in accordance with Subsection 617.03.2 of the Standard Specifications.

C. General. Consult with the Project Manager and affected utility companies about the work prior to commencement of work. Provide the proper anchor bolt circle for all standards.

D. Description of Materials and Installation. Conform to sections 616 and 617 of the Standard Specifications for Road and Bridge Construction.

31. FOUNDATION – CONCRETE

Contour backfill away from foundations at no steeper than a 6:1 slope.

32. HIGH EFFICACY LUMINAIRE LED

A. Description. Install luminaires that use light-emitting diodes (LED) as a light source.

B. Materials. Provide luminaires with a die-cast aluminum housing and a universal four-bolt slip fitter mount. Provide luminaires utilizing arrayed discreet LEDs - COB (chip-on-board) LEDs will not be accepted. Provide luminaires with a light distribution and delivered lumens consistent with the Plans (type three distribution with 17,600 lumens). Provide luminaires with a field-adjustable drive current selector with a range of 350 milliamps to 700 milliamps. Specify a drive current setting of 450 mA (for 17,600 lumens). Submit Backlight, Uplight, and Glare (BUG) ratings. Provide luminaires that have an uplight rating of U1 or less. Provide luminaires that meet ANSI C136.37 standards for solid-state light sources. Provide luminaires with an LED optical assembly with an ingress protection rating of IP66. Provide luminaires that are photometrically tested by certified independent testing laboratories in accordance with IES LM-79 testing procedures. Use a correlated color temperature (CCT) of 4000 K and a minimum color rendering index (CRI) of 70. Use LEDs that are mercury and lead free. Use LEDs that are tested in accordance with IES LM-80 testing procedures. Use LEDs rated to produce a minimum of 90% intensity at 100,000 hours of life based on IES TM-21 (L90). Submit a TM-21 report for the LEDs. Provide a power supply with a minimum power factor of .90 and a maximum total harmonic distortion (THD) of 20% or less. Provide surge

C. protection with a minimum of ANSI/IEEE C62.41 category C protection. Wire luminaires for 240- volt operation. Provide access to electrical components without the use of tools. Provide luminaires that are UL-listed for use in wet locations. Provide a minimum 10-year manufacturer’s warranty for the entire luminaire assembly, including material, workmanship, photometrics, power supply, and LED modules. If more than 10% of the individual LEDs fail within the warranty period, the luminaire must be repaired or replaced.

D. Construction Requirements. Adjust luminaires at night to provide the best roadway lighting distribution. Adjust luminaires so they are level from side to side to limit glare.

E. Method of Measurement and Basis of Payment. Payment is for each LED Luminaire in place and operational, which includes furnishing and installing the LED Luminaire, mounting hardware, and making all necessary electrical connections. Provide any additional equipment required as part of this bid item.

33. REMOVE AND SALVAGE MISC ELECTRICAL

A. Description. Remove and salvage the existing luminaire components to the MDT maintenance yard in Butte.

B. Construction Requirements. Take care not to damage equipment. Securely attach all miscellaneous parts associated with salvaged equipment (e.g., nuts, bolts, washers) to the equipment to prevent loss or damage. Remove and dispose of the existing pole foundations, backfill/compact the holes, and restore existing surfaces to match the existing surroundings. Remove and dispose of wiring and pull boxes as directed by the project manager.

Deliver salvaged signal and luminaire equipment to the MDT maintenance yard in Butte. Contact Jim Pesanti, MDT Maintenance Chief, 406-494-9628, prior to delivery. Give five working days advance notice before delivery of salvaged equipment. Supply personnel and equipment to unload and neatly stack salvaged equipment as directed by MDT personnel. MDT personnel will not unload salvaged equipment.

C. Basis of Payment. Payment is lump sum, which includes removing and salvaging equipment and delivering it to the MDT yard.

34. SERVICE CONNECT

A new service connection is required for this project at the eastbound and westbound rest areas. Please see Plan Sheets for the proposed locations. Notify the Project Manager a

minimum of 30 calendar days before installing the service assembly so that the utility application can be started.

Refer to construction memo ENG 20-01 for additional information on the Service Application Process: https://www.mdt.mt.gov/business/contracting/memos/const_memos.shtml

35. TRENCH PLUG

A. Description. Furnish and install a trench plug using either bentonite or controlled low strength material (CLSM) as specified in the plans. The trench plug must prevent water migration through the trench backfill material for the 36" EQ. RCPA culvert.

B. Materials.

1) Bentonite. Use a finely ground commercially available bentonite with a free swell of at least 22 mm, as measured by ASTM D5890. Mix uniformly with soil screened to remove large particles and debris. The soil mixture must have an in-place permeability rate of 1x10-7 cm/sec or less. Submit a mix proportion design and certified testing results from a professional lab indicating the conformance with this permeability rate

2) CLSM. Use excavatable CLSM in accordance with MDT Standard Specification Section 551.

C. Construction Requirements. The dimensions of the trench plug are approximately 12'H x 7.5'W x 2.5'T. Center the pipe horizontally with the plug extending from either side of the pipe to the trench wall and 1.5 feet below the bottom of the existing 36" CMP to be removed. The plug should extend up to an elevation of 6,072.13 ft.

D. Method of Measurement. Trench plugs are measured by the cubic yard.

E. Basis of Payment. Payment will include excavation, forming, bentonite, CLSM, and all labor, equipment, tools, and incidentals necessary to install the trench plug. Trench plugs will be paid under the following bid item:

| Pay Item | Pay Unit |
|---|---|
| MISCELLANEOUS ITEMS-CUYD | CUYD |

36. DEWATERING

A. Description. This work includes removing and installing drainage facilities as specified in the contract plans. Anticipate working in areas of standing water, fluctuating groundwater elevations, and/or saturated soil conditions. Groundwater levels can fluctuate yearly, seasonally, during precipitation events, or due to other factors. Any excavation that encounters groundwater or surface water needs to be properly dewatered, diverted, and kept dry during the installation of these facilities.

1) There is a likelihood of encountering a fluctuating or constant high groundwater elevation. Some soils are normally saturated due to Homestake Creek. Therefore, the removal and installation of some drainage structures are likely to occur during fluctuating groundwater elevations and/or standing water. Means are likely required to block the water and/or dewater the sites.

2) The drainage that flows north and discharges into Homestake Creek via the existing 36" culvert has a flow rate of approximately 0.5 cfs with peak flow rates associated with various recurrence intervals provided below.

| Recurrence Interval | Peak Flow (cfs) |
|---|---|
| 2-yr | 1.6 |
| 5-yr | 2.7 |
| 10-yr | 6.8 |
| 25-yr | 11 |
| 50-yr | 16 |
| 100-yr | 21 |

3) Homestake Creek has a constant flow rate with peak flow rates associated with various recurrence intervals provided below.

| Recurrence Interval | Peak Flow (cfs) |
|---|---|
| 2-yr | 32 |
| 5-yr | 60 |
| 10-yr | 86 |
| 25-yr | 120 |
| 50-yr | 150 |
| 100-yr | 190 |

B. Materials. None

C. Construction Requirements. Remove all ground water encountered in trench excavations. Do not place structures, pipes, bedding, or backfill materials below the groundwater elevation established by dewatering operations. Any damages incurred from dewatering activities are the contractor's responsibility.

D. Submittals. Prior to starting the project construction, submit a dewatering/bypass plan to the Project Manager. The plan should include the number, size, and proposed location of pumps, sumps, berms, weirs, or other devices to be used to dewater or divert. Allow five working days for the Project Manager to approve the plan.

E. Method of Measurement. None.

F. Basis of Payment. The cost of performing any dewatering operations is considered a part of the installation cost for the particular item and will not be measured separately for payment.

37. WATER SYSTEM

A. Description. The water system includes all water-related items from the bottom of each well to the equipment in the maintenance buildings unless specified or listed separately.

B. Materials. Provide all equipment as detailed in the plans.

C. Construction Requirements. Procure and install all water system items as shown in the plans. A well exists on the westbound side that requires updating, as shown in the plans. A new well was drilled, and a casing was installed on the eastbound side. This project will add the remaining appurtenances to complete the well.

D. Method of Measurement. The water system, as described above and detailed in the plans, is measured by the lump sum.

E. Basis of Payment. The cost of all resources necessary to complete the work for the water system, including procuring, constructing, installing, and testing, should be included in the contract unit price for Miscellaneous Items-LS paid in a lump sum.

38. MAINTENANCE OF TRAFFIC

A. Description. This work consists of maintaining interstate traffic in a manner that creates the least disruption to traffic flow for the convenience and safety of the traveling public.

B. Construction Requirements. Maximize uninterrupted traffic along Interstate 90 through the project during all phases of construction unless approved by the Project Manager. Maintain two-lane, two-way traffic on Interstate 90 within the project limits during all construction activities except for excavating and installing the 36" RCPA crossing culvert. Concrete barrier exists in the median where the crossing culvert exists. Remove and reset the barrier as needed to complete the work. The truck parking area in both directions is currently closed and can remain closed until the project site is complete. A detour of one-lane traffic through the truck parking area is allowed when construction is required within Interstate 90 to construct the crossing culvert.

C. Other Provisions. Any of the above work sequences may be modified during construction if such modifications would be in the best interest of the traveling public and adjacent property owners.

D. Method of Measurement. Traffic Control is measured and paid for by the lump sum in accordance with Sections 618.04.2 and 618.05.2, respectively, of the Standard Specifications. Work described in this Special Provision not specifically paid for by a unit quantity and bid price is considered incidental to Traffic Control work.

39. REVEGETATION

A. Description. This work consists of providing the necessary equipment and materials to accomplish revegetation of all areas disturbed by construction activities, and/or as directed by the project manager.

B. Materials. Furnish the following seed mix. Use substitute species only if the recommended species is not available and substitution is approved by MDT's reclamation specialist.

| Reclamation Seed Mixture | | | Drill Seeding Rate | | |
|---|---|---|---|---|---|
| Scientific Name | Common Name | Variety | PLS / sq. ft. | % of Mix | Pounds PLS/ acre |
| Elymus trachycaulus | Slender wheatgrass | Pryor | 6 | 7 | 2.0 |
| Pascopyrum smithii | Western wheatgrass | Rosana | 13 | 14 | 6.0 |
| Festuca idahoensis | Idaho Fescue | Joseph or Nezpurs | 21 | 23 | 2.0 |
| Poa secunda | Sandberg's bluegrass | High Plains or Mtn Home | 41 | 46 | 2.0 |
| Elymus glaucus | Blue wildrye | Elkton or White Pass | 9 | 10 | 3.0 |
| | | GRAND TOTAL | 90 | 100 | 15.0 |

C. Construction Requirements.

1) Salvage sufficient quantities of topsoil to place 4 inches over disturbed areas. Immediately following topsoil placement, condition and drill seed with the seed mix and equivalent rates.

2) Drill Seed in accordance with Subsection 610.03.2

3) Areas that are too steep, narrow or otherwise inaccessible to drill seeding equipment can be broadcast seeded at double the drill seeding rates. Following broadcast seeding, scarify the areas to incorporate the seed into the upper ¼ to ½ inch of soil.

D. Method of Measurement and Basis of Payment. Topsoil salvage, replacement, and reseeding are paid for as REVEGETATION at the Contract unit price per lump sum.

END OF SECTION I

**MDT NONDISCRIMINATION AND**
**DISABILITY ACCOMMODATION NOTICE**

Montana Department of Transportation ("MDT") is committed to conducting all of its business in an environment free from discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination and protections are all inclusive (hereafter "protected classes") by its employees or anyone with whom MDT does business:

| Federal protected classes | State protected classes |
|---|---|
| Race, color, national origin, sex, sexual orientation, gender identity, age, disability, income-level & Limited English Proficiency | Race, color, national origin, parental/marital status, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, religion/creed, social origin or condition, genetic information, sex, sexual orientation, gender identification or expression, ancestry, age, disability mental or physical, political or religious affiliations or ideas, military service or veteran status, vaccination status or possession of immunity passport |

For the duration of this contract/agreement, the PARTY agrees as follows:

**(1) Compliance with Regulations:** The PARTY (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non-Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

**(2) Non-discrimination:**

a. The PARTY, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
b. The PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
    i. A statement that the PARTY does not discriminate on the grounds of any protected classes.
    ii. A statement that the PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
    iii. Contact information for the PARTY's representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.
    iv. Information on how to request information in alternative accessible formats.

c. In accordance with Mont. Code Ann. § 49-3-207, the PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that the PARTY does not discriminate on the grounds of any protected class.

**(3) Participation by Disadvantaged Business Enterprises (DBEs):**

a. If the PARTY receives federal financial assistance as part of this contract/agreement, the PARTY will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml

b. By signing this agreement, the PARTY assures MDT that:

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

c. The PARTY must include the above assurance in each contract/agreement the PARTY enters.

**(4) Solicitation for Subcontracts, Including Procurement of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation, made by the PARTY for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the PARTY of the PARTY's obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

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

**(6) Sanctions for Noncompliance:** In the event of a PARTY's noncompliance with the Non- discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

a. Withholding payments to the PARTY under the contract/agreement until the PARTY complies; and/or

b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

**(7) Pertinent Non-Discrimination Authorities:** During the performance of this contract/agreement, the PARTY, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

*Federal*

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).

- Executive Order 13672 prohibits discrimination in the civilian federal workforce on the basis of gender identity and in hiring by federal contractors on the basis of both sexual orientation and gender identity.

*State*

- Mont. Code Ann. § 49-3-205 Governmental services;

- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;

- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

**(8) Incorporation of Provisions:** The PARTY will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and/or directives issued pursuant thereto. The PARTY will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the PARTY becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the PARTY may request MDT to enter into any litigation to protect the interests of MDT. In addition, the PARTY may request the United States to enter into the litigation to protect the interests of the United States.

# STANDARD PROVISIONS INDEX

**FEDERAL AID PROJECTS** **CONTAINS**

Federal Wage Rates (Rev. 1-03-2025)..... 5 Pages

Requirements & Acknowledgement for Working on Railroad R/W ..... 1 Page

Required Contract Provisions Federal-Aid Const. Contracts (FORM FHWA-1273) [Rev.10-23-2023] ..... 14 Pages

Supplemental Revisions for Required Contract Provisions Federal-Aid Const. Contracts (FORM FHWA-1273) [Added 2-4-2016] ..... 1 Page

EEO Affirmative Action Req. on Federal-Aid Construction ..... 1 Page

General Decision Number: MT20250079 01/03/2025

Superseded General Decision Number: MT20240079

State: Montana

Construction Type: Highway

Counties: Montana Statewide

HIGHWAY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

| | |
|---|---|
| If the contract is entered into on or after January 30,2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022. | Executive Order 14026 generally applies to the contract.<br>The contractor must pay all covered workers at least $17.75 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 2025. |
| If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022. | Executive Order 13658 generally applies to the contract.<br>The contractor must pay all covered workers at least $13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours performing on that contract in 2025. |

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at https://www.dol.gov/agencies/whd/government-contracts

| Modification Number | Publication Date |
|---|---|
| 0 | 01/03/2025 |

SUMT2023-001 04/01/2022

| | Rates | Fringes |
|---|---|---|
| **CARPENTER** | | |
| Carpenter/Piledriverman | $ 36.05 | 14.23 |
| Millwright | $ 40.87 | 14.70 |
| **CEMENT MASON/CONCRETE FINISHER** | $ 33.41 | 16.51 |
| **DIVER** | | |
| Diver Tender | $ 45.30 | 18.38 |
| Diving | $ 92.66 | 18.38 |
| Stand-By | $ 46.33 | 18.38 |

The tender shall receive 2 hours at the straight time pay rate per shift for dressing and/or undressing when work is done under hyperbaric conditions.

Depth Pay (Surface Diving):
0-20 ft.: Free zone
>20-100 ft.: $2.00 per ft.
>100-150 ft.: $3.00 per ft.
>150-220 ft.: $4 00 per ft.
>220 ft.: $5.00 per ft.

Diving in Enclosures (Diver Only):
0-25 ft.: Free zone
>25-300 ft.: $1.00 per ft.

| | | |
|---|---|---|
| **ELECTRICIAN (LINE CONSTRUCTION)** | | |
| Equipment Operator | $ 38.38 | 18.60 |
| Groundman | $ 29.96 | 17.64 |
| Lineman | $ 50.11 | 19.88 |
| **ELECTRICIAN** | | |
| All Areas | $ 39.08 | 20.00 |
| **IRONWORKER** | $ 30.43 | 25.22 |
| **LABORER** | | |
| Group 1 | $ 27.71 | 12.36 |
| Group 2 | $ 30.87 | 12.36 |
| Group 3 | $ 31.10 | 12.36 |
| Group 4 | $ 32.12 | 12.36 |

**GROUP 1:** Flag Person

**GROUP 2:** All General Labor work; Burning Bar; Bucket Man; Carpenter Tender; Caisson Worker; Cement Mason Tender; Cement Handler (dry); Chuck Tender; Choker Setter; Concrete Worker; Curb Machine-Lay Down; Crusher and Batch Plant Worker; Fence Erector; Form Setter; Form Stripper; Heater Tender; Landscaper; Pipe Wrapper; Pot Tender; Powderman Tender; Rail and Truck Loaders and Unloaders; Riprapper; Sealants for Concrete and other materials; Sign Erection, Guard Rail and Jersey Rail; Stake Jumper; Spike Driver; Signalman; Tail Hoseman; Tool Checker and Houseman; Traffic Control Worker

**GROUP 3:** Concrete Vibrator; Dumpman (Grademan); Equipment Handler; Geotextile and Liners; High-Pressure Nozzleman; Jackhammer (Pavement Breaker); Laser Equipment; Non-riding Rollers; Pipelayer; Posthole Digger (power); Power Driven Wheelbarrow; Rigger; Sandblaster; Sod- Cutter-power; Tampers

**GROUP 4:** Asphalt Raker; Cutting Torch; Grade Setter; High- Scaler; Power Saws (Faller & Concrete); Powderman ($1.00 per hour above Group 4 rate); Rock & Core Drill; Track or Truck Mounted Wagon Drill; Welder including Air Arc

| | | |
|---|---|---|
| **PAINTER** | $ 36.00 | 12.84 |

| | | |
|---|---|---|
| **POWER EQUIPMENT OPERATOR:** | | |
| Group 1 | $ 32.47 | 12.77 |
| Group 2 | $ 34.55 | 12.77 |
| Group 3 | $ 35.70 | 12.77 |
| Group 4 | $ 36.67 | 12.77 |
| Group 5 | $ 38.05 | 12.77 |
| Group 6 | $ 39.27 | 12.77 |
| Group 7 | $ 41.95 | 12.77 |

**GROUP 1:** Air Compressor; Auto Fine Graders; Belt Finishing Machine; Boring Machine (small); Cement Silo; Crane, A-Frame Truck Crane; Crusher Conveyor; DW-10, 15, and 20 Tractor Roller; Farm Tractor; Forklift; Form Grader; Front End Loader Under 1 CU Yard; Heavy Duty Drills; Herman Nelson Heater; Mulching Machine; Oiler, All Except Cranes & Shovels; Pumpman

**GROUP 2:** Air Doctor; Backhoe/Excavator/Shovel to and including 3 CU Yard; Bit Grinder; Bituminous Paving Travel Plant; Boring Machine Large; Broom, Self-Propelled; Concrete Travel Batcher; Concrete Float & Spreader; Concrete Bucket Dispatcher; Concrete Finish Machine; Concrete Conveyor; Distributor; Dozer; Rubber-Tired, Push & Side Boom; Elevating Grader/Gradall; Field Equipment Serviceman; Front End Loader 1 CU Yard to including 5 CU Yard; Grade Setter; Heavy Duty Drills, All Types; Hoist/Tugger, All; Hydralift & Similar; Industrial Locomotive; Motor Patrol, Except Finish; Mountain Skidder; Oiler - Cranes & Shovels; Pavement Breaker, EMSCO; Power Saw, Self-Propelled; Pugmill; Pumpcrete/Grout Machine; Punch Truck; Roller, Other Than Asphalt; Roller, Sheepsfoot, Self-Propelled; Roller, 25 Tons and Over; Ross Carrier; Rotomill Under 6 Ft; Trenching Machine; Washing/Screening Plant

**GROUP 3:** Asphalt Paving Machine; Asphalt Screed; Backhoe/Excavator/Shovel Over 3 CU Yard; Cableway Highline; Concrete Batch Plant; Concrete Curing Machine; Concrete Pump; Cranes; Creter; Cranes, Electric Overhead; Cranes 24 Tons and Under; Curb Machine/Slip Form Paver; Finish Dozer; Front End Loader Over 5 CU Yard; Mechanic/Welder; Pioneer Dozer; Roller Asphalt (Breakdown & Finish); Rotomill, Over 6 FT; Scraper, Single, Twin or Pulling Belly Dump; Yo-Yo Cat

**GROUP 4:** Asphalt/Hot Plant Operator, Cranes, 25 Tons to 44 Tons; Crusher Operator; Finish Motor Patrol; Finish Scraper

**GROUP 5:** Cranes, 45 Tons To Including 74 Tons

**GROUP 6:** Cranes, 75 Tons To Including 149 Tons; Crane, Whirley (All)

**GROUP 7:** Cranes, 150 Tons To Including 250 Tons (Add $ 1.00 For Every 100 Tons Over 250 Tons; Crane, Tower (All)

**TRUCK DRIVER**

| | | |
|---|---|---|
| Group 1 | $ 28.21 | 12.57 |
| Group 2 | $ 35.74 | 12.57 |

**GROUP 1:** Pilot Car

**GROUP 2:** Combination Truck and Concrete Mixer and Transit Mixer; Dry Batch Trucks; Distributor Driver; Dumpman; Dump Trucks and Similar Equipment; Dumpster; Flat Trucks; Lumber Carriers; Lowboys; Pickup; Powder Truck Driver; Power Boom; Serviceman; Service Truck/Fuel Truck/ Tireperson; Truck Mechanic; Trucks With Power Equipment; Warehouseman, Partsman, Cardex and Warehouse Expeditor; Water Trucks

**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

https://www.dol.gov/agencies/whd/government-contracts

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) (iii)).

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

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", “”SA””, or “”SC”” denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate 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. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the 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. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

“”SU”” wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA

reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the “”SA”” identifier took effect under state law in the state from which the rates were adopted.

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WAGE DETERMINATION APPEALS PROCESS

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

*a survey underlying a wage determination
*an existing published wage determination
*an initial WHD letter setting forth a position on a wage determination matter
*an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

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

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

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

If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail 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 any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

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.

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END OF GENERAL DECISION

**"CONTRACTOR REQUIREMENTS AND ACKNOWLEDGMENT FOR WORKING ON RAILROAD RIGHT-OF-WAY"**

This document must be dated and signed by the Contractor and submitted to the State before occupying or working on Railroad right-of-way.

1) No change, which has a direct effect on the Railroad, will be made to construction plans without submitting revised plans and receiving approval from the Railroad. Work covered by the plans, that requires flagging, will be covered by the Railroad/Highway Agreement. For work that is a result of the contractor's discretion, flagging protection will be required when equipment crosses or is working within 25 feet (7.62 meters) of center of any live track. When deemed necessary by local Railroad officers, a flagman may be required at all times while working on Railroad right-of-way in high density rail traffic area.

2) Crossing of any Railroad tracks must be done at approved locations and must be full depth timber, rubber, etc. Any equipment with steel wheels, lugs or tracks must not cross steel rails without the use of rubber tires or other approved protection. This shall apply specifically to, but not be limited to, access for Contractor furnished gravel, borrow or waste sites. The Contractor will be required to obtain a permit from the Railroad, and comply with any provisions thereof, before using any private Railroad crossings. All track crossing locations must be covered by a Private Roadway and Crossing Agreement. This does not apply to any public crossing.

3) Costs of flagging or planking protection of the tracks, which are a direct result of the planned construction, will be paid for by the State. Costs of flagging, planking for protection of the tracks, installation of new crossings or other work caused by the Contractor's discretion, will be paid by the Contractor.

4) When work to be performed by the Contractor is not covered in the Railroad/Highway agreement, the Contractor must furnish a plan to the Railroad for approval showing details as to how any work that may affect the Railroad will be accomplished.

5) Storing of construction materials or any other material, including dirt, sand, etc., within the Railroad right-of-way, will not be allowed unless covered by an easement, construction permit, or Contractor's permit/lease.

6) Construction within 25 feet (7.62 meters) of the center of any track not covered by the Railroad/Highway agreement will require plan approval and authorization by the Railroad Superintendent Maintenance and Engineering. This includes, but is not limited to, any excavation, slope work and driving of sheet piling.

7) No vehicles, equipment or machines shall be parked or stored unattended within 25 feet (7.62 meters) of any track, on railroad right-of-way, without specific written approval of the Railroad.

8) When any work is to be performed on Railroad property by the Contractor that is not shown in the construction plans, the Contractor must submit a detailed plan of the work to the Railroad for their approval.

CONTRACTOR'S ACKNOWLEDGMENT:

_____
Company

By: _____
Name

_____
Title

_____
Date

WORK SITE LOCATION:

_____
Town

_____
State

_____
Project #

Rev. 01/01/04

FHWA-1273 – Revised October 23, 2023

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

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

ATTACHMENTS

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

**I. GENERAL**

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

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

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

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

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**6. Training and Promotion:**

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

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

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

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

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

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

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

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

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

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

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

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

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

**10. Assurances Required:**

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

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the contractor from future bidding as non-responsible.

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

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

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

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

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

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

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

## III. NONSEGREGATED FACILITIES

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

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

## IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**2. Withholding** (29 CFR 5.5)

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

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

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

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

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

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

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

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

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

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

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

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

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

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

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

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

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

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

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

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

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

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

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

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

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

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

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

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

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

the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

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

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

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

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

**4. Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

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

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

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

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

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

**VI. SUBLETTING OR ASSIGNING THE CONTRACT**

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

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

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

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

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

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

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

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

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

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

**VII. SAFETY: ACCIDENT PREVENTION**

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

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

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

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

**VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

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

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

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

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

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

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

* * * * *

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

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

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

* * * * *

3. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

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

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

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

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

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

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

* * * * *

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

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

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

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

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

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

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

**XII. USE OF UNITED STATES-FLAG VESSELS:**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘on-board’ commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS** (23 CFR 633, Subpart B, Appendix B) This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

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

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

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

## Supplemental Revisions for FHWA Form-1273 (Dated May 1, 2012)
## Required Contract Provisions
## Federal-Aid Construction Contracts

The following are supplementary or amendatory to the May 1, 2012, FHWA Form-1273 insofar as they apply to this contract:

Add the following provisions in accordance with the FHWA memo dated December 11, 2015:

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

Furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘on-board’ commercial ocean bill-of-lading in English for each shipment of cargo described in above paragraph to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

## SPECIAL PROVISIONS

## EEO AFFIRMATIVE ACTION REQUIREMENTS ON FEDERAL & FEDERAL-AID CONSTRUCTION CONTRACTS

Federal-aid contractors are hereby notified they are subject to the OFCCP goals and economic areas for minority and female participation expressed below. Compliance with the goals and OFCCP affirmative action efforts for contracts and subcontracts consisting of $10,000 or more will be determined by OFCCP officials.

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)

1. The Offeror's or Bidder's attention is called to the Equal Opportunity Clause and "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

**GOALS FOR FEMALE PARTICIPATION** (statewide) 6.9%

**GOALS FOR MINORITY PARTICIPATION IN EACH TRADE**
Economic Areas:

152
Non-SMSA (Standard Metropolitan Statistical Area) Counties 4.4%
Daniels, Richland, Roosevelt, Sheridan

153 Great Falls, MT
SMSA Counties
3040 Great Falls, MT 3.2%
Cascade

Non-SMSA Counties 4.1%
Blaine, Broadwater, Chouteau, Fergus, Glacier, Hill, Jefferson, Judith Basin, Lewis & Clark, Liberty, Meagher, Petroleum, Phillips, Pondera, Teton, Toole, Valley, Wheatland

154 Missoula, MT
Non-SMSA Counties 2.7%
Beaverhead, Deer Lodge, Flathead, Granite, Lake, Lincoln, Madison, Mineral, Missoula, Powell, Ravalli, Sanders, Silver Bow

155 Billings, MT
SMSA Counties
0880 Billings, MT 3.3%
Yellowstone

Non-SMSA Counties 3.3%
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Park, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, Wibaux, Yellowstone Nat'l Park

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

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

3. The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 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.