

15

Letting January 21, 2022

Notice to Bidders, Specifications and Proposal



**Contract No. 64N03
STEPHENSON County
Section (101-3B)D
Route FAP 316
Project NHPP-H5FD(178)
District 2 Construction Funds**

Prepared by

Checked by

F

(Printed by authority of the State of Illinois)



- 1. TIME AND PLACE OF OPENING BIDS.** Electronic bids are to be submitted to the electronic bidding system (iCX-Integrated Contractors Exchange). All bids must be submitted to the iCX system prior to 12:00 p.m. January 21, 2022 at which time the bids will be publicly opened from the iCX SecureVault.
- 2. DESCRIPTION OF WORK.** The proposed improvement is identified and advertised for bids in the Invitation for Bids as:

**Contract No. 64N03
STEPHENSON County
Section (101-3B)D
Project NHPP-H5FD(178)
Route FAP 316
District 2 Construction Funds**

Removal and replacement of concrete bridge deck on the structure (SN 089-0043) carrying IL 26 over Cedar Creek North of Cedarville.

- 3. INSTRUCTIONS TO BIDDERS.** (a) This Notice, the invitation for bids, proposal and letter of award shall, together with all other documents in accordance with Article 101.09 of the Standard Specifications for Road and Bridge Construction, become part of the contract. Bidders are cautioned to read and examine carefully all documents, to make all required inspections, and to inquire or seek explanation of the same prior to submission of a bid.

(b) State law, and, if the work is to be paid wholly or in part with Federal-aid funds, Federal law requires the bidder to make various certifications as a part of the proposal and contract. By execution and submission of the proposal, the bidder makes the certification contained therein. A false or fraudulent certification shall, in addition to all other remedies provided by law, be a breach of contract and may result in termination of the contract.
- 4. AWARD CRITERIA AND REJECTION OF BIDS.** This contract will be awarded to the lowest responsive and responsible bidder considering conformity with the terms and conditions established by the Department in the rules, Invitation for Bids and contract documents. The issuance of plans and proposal forms for bidding based upon a prequalification rating shall not be the sole determinant of responsibility. The Department reserves the right to determine responsibility at the time of award, to reject any or all proposals, to re-advertise the proposed improvement, and to waive technicalities.

By Order of the
Illinois Department of Transportation

Omer Osman,
Acting Secretary

INDEX
FOR
SUPPLEMENTAL SPECIFICATIONS
AND RECURRING SPECIAL PROVISIONS

Adopted January 1, 2022

This index contains a listing of SUPPLEMENTAL SPECIFICATIONS and frequently used RECURRING SPECIAL PROVISIONS.

No ERRATA this year.

SUPPLEMENTAL SPECIFICATIONS

Std. Spec. Sec.

Page No.

No Supplemental Specifications this year.

RECURRING SPECIAL PROVISIONS

The following RECURRING SPECIAL PROVISIONS indicated by an "X" are applicable to this contract and are included by reference:

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STATE OF ILLINOIS

SPECIAL PROVISIONS

The following Special Provisions supplement the "Standard Specifications for Road and Bridge Construction, Adopted January 1, 2022", the latest edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways", and the "Manual of Test Procedures for Materials" in effect on the date of invitation for bids, and the "Supplemental Specifications and Recurring Special Provisions" indicated on the Check Sheet included herein, which apply to and govern the construction of FAP Route 316 (IL 26), Project NHPP-H5FD(178), Section (101-3B)D, Stephenson County, Contract No. 64N03 and in case of conflict with any part, or parts, of said Specifications, the said Special Provisions shall take precedence and shall govern.

LOCATION OF PROJECT

The project is located on FAP 316 (IL 26) where it crosses over Cedar Creek 0.1 miles north of Timber Hills Drive in the Village of Cedarville, Illinois.

DESCRIPTION OF PROJECT

This project involves the rehabilitation of SN 089-0043. The work includes bridge deck replacement, approach slab replacement, cleaning and painting beam ends and diaphragm members, various substructure repairs and guardrail removal and replacement.

MOWING

Effective: January 1, 2002 Revised: April 12, 2016

This work consists of mowing all Seeding Class 1A and Class 2A at the completion of the project or before winter shut down. The vegetation must be at least 6" long before mowing. The vegetation shall be mowed to obtain a height of not more than 3 inches. All debris must be cleared from the right-of-way immediately after the mowing.

This work will be paid for at the contract unit price per Acre for MOWING.

GRANULAR BACKFILL FOR STRUCTURES

Effective: April 19, 2012 Revised: September 27, 2016

Revise the third sentence of the first paragraph of Article 586.03 of the Supplemental Specifications to read:

“The backfill volume shall be placed in convenient lifts for the full width to be backfilled and shall be compacted to not less than 95 percent of the standard laboratory density.”

Delete the fourth sentence of the first paragraph of Article 586.03 of the Supplemental Specifications.

GUARDRAIL REMOVAL

Effective: August 20, 1990 Revised: April 10, 2014

This work shall be done according to Section 632 of the Standard Specifications except that all removed guardrail will become the property of the Contractor.

This work will be paid for at the contract unit price per Foot for GUARDRAIL REMOVAL, measured from center-to-center of end posts.

REMOVE AND RE-ERECT EXISTING BRIDGE RAIL

Description. This work consists of removing and re-erecting existing rail sections and rail posts at the locations indicated on the plans and according to the plan details.

Construction Requirements. This removal and re-erection of the existing railing shall be accomplished in a manner that will avoid scratching, denting or other damage that may affect the durability or appearance of the railing.

As an alternate to the cast-in-place rail post anchors, the contractor may use the capsule or the adhesive cartridge type anchor rods that have been previously tested and approved by the Department. If cast-in-place anchors are not detailed on the plans, the Contractor shall use the capsule or adhesive cartridge type anchor rods. The Contractor shall install these anchor rods in pre-drilled holes according to the manufacturer's recommendations and procedures. The capsule or adhesive cartridge shall be a sealed glass capsule or a sealed glass adhesive cartridge containing pre-measured amounts of the adhesive chemical. When allowed by the Engineer, existing cast-in-place anchors and bolts may be reused when not damaged during removal. Existing rail to rail post bolts shall not be reused.

New fabric bearing pads, if used under the existing posts, shall be provided for the re-erected rail posts. Fabric bearing pads shall meet the requirements of Article 1082.01 of the Standard Specifications. One 1/8 inch (3 mm) and two 1/16 inch (1.5 mm) shims shall be provided for 25% of the posts. The shims shall be galvanized steel for steel posts and aluminum for aluminum posts. Shims shall be similar to base plates in size and holes.

Threaded rods, bolts, nuts and washers shall conform to AASHTO M 164 (M 164M) for steel railing and posts and shall be stainless steel for aluminum railing and posts. Anchor devices shall be galvanized according to AASHTO M 111 (M 111M) and ASTM A 385. All threaded rods, bolts, nuts and washers, except those that are stainless steel, shall be galvanized according to AASHTO M 232 (M 232M).

Nuts for threaded anchor rods or bolts for connecting base plates to the concrete shall be tightened to a snug fit and given an additional 1/8 turn.

Method of Measurement. This work will be measured in feet. The length paid for will be the overall length along the rail from end to end, in place, at the location of re-erection.

Basis of Payment. This work will be paid for at the contract unit price per foot for REMOVE AND RE-ERECT EXISTING BRIDGE RAIL, which price shall include removal, temporary storage, reerection, new bearing pads and all new hardware required to satisfactorily complete the work.

EXPLORATION TRENCH, SPECIAL

Description.

This work shall consist of excavating a trench for the purpose of verifying clearances and locations of existing private and public utilities and storm sewers prior to constructing proposed utilities. The exploration trench shall be constructed at the locations as determined by the Engineer and in accordance with Article 213.02 of the Standard Specifications, except as modified herein.

The depth of the trench shall be variable, but shall be deep enough to locate all potential conflicts. The width of the trench shall be sufficient to allow proper investigation of the entire trench. The exploration trench shall be backfilled with gradation CA 6 stone, the cost of which shall be included in the item of EXPLORATION TRENCH, SPECIAL.

Measurement. This work will be measured for payment per lineal foot of actual trench constructed.

Basis of Payment. This work will be paid for at the contract unit price per foot for EXPLORATION TRENCH, SPECIAL, regardless of the depth required, and no extra compensation will be allowed for any delays, inconveniences or damages sustained by the Contractor performing the work.

BRIDGE APPROACH PAVEMENT CONNECTOR (SPECIAL)

Description. This work shall consist of the construction of a pavement connector (PCC) for bridge approach slab in accordance with Section 420 of the Standard Specifications, IDOT highway standard 420401-13, and as shown in the plans. The curb shall be poured monolithically with the pavement connector to match the cross section at the ends of the approach slabs.

The bridge approach pavement connector shall be shaped to match the cross section of the approach roadway at one end, and the bridge approach slab at the other end, and shall transition uniformly across its length.

Method of Measurement. This work will be measured for payment in place and the area computed in square yards.

Basis of Payment. This work will be paid for at the contract unit price per square yard for BRIDGE APPROACH PAVEMENT CONNECTOR (SPECIAL). The monolithic curb shall not be measured separately for payment but shall be included in the contract unit price for BRIDGE APPROACH PAVEMENT CONNECTOR (SPECIAL).

DOUBLE INLET, SPECIAL

This work shall be done according to IDOT District 2 detail 12.2 Double inlet, Special.

This work will be paid for at the contract unit price per Each for DOUBLE INLET, SPECIAL.

TRAFFIC CONTROL PLAN

Effective: January 14, 1999

Revised: January 13, 2017

Traffic Control shall be according to the applicable sections of the Standard Specifications for Road and Bridge Construction, the applicable guidelines contained in the National Manual on Uniform Traffic Control Devices for Streets and Highways, Illinois Supplement to the National Manual on Uniform Traffic Control Devices, these special provisions, and any special details and Highway Standards contained herein and in the plans.

Special attention is called to Articles 107.09 and 107.14 of the Standard Specifications for Road and Bridge Construction and the following Highway Standards relating to traffic control.

Standards:

701001 701006 701011 701301 701311 701901

Details:

The following District 2 Standard Drawings apply to traffic control: 40.1.

Signs:

When covering existing Department signs, no tape shall be used on the reflective portion of the sign. Contact the District sign shop for covering techniques.

Any plates or direct applied sheeting used to alter signs shall have the same sheeting as the base sign.

No more than one kind of alteration shall be used to alter a sign.

Any post stubs without a sign in place and visible shall have a reflector placed on each post.

Devices:

A minimum of 3 drums spaced at 4 feet shall be placed at each return when the sideroad is open.

Flaggers:

Flaggers shall comply with all requirements and signaling methods contained in the Department's "Traffic Control Field Manual" current at the time of letting. The flagger equipment listed for flaggers employed by the Illinois Department of Transportation shall apply to all flaggers.

In addition to the flaggers shown on applicable standards, a flagger shall be required on high volume commercial entrances listed below. There are no high volume commercial entrances impacted for this project.

When the mainline flagger is within 200 feet of an intersection, the sideroad flagger shall be required.

When the road is closed to through traffic and it is necessary to provide access for local traffic, all flaggers as shown on the applicable standards will be required. No reduction in the number of flaggers shall be allowed.

Pavement Marking:

All temporary pavement markings that will be operational during the winter months (December through March) shall be paint.

Short term pavement markings on a milled surface shall be paint.

Highway Standard Application:

Traffic Control for Road Closure: This work shall be done according to the Traffic Control for Road Closure Standard, IL 26 Closure, and Section 701 of the Standard Specifications.

"ROAD CLOSED AHEAD" (W20-3(O)-48) with "XX MILES" (W16-3A(O)-3612) plate mounted below the sign shall be required at the following locations with the distance noted. The contractor shall erect these signs at N. Cedarville Road (1/2 MILE) and W. Angle Road (1/4 MILE).

"ROAD CLOSED AHEAD" (W20-3(O)-48) with flasher and the appropriate arrow plate (W1- 6(O)-36x18 or W1-7(O)-36x18) shall be required on all side roads within the limits of the mainline "ROAD CLOSED AHEAD" signs.

The Contractor shall notify the Department via email at DOT.D2.TrafficNotice@illinois.gov. **This request shall be submitted a minimum of three weeks (21 days) and no earlier than four weeks (28 days) prior to the anticipated closure date to allow the State adequate time to re-route oversized loads.**

Signing and devices required to close the road, according to the Traffic Control for Road Closure detail and contained herein, shall be the responsibility of the Contractor. Detour signing required to detour traffic to alternate routes shall be the responsibility of the Contractor. The day the detour signing begins, the detour will be in effect when the Contractor has notified the Resident Engineer or personnel on the project. No detour shall be erected on Friday, Saturday or Sunday. The road shall not be closed until the detour signing is completely installed, verified, and ready to accept traffic.

The "ROAD CLOSED" sign on the Type III barricades shall be unobstructed and visible to traffic at all times. No equipment, debris, or other materials shall be stored within 20 feet of the first set of Type III barricades, unless approved by the Engineer.

The Contractor shall not drive around the outside of the Type III barricades, but shall relocate the barricades temporarily for access. When it is necessary for the barricades to be moved for access, the Contractor shall move the devices into the left lane and/or left shoulder area behind barricades that are to remain in place. At no time shall the barricades be turned parallel to traffic flow for access purposes.

If a path becomes evident around the outside of the barricades, the Contractor shall be required to place additional Type III barricades to prevent driving around the existing barricades. Additional barricades shall be included in the cost of applicable Traffic Control Standards.

This work shall be paid for at the contract lump sum price for TRAFFIC CONTROL AND PROTECTION, (SPECIAL).

Road Closure – Closures within Closures: The road closure shall be completed using Type III barricades in compliance with Standards 701901, and signing according to Traffic Control for Road Closure detail. Two flashers shall be installed above each Type III barricade. The "ROAD CLOSED" (R11-2) or "ROAD CLOSED TO THRU TRAFFIC" (R11-4) signs shall be placed as shown in Standard 701901. Flashers shall be installed above all warning signs involving a night time road closure. If a portion of the road is completely closed between a sideroad and any entrances, the roadway will be kept open to local access in the other direction between that closure and the next road.

The Contractor shall be required to notify the Bureau of Project Implementation and affected residents prior to a complete closure.

All cost involved in conforming to this provision shall be considered a part of TRAFFIC CONTROL AND PROTECTION, (SPECIAL).

Maintenance of Traffic: The Contractor shall be required to notify the Village of Cedarville, Stephenson County Highway Department, the corresponding Township Commissioner, emergency response agencies (i.e.: fire, ambulance, police), school bus companies and the Department of Transportation (Bureau of Project Implementation) regarding any changes in traffic control.

The Contractor shall be required to notify the Village of Cedarville, Stephenson County Highway Department, and/or corresponding Township Commissioner for any side road closure or opening.

The Contractor shall coordinate all detours and roadway closures with the local emergency response agencies.

The Contractor shall submit a maintenance of local traffic plan to the Engineer at the preconstruction meeting telling how local access will be maintained at each access location. All access locations shall be open at all times. This traffic plan will need to be approved by the Engineer before the roadway is closed to traffic. The Engineer shall be notified in writing at least three weeks prior to the day a state highway is to be closed. The Contractor shall notify the Engineer who will contact the local officials concerning the closure of any local streets or roadways.

The mainline shall be closed for construction using the detour route shown in the plans.

The Contractor shall be required to place message boards on IL 26 at the direction of the Engineer two weeks prior to construction to warn motorists of the project.

Pre Closure Construction:

The closing of the bridge on IL 26 at Cedar Creek shall be completed as shown in the contract plans, Traffic Control and Protection Standard 701901, and District 2 Standard 40.1. Detour route signing shall be in place prior to closing of IL 26.

Any advanced work to be performed on IL 26 prior to the road closure shall utilize Traffic Control and Protection Standards 701001, 701006, 701301, or 701311 as needed.

IL 26 Closure – Detour Route:

The construction work on the bridge shall be performed as shown in the contract plans and shall utilize the detour route shown in the plans.

All cost for the road closure and detour signing shall be considered a part of TRAFFIC CONTROL AND PROTECTION, (SPECIAL).

Post Closure Construction:

All remaining work to be performed on IL 26 outside of the road closure shall utilize Traffic Control and Protection Standards 701001, 701006, 701301, or 701311 as needed.

STRUCTURAL STEEL REPAIR

Description. This work consists of field-testing, removal and replacement of loose splice plate bolts, at locations shown in the plans and as determined in the field.

Materials. Fasteners shall be as noted in the plans for unpainted areas. Bolts shall be furnished to match the length and diameter of existing bolts as closely as possible.

Construction. All existing bottom flange splice bolts at all field splices shall be tested in the field to identify loose bolts (20 field splice locations / 1360 bolts total). Testing method shall be as approved by the Engineer, but shall be designed to identify only the bolts that can be moved under light effort with a wrench. Testing sequence, repair and replacement methods shall be as described in the plans.

Basis of Payment. Testing of existing bolts will be paid for at the contract lump sum price for STRUCTURAL STEEL REPAIR, which shall include all field testing and identifying of loose bolts to be replaced. Replacing of loose bolts will be paid for at the contract unit price per each for BOLT REPLACEMENT, which shall include removing and disposing of the existing loose bolts, cleaning contact areas, and installation of new bolts.

REMOVAL OF EXISTING BEARINGS

Description. This work consists of furnishing all labor, tools and equipment for removing existing bearing assemblies at the locations shown on the plans. The contractor shall remove and dispose of the bearings according to the applicable portions of Article 501.05 of the Standard Specifications.

Method of Measurement. Removal of existing bearings will be measured in place per Each.

Basis of Payment. This work will be paid for at the contract unit price per Each for REMOVAL OF EXISTING BEARINGS.

APPROACH SLAB REMOVAL

Description. This work consists of the complete removal and disposal of the Portland cement concrete bridge approach slab at locations shown on plan details.

Construction Requirements.

General. Approach slab removal shall be performed in accordance with applicable portions of Section 440 and Article 442.05(a) of the Standard Specifications and the following provisions.

(a) This work includes the satisfactory removal of the concrete pavement, reinforcement, stabilized sub-base (when present) and expansion joint material adjacent to the approach pavement, bituminous overlays, and approach footings/sleeper slabs (when present) as shown on plan details. The removed materials shall be disposed of off the right of way according to Article 202.03 of the Standard Specifications.

(b) This work shall also include the removal of existing timber piles and pile caps to at least one (1) foot below the proposed elevation of subgrade or ground surface within the area of construction and within the limits of the right of way when encountered.

(c) To the extent possible, the contract documents contain information on the thickness of the existing pavement including subsequent resurfacing(s). In the event the average combined thickness of the existing pavement and overlays in an area to be removed differs from the thickness shown on the plans, the Engineer will adjust the pay quantity, meeting this requirement as indicated by the following chart. The quantities will be increased when the thickness is greater and decreased when the thickness is less.

<u>% Change of Thickness</u>	<u>% Change of Quantity</u>
0 to less than 15	0
15 to less than 20	10
20 to less than 30	15
30 and greater	20

No other compensation will be allowed for variations in thickness from that shown on the plans.

Contract Quantities. The requirements for the use of Contract Quantities shall conform to Article 202.07(a) of the Standard Specifications.

Method of Measurement. Approach Slab Removal will be measured for payment in place, prior to removal and the area computed in square yards.

Basis of Payment. This work will be paid for at the contract unit price per square yard for APPROACH SLAB REMOVAL. The contract unit price for Approach Slab Removal shall include removing and disposing of the entire approach slab, reinforcement, stabilized sub-base and expansion joint material including transition areas as shown on the plans.

JACKING AND CRIBBING

Description: This item shall consist of furnishing all material, equipment and labor for installation and subsequent removal of jacking support systems complete, including jacks, support beams, shims and all necessary cribbing to be used while performing the repairs as detailed on the plans.

Construction Requirements: If jacking is to be performed with the existing bridge deck in place, traffic shall be removed from the portion of the structure to be jacked prior to commencing jacking operations. Traffic shall be kept off that portion of the structure during the jacking operations and until the structure is fully cribbed.

The superstructure shall be raised in such a manner as to avoid distortion or damage to any of its members. Differential jacking height shall not exceed 1/8 inch transversely between adjacent beams or 1/4 inch longitudinally between adjacent supports. The actual raising of the superstructure shall be kept to the minimum height required to complete the repairs, as shown on the plans.

Jacking and cribbing details with calculations shall be submitted to the Engineer for approval prior to starting any jacking procedures. The Contractor's jacking plans shall be prepared and sealed by an Illinois Licensed Structural Engineer. The Contractor's Structural Engineer shall be present during the jacking operation and the jacking sequence shall meet with his approval. The Contractor's Structural Engineer's presence or approval shall not relieve the Contractor of responsibility for the safety of the operation or for damage to the structure.

At any time during the bridge raising operations, the Engineer may require the Contractor to provide additional supports or measures in order to furnish an added degree of safety. The Contractor shall provide such additional supports or measures at no extra cost to the Illinois Tollway.

The Contractor shall be responsible for restoring to their original condition, prior to jacking, the drainage ditches, pavement, or slopewall disturbed by the cribbing footings.

The Contractor shall assume all responsibility and be liable for any damage caused by improper supports for shoring in all cases and for any damage to existing utility conduits suspended under the bridge. Neither added precautions nor the failure of the Engineer to order additional protection will in any way relieve the Contractor of sole responsibility for the safety of lives, equipment and structure.

Method of Measurement: This work will be measured for payment in units of each, for each beam that is jacked.

Basis of Payment: This work, as herein specified, will be paid for at the contract lump sum price per each for JACKING AND CRIBBING at the locations specified, which price shall be payment for all work and materials required at each location.

PCC AUTOMATIC BATCHING EQUIPMENT

Effective: January 1, 2015

Revised: April 12, 2016

Portland cement concrete provided shall be produced from batch plants that conform to the requirements of Article 1103.03 (a) and (b) of the Standard Specifications for Road and Bridge Construction. Semi-automatic batching will not be allowed.

Plants shall have computerized batching interfaced with a printer. Batch weights, aggregate mixtures, water added, amount of each admixture or additive, and percent variance from design shall be printed for each batch. Tickets shall state the actual water-cement ratio as batched, and the amount of water that can be added to the batch without exceeding the maximum water-cement ratio. Truck delivery tickets are still required as per Article 1020.11(a)(7) of the Standard Specifications.

PCC QC/QA ELECTRONIC REPORTS SUBMITTAL

Effective: January 1, 2015

Revised: April 12, 2016

The Contractor's QC personnel shall be responsible for electronically submitting BMPR MI654 "Concrete Air, Slump, and Quantity," BMPR MI655 "P.C. Concrete Strength," and BMPR MI504 "Aggregate Gradation" reports to the Department. The format for the electronic submittals shall be the QC/QA package reporting program, which will be provided by the Department. Microsoft Excel 2007 or newer and Microsoft Outlook is required for this program which shall be provided by the Contractor.

SECTION 404 – NATIONWIDE PERMIT #14 (NON-REPORTING)

Effective: April 1, 2019

An United States Army Corps of Engineers (USACOE) Section 404 - Nationwide Permit #14 has not been procured for this project because it's considered as "Non-Reporting" because the following conditions are being met:

- 1) The loss of Waters of the United States does not exceed 1/10th acre; and
- 2) There are no discharges into a special aquatic site, including wetlands.

The requirements and conditions of the Nationwide Permit #14 must still be adhered to and can be found at the following link:

<https://www.swt.usace.army.mil/Portals/41/docs/missions/regulatory/NationwidePermits/Nationwide%20Permit%2014%20-%20Linear%20Transportation%20Projects.pdf?ver=2017-03-31-150712-910>

In the event that these conditions are not being met, it will be necessary to submit a pre-construction notification to the USACOE.

No additional payment shall be made for this work.

This Special Provision expires on March 18, 2022 per [Federal Register Volume 82, Issue 4 \(January 6, 2017\)](#).

AVAILABILITY OF ELECTRONIC FILES

Effective 10/16 Revised 2/10/17

3D or 2D MicroStation and GEOPAK files of this project will be made available to the Contractor after contract award. This information will be provided upon request as MicroStation CADD files and Geopak coordinate geometry files ONLY. If data is required in other formats it will be your responsibility to make these conversions. Contractor shall coordinate obtaining electronic files through the Project Engineer. If there is a conflict between the electronic files and the printed contract plans and documents, the printed contract plans and documents shall take precedence over the electronic files. The Contractor shall accept all risk associated with using the electronic files and shall hold the Department harmless for any errors or omissions in the electronic files and the data contained therein. Errors or delays resulting from the use of the electronic files by the Contractor shall not result in an extension of time for any interim or final completion date or shall not be considered cause for additional compensation. The Contractor shall not use, share, or distribute these electronic files except for the purpose of constructing this contract. Any claims by third parties due to use or errors shall be the sole responsibility of the Contractor. The Contractor shall include this disclaimer with the transfer of these electronic files to any other parties and shall include appropriate language binding them to similar responsibilities.

CONCRETE WEARING SURFACE

Effective: June 23, 1994

Revised: October 4, 2016

Description. This work consists of placing a concrete wearing surface, to the specified thickness, on precast concrete members such as deck beams and deck panels. Included in this work is cleaning and preparing the precast concrete surface prior to placement of the concrete wearing surface. This work shall be according to the applicable articles of Section 503 and the following.

Materials. The concrete wearing surface shall be class BS concrete, except as follows, when Steel Bridge Rail is used in conjunction with concrete wearing surface, the 14 day mix design shall be replaced by a 28 day mix design with a compressive strength of 5000 psi (34,500 kPa) and a design flexural strength of 800 psi (5,500 kPa).

Equipment: The equipment used shall be subject to the approval of the Engineer and shall meet the following requirements:

(a) Surface Preparation Equipment. Surface preparation equipment shall be according to the applicable portions of Section 1100 and the following:

(1) Hand-Held Blast Cleaning Equipment. Blast cleaning using hand-held equipment may be performed by high-pressure waterblasting or abrasive blasting. Hand-held blast cleaning equipment shall have oil traps.

Hand-held high-pressure waterblasting equipment shall have a minimum water pressure of 7000 psi (48 MPa).

- (2) Vacuum Cleanup Equipment. The equipment shall be equipped with fugitive dust control devices capable of removing wet debris and water all in the same pass. Vacuum equipment shall also be capable of washing the deck with pressurized water prior to the vacuum operation to dislodge all debris and slurry from the deck surface.
- (b) Concrete Equipment: Equipment for proportioning and mixing the concrete shall be according to Article 1020.03.
- (c) Finishing Equipment. Finishing equipment shall be according to Article 503.03.
- (d) Mechanical Fogging Equipment. Mechanical fogging equipment shall be according to 503.03.

CONSTRUCTION REQUIREMENTS

Surface Preparation. Prior to placement of the concrete wearing surface, the top surface of the precast concrete members shall be clean and free of all foreign material.

All debris of every type, including dirty water, resulting from the cleaning operation shall be reasonably confined during the performance of the cleaning work and shall be immediately and thoroughly removed from the cleaned surfaces and all other areas where debris may have accumulated.

Prior to placement of the concrete wearing surface, the Engineer will inspect the cleaned surface, all areas still contaminated shall be cleaned again at the Contractor's expense.

Wearing Surface Placement. The concrete wearing surface placement shall be according to Article 503.16 of the Standard Specifications. Areas to receive the overlay shall be either thoroughly or continuously wetted with water at least one hour before placement of the concrete wearing surface is started. When the surface is pre-wetted any accumulations of water shall be dispersed or removed prior to placement of the concrete wearing surface.

Plans for anchoring support rails and the mixture-placing procedure shall be submitted to the Engineer for approval.

Curing and Protection. The concrete shall be continuously wet cured for at least 14 days according to Article 1020.13(a)(5). However, if the minimum specified compressive strength or flexural strength is obtained prior to 14 days, the cure time may be reduced, but at no time shall the wet cure be less than 7 days. The concrete shall be protected from low air temperatures according to Article 1020.13(d)(1) or (2), except the protection method shall remain in place for the entire curing period.

Opening to Traffic. The concrete wearing surface without Steel Bridge Rail attached may be opened to traffic when test specimens have obtained a minimum compressive strength of 4000 psi (27,500 kPa) or a minimum flexural strength of 675 psi (4650 kPa), but not prior to the completion of the wet cure. When Steel Bridge Rail is utilized, the concrete wearing surface may be opened when test specimens have obtained a minimum compressive strength of 5000 psi (34,500 kPa) or a minimum flexural strength of 800 psi (5500 kPa), but not prior to the completion of the wet cure.

Method of Measurement. Concrete wearing surface will be measured for payment in place and the area computed in square yards (square meters).

Basis of Payment. This work including cleaning and surface preparation will be paid for at the contract unit price per square yard (square meter) for CONCRETE WEARING SURFACE, of the thickness specified.

BRIDGE DECK CONSTRUCTION

Effective: October 22, 2013

Revised: December 21, 2016

When Diamond Grinding of Bridge Sections is specified, hand finishing of the deck surface shall be limited to areas not finished by the finishing machine and to address surface corrections according to Article 503.16(a)(2). Hand finishing shall be limited as previously stated solely for the purpose of facilitating a more timely application of the curing protection. In addition the requirements of 503.16(a)(3)a. and 503.16(a)(4) will be waived.

Revise the Second Paragraph of Article 503.06(b) to read as follows.

“When the Contractor uses cantilever forming brackets on exterior beams or girders, additional requirements shall be as follows.”

Revise Article 503.06(b)(1) to read as follows.

- “(1) Bracket Placement. The spacing of brackets shall be per the manufacturer’s published design specifications for the size of the overhang and the construction loads anticipated. The resulting force of the leg brace of the cantilever bracket shall bear on the web within 6 inches (150 mm) of the bottom flange of the beam or girder.”

Revise Article 503.06(b)(2) to read as follows.

- “(2) Beam Ties. The top flange of exterior steel beams or girders supporting the cantilever forming brackets shall be tied to the bottom flange of the next interior beam. The top flange of exterior concrete beams supporting the cantilever forming brackets shall be tied to the top flange of the next interior beam. The ties shall be spaced at 4 ft (1.2 m) centers. Permanent cross frames on steel girders may be considered a tie. Ties shall be a minimum of 1/2 inch (13 mm) diameter threaded rod with an adjusting mechanism for drawing the tie taut. The ties shall utilize hanger brackets or clips which hook onto the flange of steel beams. No welding will be permitted to the structural steel or stud shear connectors, or to reinforcement bars of concrete beams, for the installation of the tie bar system. After installation of the ties and blocking, the tie shall be drawn taut until the tie does not vary from a straight line from beam to beam. The tie system shall be approved by the Engineer.”

Revise Article 503.06(b)(3) to read as follows.

“(3) Beam Blocks. Suitable beam blocks of 4 in x 4 in (100 x 100 mm) timbers or metal structural shapes of equivalent strength or better, acceptable to the Engineer, shall be wedged between the webs of the two beams tied together, within 6 inches (150 mm) of the bottom flange at each location where they are tied. When it is not feasible to have the resulting force from the leg brace of the cantilever brackets transmitted to the web within 6 inches (150 mm) of the bottom flange, then additional blocking shall be placed at each bracket to transmit the resulting force to within 6 inches (150 mm) of the bottom flange of the next interior beam or girder.”

Delete the last paragraph of Article 503.06(b).

BLENDED FINELY DIVIDED MINERALS (BDE)

Effective: April 1, 2021

Revise the second paragraph of Article 1010.01 of the Standard Specifications to read:

“Different sources or types of finely divided minerals shall not be mixed or used alternately in the same item of construction, except as a blended finely divided mineral product according to Article 1010.06.”

Add the following article to Section 1010 of the Standard Specifications:

“1010.06 Blended Finely Divided Minerals. Blended finely divided minerals shall be the product resulting from the blending or intergrinding of two or three finely divided minerals. Blended finely divided minerals shall be according to ASTM C 1697, except as follows.

- (a) Blending shall be accomplished by mechanically or pneumatically intermixing the constituent finely divided minerals into a uniform mixture that is then discharged into a silo for storage or tanker for transportation.
- (b) The blended finely divided mineral product will be classified according to its predominant constituent or the manufacturer’s designation and shall meet the chemical requirements of its classification. The other finely divided mineral constituent(s) will not be required to conform to their individual standards.”

COMPENSABLE DELAY COSTS (BDE)

Effective: June 2, 2017

Revised: April 1, 2019

Revise Article 107.40(b) of the Standard Specifications to read:

“(b) Compensation. Compensation will not be allowed for delays, inconveniences, or damages sustained by the Contractor from conflicts with facilities not meeting the above definition; or if a conflict with a utility in an unanticipated location does not cause a shutdown of the work or a documentable reduction in the rate of progress exceeding the limits set herein. The provisions of Article 104.03 notwithstanding, compensation for delays caused by a utility in an unanticipated location will be paid according to the provisions of this Article governing minor and major delays or reduced rate of production which are defined as follows.

- (1) Minor Delay. A minor delay occurs when the work in conflict with the utility in an unanticipated location is completely stopped for more than two hours, but not to exceed two weeks.
- (2) Major Delay. A major delay occurs when the work in conflict with the utility in an unanticipated location is completely stopped for more than two weeks.
- (3) Reduced Rate of Production Delay. A reduced rate of production delay occurs when the rate of production on the work in conflict with the utility in an unanticipated location decreases by more than 25 percent and lasts longer than seven calendar days.”

Revise Article 107.40(c) of the Standard Specifications to read:

“(c) Payment. Payment for Minor, Major, and Reduced Rate of Production Delays will be made as follows.

- (1) Minor Delay. Labor idled which cannot be used on other work will be paid for according to Article 109.04(b)(1) and (2) for the time between start of the delay and the minimum remaining hours in the work shift required by the prevailing practice in the area.

Equipment idled which cannot be used on other work, and which is authorized to standby on the project site by the Engineer, will be paid for according to Article 109.04(b)(4).

- (2) Major Delay. Labor will be the same as for a minor delay.

Equipment will be the same as for a minor delay, except Contractor-owned equipment will be limited to two weeks plus the cost of move-out to either the Contractor’s yard or another job and the cost to re-mobilize, whichever is less. Rental equipment may be paid for longer than two weeks provided the Contractor presents adequate support to the Department (including lease agreement) to show retaining equipment on the job is the most economical course to follow and in the public interest.

- (3) Reduced Rate of Production Delay. The Contractor will be compensated for the reduced productivity for labor and equipment time in excess of the 25 percent threshold for that portion of the delay in excess of seven calendar days. Determination of compensation will be in accordance with Article 104.02, except labor and material additives will not be permitted.

Payment for escalated material costs, escalated labor costs, extended project overhead, and extended traffic control will be determined according to Article 109.13.”

Revise Article 108.04(b) of the Standard Specifications to read:

“(b) No working day will be charged under the following conditions.

- (1) When adverse weather prevents work on the controlling item.
- (2) When job conditions due to recent weather prevent work on the controlling item.
- (3) When conduct or lack of conduct by the Department or its consultants, representatives, officers, agents, or employees; delay by the Department in making the site available; or delay in furnishing any items required to be furnished to the Contractor by the Department prevents work on the controlling item.
- (4) When delays caused by utility or railroad adjustments prevent work on the controlling item.
- (5) When strikes, lock-outs, extraordinary delays in transportation, or inability to procure critical materials prevent work on the controlling item, as long as these delays are not due to any fault of the Contractor.
- (6) When any condition over which the Contractor has no control prevents work on the controlling item.”

Revise Article 109.09(f) of the Standard Specifications to read:

“(f) Basis of Payment. After resolution of a claim in favor of the Contractor, any adjustment in time required for the work will be made according to Section 108. Any adjustment in the costs to be paid will be made for direct labor, direct materials, direct equipment, direct jobsite overhead, direct offsite overhead, and other direct costs allowed by the resolution. Adjustments in costs will not be made for interest charges, loss of anticipated profit, undocumented loss of efficiency, home office overhead and unabsorbed overhead other than as allowed by Article 109.13, lost opportunity, preparation of claim expenses and other consequential indirect costs regardless of method of calculation.

The above Basis of Payment is an essential element of the contract and the claim cost recovery of the Contractor shall be so limited.”

Add the following to Section 109 of the Standard Specifications.

“109.13 Payment for Contract Delay. Compensation for escalated material costs, escalated labor costs, extended project overhead, and extended traffic control will be allowed when such costs result from a delay meeting the criteria in the following table.

Contract Type	Cause of Delay	Length of Delay
Working Days	Article 108.04(b)(3) or Article 108.04(b)(4)	No working days have been charged for two consecutive weeks.
Completion Date	Article 108.08(b)(1) or Article 108.08(b)(7)	The Contractor has been granted a minimum two week extension of contract time, according to Article 108.08.

Payment for each of the various costs will be according to the following.

- (a) Escalated Material and/or Labor Costs. When the delay causes work, which would have otherwise been completed, to be done after material and/or labor costs have increased, such increases will be paid. Payment for escalated material costs will be limited to the increased costs substantiated by documentation furnished by the Contractor. Payment for escalated labor costs will be limited to those items in Article 109.04(b)(1) and (2), except the 35 percent and 10 percent additives will not be permitted.
- (b) Extended Project Overhead. For the duration of the delay, payment for extended project overhead will be paid as follows.
 - (1) Direct Jobsite and Offsite Overhead. Payment for documented direct jobsite overhead and documented direct offsite overhead, including onsite supervisory and administrative personnel, will be allowed according to the following table.

Original Contract Amount	Supervisory and Administrative Personnel
Up to \$5,000,000	One Project Superintendent
Over \$ 5,000,000 - up to \$25,000,000	One Project Manager, One Project Superintendent or Engineer, and One Clerk
Over \$25,000,000 - up to \$50,000,000	One Project Manager, One Project Superintendent, One Engineer, and One Clerk
Over \$50,000,000	One Project Manager, Two Project Superintendents, One Engineer, and One Clerk

- (2) Home Office and Unabsorbed Overhead. Payment for home office and unabsorbed overhead will be calculated as 8 percent of the total delay cost.

- (c) Extended Traffic Control. Traffic control required for an extended period of time due to the delay will be paid for according to Article 109.04.

When an extended traffic control adjustment is paid under this provision, an adjusted unit price as provided for in Article 701.20(a) for increase or decrease in the value of work by more than ten percent will not be paid.

Upon payment for a contract delay under this provision, the Contractor shall assign subrogation rights to the Department for the Department's efforts of recovery from any other party for monies paid by the Department as a result of any claim under this provision. The Contractor shall fully cooperate with the Department in its efforts to recover from another party any money paid to the Contractor for delay damages under this provision."

DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION (BDE)

Effective: September 1, 2000

Revised: March 2, 2019

FEDERAL OBLIGATION. The Department of Transportation, as a recipient of federal financial assistance, is required to take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts. Consequently, the federal regulatory provisions of 49 CFR Part 26 apply to this contract concerning the utilization of disadvantaged business enterprises. For the purposes of this Special Provision, a disadvantaged business enterprise (DBE) means a business certified by the Department in accordance with the requirements of 49 CFR Part 26 and listed in the Illinois Unified Certification Program (IL UCP) DBE Directory.

STATE OBLIGATION. This Special Provision will also be used by the Department to satisfy the requirements of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, 30 ILCS 575. When this Special Provision is used to satisfy state law requirements on 100 percent state-funded contracts, the federal government has no involvement in such contracts (not a federal-aid contract) and no responsibility to oversee the implementation of this Special Provision by the Department on those contracts. DBE participation on 100 percent state-funded contracts will not be credited toward fulfilling the Department's annual overall DBE goal required by the US Department of Transportation to comply with the federal DBE program requirements.

CONTRACTOR ASSURANCE. The Contractor makes the following assurance and agrees to include the assurance in each subcontract the Contractor signs with a subcontractor.

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 contracts funded in whole or in part with federal or state funds. 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:

- (a) Withholding progress payments;
- (b) Assessing sanctions;
- (c) Liquidated damages; and/or

- (d) Disqualifying the Contractor from future bidding as non-responsible.

OVERALL GOAL SET FOR THE DEPARTMENT. As a requirement of compliance with 49 CFR Part 26, the Department has set an overall goal for DBE participation in its federally assisted contracts. That goal applies to all federal-aid funds the Department will expend in its federally assisted contracts for the subject reporting fiscal year. The Department is required to make a good faith effort to achieve the overall goal. The dollar amount paid to all approved DBE companies performing work called for in this contract is eligible to be credited toward fulfillment of the Department's overall goal.

CONTRACT GOAL TO BE ACHIEVED BY THE CONTRACTOR. This contract includes a specific DBE utilization goal established by the Department. The goal has been included because the Department has determined the work of this contract has subcontracting opportunities that may be suitable for performance by DBE companies. The determination is based on an assessment of the type of work, the location of the work, and the availability of DBE companies to do a part of the work. The assessment indicates, in the absence of unlawful discrimination and in an arena of fair and open competition, DBE companies can be expected to perform **2.00%** of the work. This percentage is set as the DBE participation goal for this contract. Consequently, in addition to the other award criteria established for this contract, the Department will only award this contract to a bidder who makes a good faith effort to meet this goal of DBE participation in the performance of the work. A bidder makes a good faith effort for award consideration if either of the following is done in accordance with the procedures set for in this Special Provision:

- (a) The bidder documents enough DBE participation has been obtained to meet the goal or,
(b) The bidder documents a good faith effort has been made to meet the goal, even though the effort did not succeed in obtaining enough DBE participation to meet the goal.

DBE LOCATOR REFERENCES. Bidders shall consult the IL UCP DBE Directory as a reference source for DBE-certified companies. In addition, the Department maintains a letting and item specific DBE locator information system whereby DBE companies can register their interest in providing quotes on particular bid items advertised for letting. Information concerning DBE companies willing to quote work for particular contracts may be obtained by contacting the Department's Bureau of Small Business Enterprises at telephone number (217) 785-4611, or by visiting the Department's website at:

<http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index>.

BIDDING PROCEDURES. Compliance with this Special Provision is a material bidding requirement and failure of the bidder to comply will render the bid not responsive.

The bidder shall submit a DBE Utilization Plan (form SBE 2026), and a DBE Participation Statement (form SBE 2025) for each DBE company proposed for the performance of work to achieve the contract goal, with the bid. If the Utilization Plan indicates the contract goal will not be met, documentation of good faith efforts shall also be submitted. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor is selected over a DBE for work on the contract. The required forms and documentation must be submitted as a single .pdf file using the "Integrated Contractor Exchange (iCX)" application within the Department's "EBids System".

The Department will not accept a Utilization Plan if it does not meet the bidding procedures set forth herein and the bid will be declared not responsive. In the event the bid is declared not

responsive, the Department may elect to cause the forfeiture of the penal sum of the bidder's proposal guaranty and may deny authorization to bid the project if re-advertised for bids.

GOOD FAITH EFFORT PROCEDURES. The contract will not be awarded until the Utilization Plan is approved. All information submitted by the bidder must be complete, accurate and adequately document enough DBE participation has been obtained or document the good faith efforts of the bidder, in the event enough DBE participation has not been obtained, before the Department will commit to the performance of the contract by the bidder. The Utilization Plan will be approved by the Department if the Utilization Plan documents sufficient commercially useful DBE work to meet the contract goal or the bidder submits sufficient documentation of a good faith effort to meet the contract goal pursuant to 49 CFR Part 26, Appendix A. This means the bidder must show that all necessary and reasonable steps were taken to achieve the contract goal. Necessary and reasonable steps are those which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not successful. The Department will consider the quality, quantity, and intensity of the kinds of efforts the bidder has made. Mere *pro forma* efforts, in other words efforts done as a matter of form, are not good faith efforts; rather, the bidder is expected to have taken genuine efforts that would be reasonably expected of a bidder actively and aggressively trying to obtain DBE participation sufficient to meet the contract goal.

- (a) The following is a list of types of action that the Department will consider as part of the evaluation of the bidder's good faith efforts to obtain participation. These listed factors are not intended to be a mandatory checklist and are not intended to be exhaustive. Other factors or efforts brought to the attention of the Department may be relevant in appropriate cases and will be considered by the Department.
 - (1) Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBE companies that have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBE companies to respond to the solicitation. The bidder must determine with certainty if the DBE companies are interested by taking appropriate steps to follow up initial solicitations.
 - (2) Selecting portions of the work to be performed by DBE companies in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Contractor might otherwise prefer to perform these work items with its own forces.
 - (3) Providing interested DBE companies with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - (4) a. Negotiating in good faith with interested DBE companies. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBE companies that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBE companies to perform the work.

- b. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBE companies is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also the ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidders are not, however, required to accept higher quotes from DBE companies if the price difference is excessive or unreasonable. In accordance with the above Bidding Procedures, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.
- (5) Not rejecting DBE companies as being unqualified without sound reasons based on a thorough investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
- (6) Making efforts to assist interested DBE companies in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
- (7) Making efforts to assist interested DBE companies in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (8) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBE companies.
- (b) If the Department determines the bidder has made a good faith effort to secure the work commitment of DBE companies to meet the contract goal, the Department will award the contract provided it is otherwise eligible for award. If the Department determines the bidder has failed to meet the requirements of this Special Provision or that a good faith effort has not been made, the Department will notify the responsible company official designated in the Utilization Plan that the bid is not responsive. The notification will also include a statement of reasons for the adverse determination. If the Utilization Plan is not approved because it is deficient as a technical matter, unless waived by the Department, the bidder will be notified and will be allowed no more than a five calendar day period to cure the deficiency.
- (c) The bidder may request administrative reconsideration of an adverse determination by emailing the Department at "DOT.DBE.UP@illinois.gov" within the five calendar days after the receipt of the notification of the determination. The determination shall become final if a request is not made on or before the fifth calendar day. A request may provide additional written documentation or argument concerning the issues raised in the determination statement of reasons, provided the documentation and arguments address efforts made prior to submitting the bid. The request will be reviewed by the Department's Reconsideration Officer. The Reconsideration Officer will extend an opportunity to the

bidder to meet in person to consider all issues of documentation and whether the bidder made a good faith effort to meet the goal. After the review by the Reconsideration Officer, the bidder will be sent a written decision within ten working days after receipt of the request for reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. A final decision by the Reconsideration Officer that a good faith effort was made shall approve the Utilization Plan submitted by the bidder and shall clear the contract for award. A final decision that a good faith effort was not made shall render the bid not responsive.

CALCULATING DBE PARTICIPATION. The Utilization Plan values represent work anticipated to be performed and paid for upon satisfactory completion. The Department is only able to count toward the achievement of the overall goal and the contract goal the value of payments made for the work actually performed by DBE companies. In addition, a DBE must perform a commercially useful function on the contract to be counted. A commercially useful function is generally performed when the DBE is responsible for the work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The Department and Contractor are governed by the provisions of 49 CFR Part 26.55(c) on questions of commercially useful functions as it affects the work. Specific counting guidelines are provided in 49 CFR Part 26.55, the provisions of which govern over the summary contained herein.

- (a) DBE as the Contractor: 100 percent goal credit for that portion of the work performed by the DBE's own forces, including the cost of materials and supplies. Work that a DBE subcontracts to a non-DBE does not count toward the DBE goals.
- (b) DBE as a joint venture Contractor: 100 percent goal credit for that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work performed by the DBE's own forces.
- (c) DBE as a subcontractor: 100 percent goal credit for the work of the subcontract performed by the DBE's own forces, including the cost of materials and supplies, excluding the purchase of materials and supplies or the lease of equipment by the DBE subcontractor from the Contractor or its affiliates. Work that a DBE subcontractor in turn subcontracts to a non-DBE does not count toward the DBE goal.
- (d) DBE as a trucker: 100 percent goal credit for trucking participation provided the DBE is responsible for the management and supervision of the entire trucking operation for which it is responsible. At least one truck owned, operated, licensed, and insured by the DBE must be used on the contract. Credit will be given for the following:
 - (1) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
 - (2) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement.
- (e) DBE as a material supplier:
 - (1) 60 percent goal credit for the cost of the materials or supplies purchased from a DBE regular dealer.

- (2) 100 percent goal credit for the cost of materials of supplies obtained from a DBE manufacturer.
- (3) 100 percent credit for the value of reasonable fees and commissions for the procurement of materials and supplies if not a DBE regular dealer or DBE manufacturer.

CONTRACT COMPLIANCE. Compliance with this Special Provision is an essential part of the contract. The Department is prohibited by federal regulations from crediting the participation of a DBE included in the Utilization Plan toward either the contract goal or the Department's overall goal until the amount to be applied toward the goals has been paid to the DBE. The following administrative procedures and remedies govern the compliance by the Contractor with the contractual obligations established by the Utilization Plan. After approval of the Utilization Plan and award of the contract, the Utilization Plan and individual DBE Participation Statements become part of the contract. If the Contractor did not succeed in obtaining enough DBE participation to achieve the advertised contract goal, and the Utilization Plan was approved and contract awarded based upon a determination of good faith, the total dollar value of DBE work calculated in the approved Utilization Plan as a percentage of the awarded contract value shall become the amended contract goal. All work indicated for performance by an approved DBE shall be performed, managed, and supervised by the DBE executing the DBE Participation Commitment Statement.

- (a) NO AMENDMENT. No amendment to the Utilization Plan may be made without prior written approval from the Department's Bureau of Small Business Enterprises. All requests for amendment to the Utilization Plan shall be emailed to the Department at DOT.DBE.UP@illinois.gov.
- (b) CHANGES TO WORK. Any deviation from the DBE condition-of-award or contract plans, specifications, or special provisions must be approved, in writing, by the Department as provided elsewhere in the Contract. The Contractor shall notify affected DBEs in writing of any changes in the scope of work which result in a reduction in the dollar amount condition-of-award to the contract. Where the revision includes work committed to a new DBE subcontractor, not previously involved in the project, then a Request for Approval of Subcontractor, Department form BC 260A or AER 260A, must be signed and submitted. If the commitment of work is in the form of additional tasks assigned to an existing subcontract, a new Request for Approval of Subcontractor will not be required. However, the Contractor must document efforts to assure the existing DBE subcontractor is capable of performing the additional work and has agreed in writing to the change.
- (c) SUBCONTRACT. The Contractor must provide copies of DBE subcontracts to the Department upon request. Subcontractors shall ensure that all lower tier subcontracts or agreements with DBEs to supply labor or materials be performed in accordance with this Special Provision.
- (d) ALTERNATIVE WORK METHODS. In addition to the above requirements for reductions in the condition of award, additional requirements apply to the two cases of Contractor-initiated work substitution proposals. Where the contract allows alternate work methods which serve to delete or create underruns in condition of award DBE work, and the Contractor selects that alternate method or, where the Contractor proposes a substitute work method or material that serves to diminish or delete work committed to a DBE and replace it with other work, then the Contractor must demonstrate one of the following:

- (1) The replacement work will be performed by the same DBE (as long as the DBE is certified in the respective item of work) in a modification of the condition of award; or
- (2) The DBE is aware its work will be deleted or will experience underruns and has agreed in writing to the change. If this occurs, the Contractor shall substitute other work of equivalent value to a certified DBE or provide documentation of good faith efforts to do so; or
- (3) The DBE is not capable of performing the replacement work or has declined to perform the work at a reasonable competitive price. If this occurs, the Contractor shall substitute other work of equivalent value to a certified DBE or provide documentation of good faith efforts to do so.

(e) TERMINATION AND REPLACEMENT PROCEDURES. The Contractor shall not terminate or replace a DBE listed on the approved Utilization Plan, or perform with other forces work designated for a listed DBE except as provided in this Special Provision. The Contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the Contractor obtains the Department's written consent as provided in subsection (a) of this part. Unless Department consent is provided for termination of a DBE subcontractor, the Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the DBE in the Utilization Plan.

As stated above, the Contractor shall not terminate or replace a DBE subcontractor listed in the approved Utilization Plan without prior written consent. This includes, but is not limited to, instances in which the Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. Written consent will be granted only if the Bureau of Small Business Enterprises agrees, for reasons stated in its concurrence document, that the Contractor has good cause to terminate or replace the DBE firm. Before transmitting to the Bureau of Small Business Enterprises any request to terminate and/or substitute a DBE subcontractor, the Contractor shall give notice in writing to the DBE subcontractor, with a copy to the Bureau, of its intent to request to terminate and/or substitute, and the reason for the request. The Contractor shall give the DBE five days to respond to the Contractor's notice. The DBE so notified shall advise the Bureau and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Bureau should not approve the Contractor's action. If required in a particular case as a matter of public necessity, the Bureau may provide a response period shorter than five days.

For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the Contractor's reasonable, nondiscriminatory bond requirements;

- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200 or applicable state law.
- (6) The Contractor has determined the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the projects and provides written notice to the Contractor of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE subcontractor is unable to complete its work on the contract;
- (10) Other documented good cause that compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the Contractor seeks to terminate a DBE it relied upon to obtain the contract so that the Contractor can self-perform the work for which the DBE contractor was engaged or so that the Contractor can substitute another DBE or non-DBE contractor after contract award.

When a DBE is terminated or fails to complete its work on the Contract for any reason, the Contractor shall make a good faith effort to find another DBE to substitute for the original DBE to perform at least the same amount of work under the contract as the terminated DBE to the extent needed to meet the established Contract goal. The good faith efforts shall be documented by the Contractor. If the Department requests documentation under this provision, the Contractor shall submit the documentation within seven days, which may be extended for an additional seven days if necessary at the request of the Contractor. The Department will provide a written determination to the Contractor stating whether or not good faith efforts have been demonstrated.

- (f) FINAL PAYMENT. After the performance of the final item of work or delivery of material by a DBE and final payment therefore to the DBE by the Contractor, but not later than 30 calendar days after payment has been made by the Department to the Contractor for such work or material, the Contractor shall submit a DBE Payment Agreement on Department form SBE 2115 to the Resident Engineer. If full and final payment has not been made to the DBE, the DBE Payment Agreement shall indicate whether a disagreement as to the payment required exists between the Contractor and the DBE or if the Contractor believes the work has not been satisfactorily completed. If the Contractor does not have the full amount of work indicated in the Utilization Plan performed by the DBE companies indicated in the Utilization Plan and after good faith efforts are reviewed, the Department may deduct from contract payments to the Contractor the amount of the goal not achieved as liquidated and ascertained damages. The Contractor may request an administrative reconsideration of any amount deducted as damages pursuant to subsection (h) of this part.

- (g) **ENFORCEMENT**. The Department reserves the right to withhold payment to the Contractor to enforce the provisions of this Special Provision. Final payment shall not be made on the contract until such time as the Contractor submits sufficient documentation demonstrating achievement of the goal in accordance with this Special Provision or after liquidated damages have been determined and collected.
- (h) **RECONSIDERATION**. Notwithstanding any other provision of the contract, including but not limited to Article 109.09 of the Standard Specifications, the Contractor may request administrative reconsideration of a decision to deduct the amount of the goal not achieved as liquidated damages. A request to reconsider shall be delivered to the Contract Compliance Section and shall be handled and considered in the same manner as set forth in paragraph (c) of "Good Faith Effort Procedures" of this Special Provision, except a final decision that a good faith effort was not made during contract performance to achieve the goal agreed to in the Utilization Plan shall be the final administrative decision of the Department. The result of the reconsideration process is not administratively appealable to the U.S. Department of Transportation.

HOT-MIX ASPHALT – START OF PRODUCTION (BDE)

Effective: January 1, 2022

Add the following paragraph between the third and four paragraphs of Article 1030.10 of the Standard Specifications:

"When a test strip is not required, each HMA mixture with a quantity of 3,000 tons (2,750 metric tons) or more shall still be sampled on the first day of production: I-FIT and Hamburg wheel testing for High ESAL; I-FIT testing for Low ESAL. Within two working days after sampling the mixture, the Contractor shall deliver gyratory cylinders to the District laboratory for Department verification testing. The High ESAL mixture test results shall meet the requirements of Articles 1030.05(d)(3) and 1030.05(d)(4). The Low ESAL mixture test results shall meet the requirements of Article 1030.05(d)(4)."

PERFORMANCE GRADED ASPHALT BINDER (BDE)

Effective: January 1, 2022

Revise Article 1032.05 of the Standard Specifications to read:

"1032.05 Performance Graded Asphalt Binder. These materials will be accepted according to the Bureau of Materials Policy Memorandum, "Performance Graded Asphalt Binder Qualification Procedure." The Department will maintain a qualified producer list. These materials shall be free from water and shall not foam when heated to any temperature below the actual flash point. Air blown asphalt, recycle engine oil bottoms (ReOB), and polyphosphoric acid (PPA) modification shall not be used.

When requested, producers shall provide the Engineer with viscosity/temperature relationships for the performance graded asphalt binders delivered and incorporated in the work.

- (a) Performance Graded (PG) Asphalt Binder. The asphalt binder shall meet the requirements of AASHTO M 320, Table 1 “Standard Specification for Performance Graded Asphalt Binder” for the grade shown on the plans and the following.

Test	Parameter
Small Strain Parameter (AASHTO PP 113) BBR, ΔT_c , 40 hrs PAV (40 hrs continuous or 2 PAV at 20 hrs)	-5 °C min.

- (b) Modified Performance Graded (PG) Asphalt Binder. The asphalt binder shall meet the requirements of AASHTO M 320, Table 1 “Standard Specification for Performance Graded Asphalt Binder” for the grade shown on the plans.

Asphalt binder modification shall be performed at the source, as defined in the Bureau of Materials Policy Memorandum, “Performance Graded Asphalt Binder Qualification Procedure.”

Modified asphalt binder shall be safe to handle at asphalt binder production and storage temperatures or HMA construction temperatures. Safety Data Sheets (SDS) shall be provided for all asphalt modifiers.

- (1) Polymer Modification (SB/SBS or SBR). Elastomers shall be added to the base asphalt binder to achieve the specified performance grade and shall be either a styrene-butadiene diblock, triblock copolymer without oil extension, or a styrene-butadiene rubber. The polymer modified asphalt binder shall be smooth, homogeneous, and be according to the requirements shown in Table 1 or 2 for the grade shown on the plans.

Table 1 - Requirements for Styrene-Butadiene Copolymer (SB/SBS) Modified Asphalt Binders		
Test	Asphalt Grade SB/SBS PG 64-28 SB/SBS PG 70-22	Asphalt Grade SB/SBS PG 64-34 SB/SBS PG 70-28 SB/SBS PG 76-22 SB/SBS PG 76-28
Separation of Polymer ITP, "Separation of Polymer from Asphalt Binder" Difference in °F (°C) of the softening point between top and bottom portions	4 (2) max.	4 (2) max.
TESTS ON RESIDUE FROM ROLLING THIN FILM OVEN TEST (AASHTO T 240)		
Elastic Recovery ASTM D 6084, Procedure A, 77 °F (25 °C), 100 mm elongation, %	60 min.	70 min.

Table 2 - Requirements for Styrene-Butadiene Rubber (SBR) Modified Asphalt Binders		
Test	Asphalt Grade SBR PG 64-28 SBR PG 70-22	Asphalt Grade SB/SBS PG 64-34 SB/SBS PG 70-28 SBR PG 76-22 SBR PG 76-28
Separation of Polymer ITP, "Separation of Polymer from Asphalt Binder" Difference in °F (°C) of the softening point between top and bottom portions	4 (2) max.	4 (2) max.
Toughness ASTM D 5801, 77 °F (25 °C), 20 in./min. (500 mm/min.), in.-lbs (N-m)	110 (12.5) min.	110 (12.5) min.
Tenacity ASTM D 5801, 77 °F (25 °C), 20 in./min. (500 mm/min.), in.-lbs (N-m)	75 (8.5) min.	75 (8.5) min.
TESTS ON RESIDUE FROM ROLLING THIN FILM OVEN TEST (AASHTO T 240)		
Elastic Recovery ASTM D 6084, Procedure A, 77 °F (25 °C), 100 mm elongation, %	40 min.	50 min.

- (2) Ground Tire Rubber (GTR) Modification. GTR modification is the addition of recycled ground tire rubber to liquid asphalt binder to achieve the specified performance grade. GTR shall be produced from processing automobile and/or truck tires by the ambient grinding method or micronizing through a cryogenic process. GTR shall not exceed 1/16 in. (2 mm) in any dimension and shall not contain free metal particles, moisture that would cause foaming of the asphalt, or other foreign materials. A mineral powder (such as talc) meeting the requirements of AASHTO M 17 may be added, up to a maximum of four percent by weight of GTR to reduce sticking and caking of the GTR particles. When tested in accordance with Illinois Modified AASHTO T 27 "Standard Method of Test for Sieve Analysis of Fine and Coarse Aggregates" or AASHTO PP 74 "Standard Practice for Determination of Size and Shape of Glass Beads Used in Traffic Markings by Means of Computerized Optical Method", a 50 g sample of the GTR shall conform to the following gradation requirements.

Sieve Size	Percent Passing
No. 16 (1.18 mm)	100
No. 30 (600 µm)	95 ± 5
No. 50 (300 µm)	> 20

GTR modified asphalt binder shall be tested for rotational viscosity according to AASHTO T 316 using spindle S27. GTR modified asphalt binder shall be tested for original dynamic shear and RTFO dynamic shear according to AASHTO T 315 using a gap of 2 mm.

The GTR modified asphalt binder shall meet the requirements of Table 3.

Table 3 - Requirements for Ground Tire Rubber (GTR) Modified Asphalt Binders		
Test	Asphalt Grade GTR PG 64-28 GTR PG 70-22	Asphalt Grade GTR PG 76-22 GTR PG 76-28 GTR PG 70-28
TESTS ON RESIDUE FROM ROLLING THIN FILM OVEN TEST (AASHTO T 240)		
Elastic Recovery ASTM D 6084, Procedure A, 77 °F (25 °C), 100 mm elongation, %	60 min.	70 min.

- (3) Softener Modification (SM). Softener modification is the addition of organic compounds, such as engineered flux, bio-oil blends, modified vegetable oils, glycol amines, and fatty acid derivatives, to the base asphalt binder to achieve the specified performance grade. Softeners shall be dissolved, dispersed, or reacted in the asphalt binder to enhance its performance and shall remain compatible with the asphalt binder with no separation. Softeners shall not be added to modified PG asphalt binder as defined in Articles 1032.05(b)(1) or 1032.05(b)(2).

An Attenuated Total Reflectance-Fourier Transform Infrared spectrum (ATR-FTIR) shall be collected for both the softening compound as well as the softener modified asphalt binder at the dose intended for qualification. The ATR-FTIR spectra shall be collected on unaged softener modified binder, 20-hour Pressurized Aging Vessel (PAV) aged softener modified binder, and 40-hour PAV aged softener modified binder. The ATR-FTIR shall be collected in accordance with Illinois Test Procedure 601. The electronic files spectral files (in one of the following extensions or equivalent: *.SPA, *.SPG, *.IRD, *.IFG, *.CSV, *.SP, *.IRS, *.GAML, *. [0-9], *.IGM, *.ABS, *.DRT, *.SBM, *.RAS) shall be submitted to the Central Bureau of Materials.

Softener modified asphalt binders shall meet the requirements in Table 4.

Table 4 - Requirements for Softener Modified Asphalt Binders		
Test	Asphalt Grade	
		SM PG 46-28
	SM PG 52-28	SM PG 52-34
	SM PG 58-22	SM PG 58-28
	SM PG 64-22	
Small Strain Parameter (AASHTO PP 113) BBR, ΔT _c , 40 hrs PAV (40 hrs continuous or 2 PAV at 20 hrs) ^{1/}	-5°C min.	
Large Strain Parameter (Illinois Modified AASHTO T 391) DSR/LAS Fatigue Property, Δ G* _{peak} τ, 40 hrs PAV (40 hrs continuous or 2 PAV at 20 hrs) ^{1/}	Results (%) shall be reported to the Central Bureau of Materials	

1/ Frequency of the testing will be determined by the Bureau of Materials Policy Memorandum, "Performance Graded Asphalt Binder Qualification Procedure."

The following grades may be specified as tack coats.

Asphalt Grade	Use
PG 58-22, PG 58-28, PG 64-22	Tack Coat

Revise Article 1031.06(c)(1) and 1031.06(c)(2) of the Standard Specifications to read:

“(1) RAP/RAS. When RAP is used alone or RAP is used in conjunction with RAS, the percentage of virgin ABR shall not exceed the amounts listed in the following table.

HMA Mixtures - RAP/RAS Maximum ABR % ^{1/ 2/}			
Ndesign	Binder	Surface	Polymer Modified Binder or Surface ^{3/}
30	30	30	10
50	25	15	10
70	15	10	10
90	10	10	10

- 1/ For Low ESAL HMA shoulder and stabilized subbase, the RAP/RAS ABR shall not exceed 50 percent of the mixture.
- 2/ When RAP/RAS ABR exceeds 20 percent, the high and low virgin asphalt binder grades shall each be reduced by one grade (i.e. 25 percent ABR would require a virgin asphalt binder grade of PG 64-22 to be reduced to a PG 58-28).
- 3/ The maximum ABR percentages for ground tire rubber (GTR) modified mixes shall be equivalent to the percentages specified for SBS/SBR polymer modified mixes.

(2) FRAP/RAS. When FRAP is used alone or FRAP is used in conjunction with RAS, the percentage of virgin asphalt binder replacement shall not exceed the amounts listed in the following table.

HMA Mixtures - FRAP/RAS Maximum ABR % ^{1/ 2/}			
Ndesign	Binder	Surface	Polymer Modified Binder or Surface ^{3/}
30	55	45	15
50	45	40	15
70	45	35	15
90	45	35	15
SMA	--	--	25
IL-4.75	--	--	35

- 1/ For Low ESAL HMA shoulder and stabilized subbase, the FRAP/RAS ABR shall not exceed 50 percent of the mixture.
- 2/ When FRAP/RAS ABR exceeds 20 percent for all mixes, the high and low virgin asphalt binder grades shall each be reduced by one grade (i.e. 25 percent ABR would require a virgin asphalt binder grade of PG 64-22 to be reduced to a PG 58-28).

- 3/ The maximum ABR percentages for GTR modified mixes shall be equivalent to the percentages specified for SBS/SBR polymer modified mixes.”

Add the following to the end of Note 2. of Article 1030.03 of the Standard Specifications.

“A dedicated storage tank for the ground tire rubber (GTR) modified asphalt binder shall be provided. This tank shall be capable of providing continuous mechanical mixing throughout and/or recirculation of the asphalt binder to provide a uniform mixture. The tank shall be heated and capable of maintaining the temperature of the asphalt binder at 300 °F to 350 °F (149 °C to 177 °C). The asphalt binder metering systems of dryer drum plants shall be calibrated with the actual GTR modified asphalt binder material with an accuracy of ±0.40 percent.”

PORTLAND CEMENT CONCRETE – HAUL TIME (BDE)

Effective: July 1, 2020

Revise Article 1020.11(a)(7) of the Standard Specifications to read:

“(7) Haul Time. Haul time shall begin when the delivery ticket is stamped. The delivery ticket shall be stamped no later than five minutes after the addition of the mixing water to the cement, or after the addition of the cement to the aggregate when the combined aggregates contain free moisture in excess of two percent by weight (mass). If more than one batch is required for charging a truck using a stationary mixer, the time of haul shall start with mixing of the first batch. Haul time shall end when the truck is emptied for incorporation of the concrete into the work. The maximum haul time shall be as follows.

Concrete Temperature at Point of Discharge, °F (°C)	Maximum Haul Time ^{1/} (minutes)	
	Truck Mixer or Truck Agitator	Nonagitator Truck
50 - 64 (10 - 17.5)	90	45
> 64 (> 17.5) - without retarder	60	30
> 64 (> 17.5) - with retarder	90	45

1/ To encourage start-up testing for mix adjustments at the plant, the first two trucks will be allowed an additional 15 minutes haul time whenever such testing is performed.

For a mixture which is not mixed on the jobsite, a delivery ticket shall be required for each load. The following information shall be recorded on each delivery ticket: (1) ticket number; (2) name of producer and plant location; (3) contract number; (4) name of Contractor; (5) stamped date and time batched; (6) truck number; (7) quantity batched; (8) amount of admixture(s) in the batch; (9) amount of water in the batch; and (10) Department mix design number.

For concrete mixed in jobsite stationary mixers, the above delivery ticket may be waived, but a method of verifying the haul time shall be established to the satisfaction of the Engineer.”

STEEL COST ADJUSTMENT (BDE)

Effective: April 2, 2004

Revised: January 1, 2022

Description. Steel cost adjustments will be made to provide additional compensation to the Contractor, or a credit to the Department, for fluctuations in steel prices when optioned by the Contractor. The bidder shall indicate with their bid whether or not this special provision will be part of the contract. Failure to indicate “Yes” for any item of work will make that item of steel exempt from steel cost adjustment.

Types of Steel Products. An adjustment will be made for fluctuations in the cost of steel used in the manufacture of the following items:

- Metal Piling (excluding temporary sheet piling)
- Structural Steel
- Reinforcing Steel

Other steel materials such as dowel bars, tie bars, welded reinforcement, guardrail, steel traffic signal and light poles, towers and mast arms, metal railings (excluding wire fence), and frames and grates will be subject to a steel cost adjustment when the pay items they are used in have a contract value of \$10,000 or greater.

The adjustments shall apply to the above items when they are part of the original proposed construction, or added as extra work and paid for by agreed unit prices. The adjustments shall not apply when the item is added as extra work and paid for at a lump sum price or by force account.

Documentation. Sufficient documentation shall be furnished to the Engineer to verify the following:

- (a) The dates and quantity of steel, in lb (kg), shipped from the mill to the fabricator.
- (b) The quantity of steel, in lb (kg), incorporated into the various items of work covered by this special provision. The Department reserves the right to verify submitted quantities.

Method of Adjustment. Steel cost adjustments will be computed as follows:

$$SCA = Q \times D$$

Where: SCA = steel cost adjustment, in dollars
Q = quantity of steel incorporated into the work, in lb (kg)
D = price factor, in dollars per lb (kg)

$$D = MPI_M - MPI_L$$

Where: MPI_M = The Materials Cost Index for steel as published by the Engineering News-Record for the month the steel is shipped from the mill. The indices will be converted from dollars per 100 lb to dollars per lb (kg).

MPI_L = The Materials Cost Index for steel as published by the Engineering News-Record for the month prior to the letting for work paid for at the contract price; or for the month the agreed unit price letter is submitted by the Contractor for extra work paid for by agreed unit price,. The indices will be converted from dollars per 100 lb to dollars per lb (kg).

The unit weights (masses) of steel that will be used to calculate the steel cost adjustment for the various items are shown in the attached table.

No steel cost adjustment will be made for any products manufactured from steel having a mill shipping date prior to the letting date.

If the Contractor fails to provide the required documentation, the method of adjustment will be calculated as described above; however, the MPI_M will be based on the date the steel arrives at the job site. In this case, an adjustment will only be made when there is a decrease in steel costs.

Basis of Payment. Steel cost adjustments may be positive or negative but will only be made when there is a difference between the MPI_L and MPI_M in excess of five percent, as calculated by:

$$\text{Percent Difference} = \{(MPI_L - MPI_M) \div MPI_L\} \times 100$$

Steel cost adjustments will be calculated by the Engineer and will be paid or deducted when all other contract requirements for the items of work are satisfied. Adjustments will only be made for fluctuations in the cost of the steel as described herein. No adjustment will be made for changes in the cost of manufacturing, fabrication, shipping, storage, etc.

The adjustments shall not apply during contract time subject to liquidated damages for completion of the entire contract.

Attachment

Item	Unit Mass (Weight)
Metal Piling (excluding temporary sheet piling)	
Furnishing Metal Pile Shells 12 in. (305 mm), 0.179 in. (3.80 mm) wall thickness)	23 lb/ft (34 kg/m)
Furnishing Metal Pile Shells 12 in. (305 mm), 0.250 in. (6.35 mm) wall thickness)	32 lb/ft (48 kg/m)
Furnishing Metal Pile Shells 14 in. (356 mm), 0.250 in. (6.35 mm) wall thickness)	37 lb/ft (55 kg/m)
Other piling	See plans
Structural Steel	See plans for weights (masses)
Reinforcing Steel	See plans for weights (masses)
Dowel Bars and Tie Bars	6 lb (3 kg) each
Welded Reinforcement	63 lb/100 sq ft (310 kg/sq m)
Guardrail	
Steel Plate Beam Guardrail, Type A w/steel posts	20 lb/ft (30 kg/m)
Steel Plate Beam Guardrail, Type B w/steel posts	30 lb/ft (45 kg/m)
Steel Plate Beam Guardrail, Types A and B w/wood posts	8 lb/ft (12 kg/m)
Steel Plate Beam Guardrail, Type 2	305 lb (140 kg) each
Steel Plate Beam Guardrail, Type 6	1260 lb (570 kg) each
Traffic Barrier Terminal, Type 1 Special (Tangent)	730 lb (330 kg) each
Traffic Barrier Terminal, Type 1 Special (Flared)	410 lb (185 kg) each
Steel Traffic Signal and Light Poles, Towers and Mast Arms	
Traffic Signal Post	11 lb/ft (16 kg/m)
Light Pole, Tenon Mount and Twin Mount, 30 - 40 ft (9 – 12 m)	14 lb/ft (21 kg/m)
Light Pole, Tenon Mount and Twin Mount, 45 - 55 ft (13.5 – 16.5 m)	21 lb/ft (31 kg/m)
Light Pole w/Mast Arm, 30 - 50 ft (9 – 15.2 m)	13 lb/ft (19 kg/m)
Light Pole w/Mast Arm, 55 - 60 ft (16.5 – 18 m)	19 lb/ft (28 kg/m)
Light Tower w/Luminaire Mount, 80 - 110 ft (24 – 33.5 m)	31 lb/ft (46 kg/m)
Light Tower w/Luminaire Mount, 120 - 140 ft (36.5 – 42.5 m)	65 lb/ft (97 kg/m)
Light Tower w/Luminaire Mount, 150 - 160 ft (45.5 – 48.5 m)	80 lb/ft (119 kg/m)
Metal Railings (excluding wire fence)	
Steel Railing, Type SM	64 lb/ft (95 kg/m)
Steel Railing, Type S-1	39 lb/ft (58 kg/m)
Steel Railing, Type T-1	53 lb/ft (79 kg/m)
Steel Bridge Rail	52 lb/ft (77 kg/m)
Frames and Grates	
Frame	250 lb (115 kg)
Lids and Grates	150 lb (70 kg)

SUBCONTRACTOR AND DBE PAYMENT REPORTING (BDE)

Effective: April 2, 2018

Add the following to Section 109 of the Standard Specifications.

“109.14 Subcontractor and Disadvantaged Business Enterprise Payment Reporting.
 The Contractor shall report all payments made to the following parties:

- (a) first tier subcontractors;
- (b) lower tier subcontractors affecting disadvantaged business enterprise (DBE) goal credit;
- (c) material suppliers or trucking firms that are part of the Contractor’s submitted DBE utilization plan.

The report shall be made through the Department’s on-line subcontractor payment reporting system within 21 days of making the payment.”

SUBCONTRACTOR MOBILIZATION PAYMENTS (BDE)

Effective: November 2, 2017
 Revised: April 1, 2019

Replace the second paragraph of Article 109.12 of the Standard Specifications with the following:

“This mobilization payment shall be made at least seven days prior to the subcontractor starting work. The amount paid shall be at the following percentage of the amount of the subcontract reported on form BC 260A submitted for the approval of the subcontractor’s work.

Value of Subcontract Reported on Form BC 260A	Mobilization Percentage
Less than \$10,000	25%
\$10,000 to less than \$20,000	20%
\$20,000 to less than \$40,000	18%
\$40,000 to less than \$60,000	16%
\$60,000 to less than \$80,000	14%
\$80,000 to less than \$100,000	12%
\$100,000 to less than \$250,000	10%
\$250,000 to less than \$500,000	9%
\$500,000 to \$750,000	8%
Over \$750,000	7%”

VEHICLE AND EQUIPMENT WARNING LIGHTS (BDE)

Effective: November 1, 2021

Add the following paragraph after the first paragraph of Article 701.08 of the Standard Specifications:

“The Contractor shall equip all vehicles and equipment with high-intensity oscillating, rotating, or flashing, amber or amber-and-white, warning lights which are visible from all directions. The lights shall be in operation while the vehicle or equipment is engaged in construction operations.”

WEEKLY DBE TRUCKING REPORTS (BDE)

Effective: June 2, 2012

Revised: November 1, 2021

The Contractor shall submit a weekly report of Disadvantaged Business Enterprise (DBE) trucks hired by the Contractor or subcontractors (i.e. not owned by the Contractor or subcontractors) that are used for DBE goal credit.

The report shall be submitted to the Engineer on Department form “SBE 723” within ten business days following the reporting period. The reporting period shall be Sunday through Saturday for each week reportable trucking activities occur.

Any costs associated with providing weekly DBE trucking reports shall be considered as included in the contract unit prices bid for the various items of work involved and no additional compensation will be allowed.

WORK ZONE TRAFFIC CONTROL DEVICES (BDE)

Effective: March 2, 2020

Add the following to Article 701.03 of the Standard Specifications:

“(q) Temporary Sign Supports 1106.02”

Revise the third paragraph of Article 701.14 of the Standard Specifications to read:

“For temporary sign supports, the Contractor shall provide a FHWA eligibility letter for each device used on the contract. The letter shall provide information for the set-up and use of the device as well as a detailed drawing of the device. The signs shall be supported within 20 degrees of vertical. Weights used to stabilize signs shall be attached to the sign support per the manufacturer’s specifications.”

Revise the first paragraph of Article 701.15 of the Standard Specifications to read:

“**701.15 Traffic Control Devices.** For devices that must meet crashworthiness standards, the Contractor shall provide a manufacturer’s self-certification or a FHWA eligibility letter for each Category 1 device and a FHWA eligibility letter for each Category 2 and Category 3 device used on the contract. The self-certification or letter shall provide information for the set-up and use of the device as well as a detailed drawing of the device.”

Revise the first six paragraphs of Article 1106.02 of the Standard Specifications to read:

“**1106.02 Devices.** Work zone traffic control devices and combinations of devices shall meet crashworthiness standards for their respective categories. The categories are as follows.

Category 1 includes small, lightweight, channelizing and delineating devices that have been in common use for many years and are known to be crashworthy by crash testing of similar devices or years of demonstrable safe performance. These include cones, tubular markers, plastic drums, and delineators, with no attachments (e.g. lights). Category 1 devices manufactured after December 31, 2019 shall be MASH-16 compliant. Category 1 devices manufactured on or before December 31, 2019, and compliant with NCHRP 350 or MASH 2009, may be used on contracts let before December 31, 2024.

Category 2 includes devices that are not expected to produce significant vehicular velocity change but may otherwise be hazardous. These include vertical panels with lights, barricades, temporary sign supports, and Category 1 devices with attachments (e.g. drums with lights). Category 2 devices manufactured after December 31, 2019 shall be MASH-16 compliant. Category 2 devices manufactured on or before December 31, 2019, and compliant with NCHRP 350 or MASH 2009, may be used on contracts let before December 31, 2024.

Category 3 includes devices that are expected to cause significant velocity changes or other potentially harmful reactions to impacting vehicles. These include crash cushions (impact attenuators), truck mounted attenuators, and other devices not meeting the definitions of Category 1 or 2. Category 3 devices manufactured after December 31, 2019 shall be MASH-16 compliant. Category 3 devices manufactured on or before December 31, 2019, and compliant with NCHRP 350 or MASH 2009, may be used on contracts let before December 31, 2029. Category 3 devices shall be crash tested for Test Level 3 or the test level specified.

Category 4 includes portable or trailer-mounted devices such as arrow boards, changeable message signs, temporary traffic signals, and area lighting supports. It is preferable for Category 4 devices manufactured after December 31, 2019 to be MASH-16 compliant; however, there are currently no crash tested devices in this category, so it remains exempt from the NCHRP 350 or MASH compliance requirement.

For each type of device, when no more than one MASH-16 compliant is available, an NCHRP 350 or MASH-2009 compliant device may be used, even if manufactured after December 31, 2019.”

Revise Articles 1106.02(g), 1106.02(k), and 1106.02(l) to read:

“(g) Truck Mounted/Trailer Mounted Attenuators. The attenuator shall be approved for use at Test Level 3. Test Level 2 may be used for normal posted speeds less than or equal to 45 mph.

(k) Temporary Water Filled Barrier. The water filled barrier shall be a lightweight plastic shell designed to accept water ballast and be on the Department’s qualified product list.

Shop drawings shall be furnished by the manufacturer and shall indicate the deflection of the barrier as determined by acceptance testing; the configuration of the barrier in that test; and the vehicle weight, velocity, and angle of impact of the deflection test. The Engineer shall be provided one copy of the shop drawings.

(l) Movable Traffic Barrier. The movable traffic barrier shall be on the Department’s qualified product list.

Shop drawings shall be furnished by the manufacturer and shall indicate the deflection of the barrier as determined by acceptance testing; the configuration of the barrier in that test; and the vehicle weight, velocity, and angle of impact of the deflection test. The Engineer shall be provided one copy of the shop drawings. The barrier shall be capable of being moved on and off the roadway on a daily basis.”

WORKING DAYS (BDE)

Effective: January 1, 2002

The Contractor shall complete the work within **90** working days.

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

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

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

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

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor

performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

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

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

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

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

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

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

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

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

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

for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active 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 who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

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

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

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring 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, national origin, age or disability. The following procedures shall be followed:

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

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

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

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

6. Training and Promotion:

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

b. Consistent with the contractor's work force requirements and as permissible under Federal and State 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. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The number and work hours of minority and non-minority group members 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 \$10,000 or more.

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each

classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

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

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

separate account assets for the meeting of obligations under the plan or program.

2. Withholding

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

3. Payrolls and basic records

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

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice

performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

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

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

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

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

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

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

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

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

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

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

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

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

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Instructions for Certification – First Tier Participants:

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

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

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

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

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

2. Instructions for Certification - Lower Tier Participants:

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

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

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

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.

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

Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

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

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

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

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

* * * * *

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

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

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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

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

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

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

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

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

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

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.

Contract Provision - Cargo Preference Requirements

In accordance with Title 46 CFR § 381.7 (b), the contractor 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.

(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 Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

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

Provisions (1) and (2) apply to materials or equipment that are acquired solely for the project. The two provisions do not apply to goods or materials that come into inventories independent of the project, such as shipments of Portland cement, asphalt cement, or aggregates, when industry suppliers and contractors use these materials to replenish existing inventories.

