

EQUAL EMPLOYMENT OPPORTUNITY (EEO) SPECIAL PROVISIONS

This section of Special Provisions contains the Equal Employment Opportunity (EEO) rules and regulations for highway construction projects in Minnesota which are federally and/or State funded.

The source of funding determines which EEO regulations and goals (Federal and/or State goals) apply to a specific project. When a project contains funding from both Federal and State sources, both sets of regulations apply, and the Minnesota Department of Transportation (Mn/DOT) monitors and reviews projects at both levels.

If the project contains any Federal funding, and has a total dollar value exceeding \$10,000, Federal EEO regulations and goals apply (pages 2, 6, 7-8, 9-14, 15, 16-17, 22-26, 27-38). The Mn/DOT Office of Civil Rights monitors and reviews these projects on behalf of the Federal Highway Administration (FHWA), under Federal statutes (23 USC 140) and rules (23 CFR 230).

If the project contains any State funding, and has a total dollar value exceeding \$100,000, State EEO regulations and goals apply (pages 2, 3, 4, 5, 6, 9-14, 16-22). Mn/DOT's Office of Civil Rights monitors and reviews these projects in conjunction with the Minnesota Department of Human Rights under Minnesota Statutes §363A.36 and its accompanying rules.

Mn/DOT has established a single review and monitoring process which meets both Federal and State requirements.

Please note that Pages 23-38 of these Special Provisions may be omitted from projects with no Federal funding.

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**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION
TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY
(23 USC 140, 23 CFR 230 and Minnesota Statute 363A.36)**

1. The offerer's or bidder's attention is called to the "Minnesota Affirmative Action Requirements" (EEO Page 4), the "Specific Federal Equal Employment opportunity Responsibilities" (EEO Pages 7-8), the "Standard Federal and State Equal Employment Opportunity Construction Contract Specifications" (EEO Pages 9-14), the "Equal Opportunity Clause" (EEO Page 15) and "Required Contract Provisions - Federal-Aid Construction Contracts" (EEO Pages 27-37).
2. The goals and timetables for minority and women participation, expressed in percentage terms of hours of labor for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as shown on EEO Pages 16-17.

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

The Contractor's compliance with the regulations in 41 CFR Part 60-4, and/or Minnesota Statutes §363A.36 and its accompanying rules shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) for Federal or federally assisted projects, and Minnesota Statutes §363A.36, and its accompanying rules for State or State assisted projects, and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and women employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority and women employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4 for Federal or federally-assisted projects and/or Minnesota Statutes §363A.36 and its accompanying rules for state or state-assisted projects. Compliance with the goals will be measured against the total work hours performed.

3. If the contract is federally funded, the Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within ten working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. If the contract is state funded, the Contractor shall provide written notification to the Compliance Division, Minnesota Department of Human Rights, Army Corps of Engineers Centre, 190 E 5th Street, Suite 700, St. Paul, Minnesota 55101 within ten working days of award of any construction subcontract in excess of \$100,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the Subcontractor; employer identification number of the Subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is the county or counties of the State of Minnesota where the work is to be performed.

NOTICE TO ALL PRIME AND SUBCONTRACTORS PRE-AWARD REPORTING REQUIREMENTS

In order to ensure compliance with Federal and State laws and regulations (23 USC 140, and 23 CFR 230, and Minnesota Statutes §363A.36) and to ensure Mn/DOT's ability to monitor and enforce compliance efforts, the following requirements apply if the apparent low bid exceeds \$ 5,000,000.00:

- 1) The Apparent Low Bidder ("ALB") must provide to Mn/DOT the "EEO-8 Form" (also entitled "EEO Compliance Review Report"), which must provide detail on the contractor's total company workforce in the State of Minnesota during the twelve month period preceding July 30th of the previous year (Office and/or clerical personnel need not to be included).
- 2) The ALB must provide to Mn/DOT a work plan for meeting the minority and women employment goals established by the Minnesota Department of Human Rights, for the project in question. The work plan must include, at a minimum (1) how the ALB will incorporate its current minority and women employees in the ALB's efforts to meet the established goals; and (2) a contingency plan if the ALB has determined that its current workforce is not sufficient in order to achieve the established employment goals. If the ALB relies in whole or in part upon unions as a source of employees, then the ALB must (1) include a list of established organizations that are likely to yield qualified minority and women candidates if those union(s) are unable to provide a reasonable flow of minority and women candidates in their work plan; and (2) document the method by which these organizations will refer candidates to the ALB for employment opportunities. All bidders are hereby notified that the U.S. Department of Labor has determined that a contractor will not be excused from complying with the Federal and State laws and regulations cited above based solely on the fact that a contractor has a collective bargaining agreement with a union providing for the union to be the exclusive source of referral and that the union failed to refer minority employees. A contractor may obtain a list of organizations likely to yield qualified minority and women candidates from the Mn/DOT Office of Civil Rights.
- 3) The ALB must provide to Mn/DOT the ALB's total workforce and labor projections for the project (represented in hours), the ALB's projected total number of minority hours for the project, and the ALB's projected total number of women hours for the project. The details must include the trade(s) that will be utilized in order to complete the project.

The ALB must submit documents as required to comply with this section no later than five business days after the date that bids for the contract are opened. The five day period starts the business day following the date that bids were opened. The required documents must be received prior to Contract Award, and must be sent to the Mn/DOT Office of Civil Rights – 395 John Ireland Blvd., Mail Stop 170 St. Paul, MN 55155-1899. Submittal of the documents described in (1), (2) and (3) is required for contract award to the ALB. The submitted documents will be used as a tool to assist contractors in meeting employment goals; the content itself will not be evaluated for the purpose of determining contract award.

MINNESOTA AFFIRMATIVE ACTION REQUIREMENTS

1. It is hereby agreed between the parties to this contract that Minnesota Statutes, Section §363A.36, and its accompanying rules are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minnesota Statutes, Section §363A.36, and its accompanying rules is available upon request from the contracting agency. The Contractor hereby agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
2. It is hereby agreed between the parties to this contract that this agency requires that the Contractor meet affirmative action criteria as provided for by Minnesota Statutes §363A.36 and its accompanying rules. It is the intent of the Minnesota Department of Transportation to fully carry out its responsibility for requiring affirmative action, and to implement sanctions for failure to meet these requirements. Failure by a contractor to implement an affirmative action plan, meet project employment goals for minority and women employment or make a good faith effort to do so may result in revocation of his/her Certificate of Compliance or suspension or revocation of the contract (Minnesota Statutes §363A.36).
3. Under the affirmative action obligation imposed by the Human Rights Act, Minnesota Statutes, Section §363A.36, contractors shall take affirmative action to employ and advance in employment minority, female, and qualified disabled individuals at all levels of employment. Affirmative action must apply to all employment practices, including but not limited to hiring, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall recruit, hire, train and promote persons in all job titles, without regard to race, color, creed, religion, sex, national origin, marital status, status with regard to public assistance, physical or mental disability, sexual orientation or age except where such status is a bona fide occupational qualification. These affirmative action requirements of the Minnesota Human Rights Act are consistent with but broader than the Federal requirements as covered in this contract.
4. Affirmative Action for disabled workers. The Contractor shall not discriminate against any employee or applicant for employment because of a physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disability in all employment practices such as employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training (including apprenticeship). In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes, section §363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights pursuant to the Minnesota Human Rights Act.
5. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment minority, women and qualified disabled employees and applicants for employment, and the rights of applicants and employees. **A poster entitled "Contractor Non-discrimination is the Law" may be obtained from: Compliance Unit, Minnesota Department of Human Rights, Army Corps of Engineers Centre, 190 E. 5th Street, Suite 700, St. Paul, Minnesota 55101. (651) 296-5663, TTY 296-1283, Toll Free 1-800-657-3704.**
6. The Contractor shall notify each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minnesota Statutes, section §363A.36 of the Minnesota Human Rights Act, and is committed to take affirmative action to employ and advance in employment minority, women and qualified physically and mentally disabled individuals.

APPROPRIATE WORK PLACE BEHAVIOR ON Mn/DOT CONSTRUCTION PROJECTS UTILIZING STATE FUNDS

It is the Minnesota Department of Transportation's (Mn/DOT's) policy to provide a workplace free from violence, threats of violence, harassment and discrimination. Mn/DOT has established a policy of zero tolerance for violence in the workplace. Contractors who perform work on Mn/DOT construction projects, or local government entities or public agencies utilizing state funds on highway construction projects, shall maintain a workplace free from violence, harassment and discrimination (See definitions, below).

Definitions:

1. **Violence** is the threatened or actual use of force which results in or has a high likelihood of causing fear, injury, suffering or death. Employees are prohibited from taking reprisal against anyone who reports a violent act or threat.

2. **Harassment** is the conduct of one employee (toward another employee) which has the purpose or effect of 1) unreasonably interfering with the employee's work performance, and/or 2) creating an intimidating, hostile or offensive work environment. Harassment is not legitimate job-related efforts of supervisor to direct/evaluate an employee or to have an employee improve work performance.

A. **Unlawful discriminatory harassment** is harassment which is based on these characteristics: race, color, creed, religion, national origin, sex, disability, age, marital status, status with regard to public assistance or sexual orientation. Managers, supervisors and employees shall not take disciplinary or retaliatory action against employees who make complaints of sexual harassment.

Sexual harassment is unwelcome sexual advances, requests for sexual favors, or sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature, when submission to that conduct or communication is 1) made a term or condition, either explicitly or implicitly, of obtaining employment; or 2) is used as a factor in decisions affecting an individual's employment; or 3) when that conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile or offensive work environment, and the employer knows or should have known of the existence of the harassment and fails to take timely and appropriate action. Examples include but are not limited to insulting or degrading sexual remarks or conduct; threats, demands or suggestions that status is contingent upon toleration or acquiescence to sexual advances; displaying in the workplace sexually suggestive objects, publications or pictures, or retaliation against employees for complaining about the behavior cited above or similar behaviors.

B. **General harassment** is harassment which is not based on the above characteristics. Examples may include, but are not limited to: physically intimidating behavior and/or threats of violence; use of profanity (swearing), vulgarity; ridiculing, taunting, belittling or humiliating another person; inappropriate assignments of work or benefits; derogatory name calling.

3. **Discrimination** includes actions which cause a person, solely because of race, color, creed, religion, national origin, sex, disability, age, marital status, status with regard to public assistance or sexual orientation to be subject to unequal treatment.

Prime Contractors who work on Mn/DOT projects shall ensure that their managers, supervisors, foremen/women and employees are familiar with Mn/DOT's policy on appropriate work place behavior; and shall ensure that their subcontractors are familiar with this policy. Managers, supervisors and foremen/women will respond to, document, and take appropriate action in response to all reports of violence, threats of violence, harassment or discrimination. Failure to comply with this policy may result in cancellation, termination or suspension of contracts or subcontracts currently held and debarment from further such contracts or subcontracts as provided by statute. If you need additional information or training regarding this policy, please contact the Office of Civil Rights at (651) 366-3073.

NOTICE TO ALL PRIME AND SUBCONTRACTORS REPORTING REQUIREMENTS

1. In order to monitor compliance with Federal Statutes 23 USC 140 and 23 CFR 230, and Minnesota Statutes §363A.36, all prime contractors and subcontractors are required to complete a Mn/DOT Monthly Employment Compliance Report each month for each project (Form EEO-13, sample copy at EEO Pages 20-21.) Prime contractors are also required to complete a Contractor Employment Data Report (Form EEO-12, sample copy at EEO Pages 18-19) once prior to work commencing on the project, unless one has been completed already within the calendar year.

The prime contractor of each project collects Monthly Employment Compliance Reports from each subcontractor who performed work during the month, and completes a Monthly Employment Compliance Report on its own work force. **For the month of July only, an EEO-13 is required for each payroll period within the month of July.** The prime contractor submits the EEO-13 forms to the Mn/DOT Project Engineer by the 15th day of the subsequent month.

Failure to submit the required reports in the allowable time frame will be cause for the imposition of contract sanctions.

It is the intent of Mn/DOT to implement monitoring measures on each project to ensure that each prime contractor and subcontractor is promoting the full realization of equal employment opportunities. Any project may be scheduled for an in depth on-site contract compliance review. During the scheduled on-site review, the Contractor will be required to provide to Mn/DOT documentation of its "good faith efforts" as shown in EEO Pages 10-13, at 7 a-p of this contract.

2. If a Federally funded project requires On-the-Job-Training (OJT) participation, information is provided in the contract and can be located by referring to the Table of Contents for Division S. (OJT is also listed as a bid line item under Trainees.) When a contract requires OJT participation, the Prime Contractor shall submit a training plan as indicated in the Proposal. The training plan shall include the job classification titles of trainees, planned training activities and the approximate start date of trainees.
3. When a Contractor selects a trainee applicant for OJT, the Contractor completes an On the Job Training Program-Trainee Assignment form (sample copy at EEO Page 23) and submits it to the Contract Compliance Specialist (CCS) assigned to the project for approval. The CCS notifies the Contractor and Project Engineer when the applicant is approved.
4. Hours of work performed by OJT employees shall be documented on a monthly basis on the Certification of On-The-Job Training Hours form, (Mn/DOT Form No. 21860, sample copy at EEO Page 24). The Contractor shall submit the original and one copy to the Project Engineer, and one copy to the CCS assigned to the project.

Do not remove forms from this contract. Please duplicate forms from the copies in this contract, or the Mn/DOT Office of Civil Rights will provide these forms upon request. Please call the Office of Civil Rights, (651) 366-3073.

SPECIFIC FEDERAL EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES (23 CFR 230, Subpart A, Appendix A, FAPG June 6, 1996)

1. General.

a. Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required contract Provisions (Form PR-1273 or 1316, as appropriate) and these Special Provisions which are imposed pursuant to Section 140 of title 23, U.S.C., as established by Section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.

b. The contractor will work with the State highway agencies and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.

c. The contractor and all his/her subcontractors holding subcontracts not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment Opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of \$10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

2. Equal Employment Opportunity Policy.

The contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote their full realization of equal employment through a positive continuing program:

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, or national origin. 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.

3. Equal Employment Opportunity Officer. The contractor will designate and make known to State highway agency

contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. Dissemination of Policy.

a. 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 equal employment opportunity 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:

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

(2). All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official, covering all major aspects of the contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the contractor.

(3). All personnel who are engaged in direct recruitment for the project will be instructed by the EEO officer or appropriate company official in the contractor's procedures for locating and hiring minority group employees.

b. In order to make the contractor's equal employment policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor will take the following actions:

(1). Notices and posters setting forth the contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

(2). The contractor's equal employment opportunity 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.

5. Recruitment.

a. When advertising for employees, the contractor will include in all advertisements for employees the notation "An Equal Opportunity Employer." All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

b. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor will, through his/her EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where the implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. 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, or national origin. 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.

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.

SPECIFIC FEDERAL EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES (*con=t*)

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 his/her 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 his avenues of appeal.

7. Training and Promotion.

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees and applicants for employment.

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. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event the Training Special Provision is provided under this contract, this subparagraph will be superseded as indicated in Attachment 2.

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 minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. Unions. If a contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the

unions, and to effect referrals by such unions of minority and female employees. 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 best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group members and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an equal employment opportunity 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, or national origin.

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 State highway department 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 minority and women 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, or national origin; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) 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 State highway agency.

9. Subcontracting.

a. The contractor will use his best efforts to solicit bids from and to utilize minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from

State highway agency personnel.

b. The contractor will use his best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. Records and Reports:

a. The contractor shall keep such records as necessary to determine compliance with the contractor's equal employment opportunity obligations. The records kept by the contractor will be designed to indicate:

- (1) The number 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 to increase employment opportunities for minorities and women (applicable only to contractor's who rely in whole or in part on unions as a source of their work force),
- (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and
- (4) The progress and efforts being made in securing the services of minority group subcontractors with meaningful minority and female representation among their employees.

b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State highway agency and the Federal Highway Administration.

c. The contractors will submit an annual report to the State highway 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 PR-1391. If on-the-job training is being required by a "Training Special Provision", the contractor will be required to furnish Form FHWA 1409.

**STANDARD FEDERAL AND STATE EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(41 CFR 60-4.3 and Minnesota Statutes 363A.36)**

Unless noted, the following apply to both Federal/federally assisted projects and State/state assisted projects. Item 3 applies to Federal/federally assisted projects only

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer Identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 (\$100,000 for State projects) the provisions of these specifications and the Notice which contains the applicable goals for minority and women participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4, 5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work on the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7(a) to (p) of these specifications (itemized as 4 [a] to [o], Minnesota Rules

**STANDARD FEDERAL AND STATE EEO CONSTRUCTION
CONTRACT SPECIFICATIONS (con't)**

5000.3535). The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minorities and utilization the Contractor should (shall, for State or state assisted projects) reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor shall make substantially uniform progress toward its goals in each craft during the period specified. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Federal goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any office of Federal Contract Compliance programs or from Federal procurement contracting officers. State goals are published periodically in the State Register in notice form, and may be obtained from the Minnesota Department of Human Rights or the Minnesota Department of Transportation Office of Civil Rights. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union, with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications and Executive Order 11246 and its associated rules and regulations for Federal or federally assisted projects, and Minnesota Statutes, Section §363A.36 of the Minnesota Human Rights Act, or the rules adopted under the Act for State or state assisted projects.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained according to training programs approved by the Minnesota Department of Human Rights, the Minnesota Department of Labor and Industry, or the United States Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications must be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following (referred to in Minnesota Rules 5000.3535 as items 4(a) to (o):
 - (a) Ensure and maintain, or for State or state assisted projects make a good faith effort to maintain, a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the Contractor's employees are assigned to work. For

**STANDARD FEDERAL AND STATE EEO CONSTRUCTION
CONTRACT SPECIFICATIONS (con't)**

Federal or federally assisted projects, the Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or women individuals working at such sites or in such facilities.

- (b) Establish and maintain a current list of minority and women recruitment sources, provide written notification to minority and women recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- (c) Maintain a current file of the names, addresses, and telephone numbers of each minority and woman off-the-street applicant and minority or woman referral from a union, a recruitment source, or community organization and of what action was taken with respect to each individual. If the individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the Contractor may have taken.
- (d) Provide immediate written notification to the commissioner of the Minnesota Department of Human Rights for State or state assisted projects, or the director of the Office of Federal Contract Compliance for Federal or federally assisted projects, when the union, or unions with which the Contractor has a collective bargaining agreement, has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- (e) Develop on-the-job training opportunities and/or participate in training programs for the areas which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the State of Minnesota for State or state assisted projects or the Department of Labor, for Federal or federally assisted projects. The Contractor shall provide notice of these programs to the sources compiled under (b).
- (f) Disseminate the Contractor's equal employment opportunity policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its equal employment opportunity obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and women employees at least once a year; and by posting the company equal employment opportunity policy on bulletin boards accessible to all employees at each location where construction work is performed.

**STANDARD FEDERAL AND STATE EEO CONSTRUCTION
CONTRACT SPECIFICATIONS** (*con't*)

- (g) Review, at least annually, the company's equal employment opportunity policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions; including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the first day of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (h) Disseminate the Contractor's equal employment opportunity policy externally by including it in any advertising in the news media, specifically including minority and women news media, and providing written notification to and discussing the Contractor's equal employment opportunity policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
- (i) Direct its recruitment efforts, both oral and written, to minority, women, and community organizations; to schools with minority and women students; and to minority and women recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- (j) Encourage present minority and women employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and women youth, both on the site and in other areas of a Contractor's work force.
- (k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3. (This requirement applies only to Federal and federally assisted projects.)
- (l) Conduct, at least annually, an inventory and evaluation at least of all minority and women personnel for promotional opportunities; and encourage these employees to seek or to prepare for, through appropriate training, such opportunities. (This is Item 4(k) in Minnesota Rules.)
- (m) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the equal employment opportunity policy and the Contractor's obligations under these specifications are being carried out. (This is item 4(l) in Minnesota Rules.)

**STANDARD FEDERAL AND STATE EEO CONSTRUCTION
CONTRACT SPECIFICATIONS (con't)**

- (n) Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes. (This is item 4(m) in Minnesota Rules.)
 - (o) Document and maintain a record of all solicitations or offers for subcontracts from minority and women construction contractors and suppliers, including circulation of solicitations to minority and women contractor associations and other business associations. (This is item 4(n) in Minnesota Rules.)
 - (p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's equal employment opportunity policies and affirmative action obligations. (This is item 4(o) in Minnesota Rules.)
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7(a) to (p) for Federal or federally assisted projects, and 4(a)-(o) for State or state assisted projects). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7(a) to (p) or 4(a) to (o) of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and women work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor however, is required to provide equal employment opportunity and to take affirmative action for all minority groups both male and female, and all women both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order for Federal or federally assisted projects, or Minnesota Rules for State or state assisted projects, if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order or Minnesota Rules part 5000.3520 if a specific minority group is under-utilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, creed, religion, sex, or national origin. Minnesota Statutes §363A.36, part 5000.3535 (Subp. 7) also prohibits discrimination with regard to marital status, status with regard to public assistance, disability, age, or sexual orientation.

**STANDARD FEDERAL AND STATE EEO CONSTRUCTION
CONTRACT SPECIFICATIONS** (*con't*)

11. The Contractor shall not enter into any subcontract with any person or firm debarred from government contracts under the federal Executive Order 11246 or a local human rights ordinance, or whose certificate of compliance has been suspended or revoked pursuant to Minnesota Statutes, Section §363A.36.
12. The Contractor shall carry out such sanctions for violation of these specifications and of the equal opportunity clause, including suspension, termination, and cancellation of existing contracts as may be imposed or ordered pursuant to Minnesota Statutes, Section §363A.36, and its implementing rules for State or state assisted projects, or Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs for Federal or federally assisted projects. Any contractor who fails to carry out such sanctions shall be in violation of these specifications and Minnesota Statutes, Section §363A.36, or Executive Order 11246 as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications (paragraph 4 in Minnesota Rules 5000.3535), so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these Specifications or Minnesota Statutes, Section §363A.36 and its implementing rules, or Executive Order 11246 and its regulations, the commissioner or the director shall proceed in accordance with Minnesota Rules part 5000.3570 for State or state assisted projects, or 41 CFR 60-4.8 for Federal or federally assisted projects.
14. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company equal employment opportunity policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Minnesota Department of Human Rights or the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (for example, mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing provided in this part shall be construed as a limitation upon the application of other state or federal laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents.

EQUAL OPPORTUNITY CLAUSE

(41 CFR Part 60-1.4 b, 7-1-96 Edition)

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

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

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

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

3. The Contractor will send to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor will comply with all provisions of Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965, and of the rules, regulations (41 CFR Part 60), and relevant orders of the Secretary of Labor.

5. The Contractor will furnish all information and reports required by Executive Order 11246 and by rules, regulations, and orders of the Secretary of Labor, pursuant thereto, and will permit access to its books, records, and accounts by the Federal Highway Administration (FHWA) and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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

7. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraph (1) through (7) in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246. The Contractor will take such action with respect to any subcontract or purchase order as the Secretary of Labor, SHA, or the Federal Highway Administration (FHWA) may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event a contractor becomes a party to litigation by a subcontractor or vendor as a result of such direction, the contractor may request the SHA to enter into such litigation to protect the interest of the State. In addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Minority and Women Employment Goals

County	Federal Goals		State Goals	
	Minority Goal	Women Goal	Minority Goal	Women Goal
Aitkin	2.2%	6.9%	5%	6%
Anoka	2.9%	6.9%	11%	6%
Becker	0.7%	6.9%	6%	6%
Beltrami	2.0%	6.9%	6%	6%
Benton	0.5%	6.9%	3%	6%
Big Stone	2.2%	6.9%	4%	6%
Blue Earth	2.2%	6.9%	4%	6%
Brown	2.2%	6.9%	4%	6%
Carlton	1.2%	6.9%	5%	6%
Carver	2.9%	6.9%	11%	6%
Cass	2.2%	6.9%	6%	6%
Chippewa	2.2%	6.9%	4%	6%
Chisago	2.9%	6.9%	3%	6%
Clay	0.7%	6.9%	6%	6%
Clearwater	2.0%	6.9%	6%	6%
Cook	1.2%	6.9%	5%	6%
Cottonwood	0.8%	6.9%	4%	6%
Crow Wing	2.2%	6.9%	6%	6%
Dakota	2.9%	6.9%	11%	6%
Dodge	0.9%	6.9%	4%	6%
Douglas	2.2%	6.9%	6%	6%
Faribault	2.2%	6.9%	4%	6%
Fillmore	0.9%	6.9%	4%	6%
Freeborn	0.9%	6.9%	4%	6%
Goodhue	2.2%	6.9%	4%	6%
Grant	2.2%	6.9%	6%	6%
Hennepin	2.9%	6.9%	11%	6%
Houston	0.6%	6.9%	4%	6%
Hubbard	2.0%	6.9%	6%	6%
Isanti	2.2%	6.9%	3%	6%
Itasca	1.2%	6.9%	5%	6%
Jackson	0.8%	6.9%	4%	6%
Kanabec	2.2%	6.9%	3%	6%
Kandiyohi	2.2%	6.9%	3%	6%
Kittson	2.0%	6.9%	6%	6%
Koochiching	1.2%	6.9%	5%	6%
Lac Qui Parle	2.2%	6.9%	4%	6%
Lake	1.2%	6.9%	5%	6%
Lake of the Woods	2.0%	6.9%	6%	6%
Le Sueur	2.2%	6.9%	4%	6%
Lincoln	0.8%	6.9%	4%	6%
Lyon	0.8%	6.9%	4%	6%

County	Federal Goals		State Goals	
	Minority Goal	Women Goal	Minority Goal	Women Goal
Mahnomen	2.0%	6.9%	6%	6%
Marshall	2.0%	6.9%	6%	6%
Martin	2.2%	6.9%	4%	6%
McLeod	2.2%	6.9%	3%	6%
Meeker	2.2%	6.9%	3%	6%
Mille Lacs	2.2%	6.9%	3%	6%
Morrison	2.2%	6.9%	6%	6%
Mower	0.9%	6.9%	4%	6%
Murray	0.8%	6.9%	4%	6%
Nicollet	2.2%	6.9%	4%	6%
Nobles	0.8%	6.9%	4%	6%
Norman	2.0%	6.9%	6%	6%
Olmsted	1.4%	6.9%	4%	6%
Otter Tail	2.2%	6.9%	6%	6%
Pennington	2.0%	6.9%	6%	6%
Pine	2.2%	6.9%	3%	6%
Pipestone	0.8%	6.9%	4%	6%
Polk	1.2%	6.9%	6%	6%
Pope	2.2%	6.9%	6%	6%
Ramsey	2.9%	6.9%	11%	6%
Red Lake	2.0%	6.9%	6%	6%
Redwood	0.8%	6.9%	4%	6%
Renville	2.2%	6.9%	3%	6%
Rice	2.2%	6.9%	4%	6%
Rock	0.8%	6.9%	4%	6%
Roseau	2.0%	6.9%	6%	6%
Scott	2.9%	6.9%	11%	6%
Sherburne	0.5%	6.9%	3%	6%
Sibley	2.2%	6.9%	4%	6%
St. Louis	1.0%	6.9%	5%	6%
Stearns	0.5%	6.9%	3%	6%
Steele	0.9%	6.9%	4%	6%
Stevens	2.2%	6.9%	6%	6%
Swift	2.2%	6.9%	4%	6%
Todd	2.2%	6.9%	6%	6%
Traverse	2.2%	6.9%	6%	6%
Wabasha	0.9%	6.9%	4%	6%
Wadena	2.2%	6.9%	6%	6%
Waseca	2.2%	6.9%	4%	6%
Washington	2.9%	6.9%	11%	6%
Watonwan	2.2%	6.9%	4%	6%
Wilkin	0.7%	6.9%	6%	6%
Winona	0.6%	6.9%	4%	6%
Wright	2.9%	6.9%	3%	6%
Yellow Medicine	2.2%	6.9%	4%	6%

Minnesota Department of Transportation Office of Civil Rights Contractor Employment Data	1. Contractor Name and Address: Phone: _____
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2. Employment Data a) Name: Last Name, First Name, MI	b) Social Security #	c) New Hire (Y or N)	d) Ethnicity	e) Gender (M or F)	f) Trade/Foreman, Supervisors, Managers	g) Level (A, J, or T)
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If you have submitted this form at any time during this calendar year, you do not need to submit another one.

INSTRUCTIONS FOR EEO-12 CONTRACTOR EMPLOYMENT DATA

This form should be submitted at the Pre-Con to the Project Engineer prior to the start of your first Mn/DOT construction project for the calendar year. (Prime and Subs)

1. Contractor Name and Address self-explanatory.
2. Employment Data information will coincide with your employment records.
 - 2a. Name should be listed First Name, Middle Initial, and Last Name. This will enable Mn/DOT EEO staff to readily identify individuals on all projects.
 - 2b. Social Security Number self-explanatory.
 - 2c. New Hire is to be indicated with a “Y” for Yes or an “N” for No. “New Hire” is an employee who has not worked for you in any capacity or on any other project within the current calendar year.
 - 2d. Ethnicity can be indicated by Black (B), Hispanic (H), American Indian/Alaskan Native (AI), Asian/Pacific Islander (AP), or White (W).
 - 2e. Gender is to be indicated with an “M” for Males or an “F” for Females.
 - 2f. Trade/Foreman, Supervisors, Managers self-explanatory. List trade that applies unless the employee fits one of the other three categories.
 - 2g. Level “A” is for an Apprentice, “J” is for a Journey Worker, and “T” is for a Mn/DOT approved Trainee.

If you have questions about filling out this form, contact the Office of Civil Rights at (651) 366-3073.
(Please make copies as you need them.)

This information can be submitted electronically via the web, through Mn/DOT’s Work force Information Tracking Initiative (WITI) Program. To open a free account to gain access to WITI or to find out more about this possibility please contact Mn/DOT’s Office of Civil Rights at (651) 366-3321.

Minnesota Department of Transportation Office of Civil Rights Monthly Employment Compliance Report EEO-13		1. SP <input type="checkbox"/> SAP <input type="checkbox"/> (Check one) SP#		3. Contractor Name:			4. Prime <input type="checkbox"/> Subcontractor <input type="checkbox"/> (check one)		
		County or City		Federal Tax ID:			Street Address:		
		2. Reporting Period _____ to _____		City, State Zip			5. Dollar Amount of Contract:		
							6. Percent of Completion:		
7. Employment Data a) Name: Last, First Middle Initial		b) Social Security #	c) New Hire (Y or N)	d) Ethnicity	e) Gender M or F)	Trade/Foreman, Supervisors, Managers	g) Level (A, J or T)	h) Hours Worked This Period	
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8. Contract Goals MINNESOTA GOALS %OBTAINED _____ % Minority _____ % _____ % Women _____ %		9. Prepared by: (Signature)				10. Reviewed by: (Signature)			
		Print Name:				Print Name:			
		Title:				Title:			
		Date:				Date:			
		Phone:		Fax:		Phone:		Fax:	

INSTRUCTIONS FOR EEO-13
MONTHLY EMPLOYMENT COMPLIANCE REPORT

- 1.-5. Self-explanatory – State Project #, county project is located in, are you a prime or sub, and contract value.
6. Percent of Completion is the estimated percentage of work completed including this reporting period.
7. Employment Data information will coincide with your employment records. All professional, supervisory and managerial hours actually worked on the project site must be included, whether or not they appear on the certified payroll.
 - 7a. Name should be listed Last Name, First Name, and Middle Initial. This will enable Mn/DOT EEO staff to readily identify individuals on all projects.
 - 7b. Social Security Number self-explanatory.
 - 7c. New Hire is to be indicated with a “Y” for Yes or an “N” for No. “New Hire” is an employee who has not worked for you in any capacity or on any other project within the current calendar year.
 - 7d. Ethnicity can be indicated by Black (B), Hispanic (H), American Indian/Alaskan Native (AI), Asian/Pacific Islander (AP), or White (W).
 - 7e. Gender is to be indicated with an “M” for Males or an “F” for Females.
 - 7f. Trade/Foreman, Supervisors, Managers list the trade that applies unless the employee fits one of the other three categories.
 - 7g. Level “A” is for an Apprentice, “J” is for a Journey Worker, and “T” is for a Mn/DOT approved Trainee.
 - 7h. Hours Worked for This Period will be all hours worked by the individual, for each trade, during the specified reporting period.
8. Contract Goals are the percent of total project hours to be worked by minority and women employees. The goals are determined by the geographic location and source of funding for the project. Projects in excess of \$100,000 with any State funding must meet the State Employment Goals. Projects in excess of \$10,000 with any Federal funding must meet the Federal Employment Goals. (See chart on EEO Pages 15-16.) Minority and women employee hours shall be distributed evenly throughout the length of the project and in every trade and craft that performs work on the project.

% Obtained is the percent of the total project hours worked by minority and women employees, up to and including this reporting period.
9. Prepared by Contractor Designee is the signature of the prime or subcontractor’s EEO officer/designee.
10. Reviewed by Project Engineer is the signature of the Mn/DOT staff monitoring the project.

If you have questions about filling out this form, contact the Office of Civil Rights at (651) 366-3073.
(Please make copies as you need them.)

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EEO COMPLIANCE REVIEW REPORT

Total Company Workforce in the State of Minnesota
(For 12 Month Period Preceding July 30th of the previous year)

Name and Address of Contractor

Name and Title of Corporate Officer

Name of EEO Officer

Job Categories	Total Employees		Total Minorities		Blacks		Asian/ Pacific Is.		American Indian		Hispanic		On-the-Job Trainees	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Officials (Mangers)														
Supervisors														
Foremen/Women														
Clerical (field)														
Equipment Operators														
Mechanics														
Truck Drivers														
Iron Workers														
Carpenters														
Cement Masons														
Electricians														
Pipefitters & Plumbers														
Painters														
Laborers														
Total														
On-the-Job Trainees														



MINNESOTA DEPARTMENT OF TRANSPORTATION
ON-THE-JOB TRAINING PROGRAM
TRAINEE ASSIGNMENT

SP #: _____ Location: _____ District: _____

Project Engineer: _____ Phone: () _____

Prime Contractor: _____ Phone: () _____

Address: _____

City: _____ State: _____ Zip: _____

EEO Officer: _____ Project Manager: _____

Tel: _____

Training Contractor: _____ Phone: () _____

Address: _____

City: _____ State: _____ Zip: _____

EEO Officer: _____ Project Manager: _____

Tel: _____

TRAINEE

Job Title or Trade Classification: _____ Number of Training Hours on this Project: _____

Name: _____ S.S.#: _____

Address: _____ Phone: () _____

City: _____ State: _____ Zip: _____

EEO Officer: _____ Project Manager: _____

Tel: _____

Approximate Start Date: _____

Approximate Completion Date: _____

Is the trainee a member of a certified apprenticeship program?

If YES, verify with Apprenticeship Form or Indenture Number: _____

<p>1. Ethnic Background: Hispanic _____; Black _____; Asian/Pacific Islander _____; White _____;</p> <p>Am. Ind/Alaskan _____ (Verify with Tribal I.D. # or Affiliation _____).</p> <p>2. Male; _____ Female; _____.</p>

MINNESOTA DEPARTMENT OF TRANSPORTATION
OFFICE OF CIVIL RIGHTS CERTIFICATION OF ON-THE-JOB TRAINING HOURS
FEDERAL-AID-PROJECTS

Contractor: *submit original and one copy monthly to the project engineer*

CONTRACTOR	REPORTING PERIOD:
ADDRESS	S.P. NO. (LOW):
	F.P. NO.:

TRAINEE	HOURS WORKED PREVIOUSLY	HOURS WORKED THIS PERIOD	TOTAL HOURS TO DATE

AMOUNT OF CLAIM _____ HOURS @ _____ PER HOUR = \$ _____

Progress of Trainee(s) Excellent Very Good Good Below Good

COMMENTS (Please detail any supplementary training offered):

<p>CONTRACTOR: The undersigned contractor hereby certifies that the listed employees are bonafide trainees as required by the On-the-Job Training Special Provision and that they have worked the hours as reported above.</p> <p>_____</p> <p style="text-align: center;"><i>Contractor Signature/Title</i> <i>Date</i></p>
<p>PROJECT ENGINEER: I hereby certify that the On-the-Job training hours reported above have been reviewed and found correct.</p> <p>_____</p> <p style="text-align: center;"><i>Engineer Signature/Title</i> <i>Date</i></p>



Minnesota Department of Transportation
Office of Civil Rights
On-the-Job Training (OJT) Program Approval Form

EEO Special Provisions
Revised 05/10

The Special Provisions of the contract clearly indicate that training and upgrading of minorities and women toward Journey worker status is the primary objective of the training provisions.

We,		, submit the following training program for (Trade) for approval.
	(Name of Contractor)	

I. Project Information

Contractor Name	S.P. #	County	Prime	Sub
Address	City	State	Zip	
Contact Person/ EEO Officer		Phone #	e-mail address	
Project Goals				
Trainees	Hours			

II. Project Training Plan Information

Trade	# of Trainees Projected	Hourly Assignment per Trainee	Estimated Start Date	Estimated End Date	Recruiting Resource

Planned Training Activities

III. Contractor Acknowledgment Statement.

I understand and will comply fully with the plans and specifications under which this training is being performed, and will report subsequent revisions to the training program as changes occur.

Contractor's Representative Signature	Title	Date

IV. Instruction for the Contractor.

The contractor's proposed training programs must be documented on this form and submitted as indicated in the Proposal. Your Company's compliance with this specification will factor into any and all employment related "Good Faith Effort" determinations.



**On- the -Job Training Program
Trainee Termination Form**

Contractor Name		County	Prime	Sub
Address		City	State	Zip
EEO Officer		Phone #	e-mail address	
Trainee Name		Phone #	Social Security No.	
Address		City	State	Zip
Race/Ethnicity				
<input type="checkbox"/> Hispanic		<input type="checkbox"/> White		<input type="checkbox"/> Asian
<input type="checkbox"/> Black		<input type="checkbox"/> American Indian		<input type="checkbox"/> Other
Gender		Classification/Trade		S.P. #
<input type="checkbox"/> Female	<input type="checkbox"/> Male			
Start Date	Termination Date	Hours Assigned	Hrs Completed	

Reason for Termination/Separation/Layoff:

<input type="checkbox"/> Construction phase completed
<input type="checkbox"/> Death
<input type="checkbox"/> Fired (please explain below)
<input type="checkbox"/> Illness/health problems
<input type="checkbox"/> Lack of transportation and /or travel distance
<input type="checkbox"/> Military duty
<input type="checkbox"/> Relocated
<input type="checkbox"/> Personal
<input type="checkbox"/> Quit to work for another company
<input type="checkbox"/> Other (please explain below)

Please provide comments:

Contractor's Representative Signature	Title	Date
---------------------------------------	-------	------

MAIL or Fax THE ORIGINAL and MAINTAIN COPY:
395 John Ireland Boulevard
St. Paul, MN 55155-1899
Office of Civil Rights M.S. 170
On-The -Job Training Coordinator
Fax # 651/366-3129

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS
Form-1273**

(52 FR 36920, October 2, 1987, revised October 21, 1993, FHWA Electronic Version March 10, 1994)

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I. GENERAL

1. 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.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

- Section I, paragraph 2;
- Section IV, paragraphs 1, 2, 3, 4, and 7;
- Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract.

Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 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 DOL, or the contractor's employees or their representatives.

6. Selection of Labor: During the performance of this contract, the contractor shall not:

- a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or
- b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

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 and 41 CFR 60) 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 Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American 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 State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.
- b. The contractor will accept as his 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, preapprenticeship, and/or on-the-job training."

REQUIRED CONTRACT PROVISIONS (*con't*)

2. EEO Officer:

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

3. Dissemination of Policy:

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

- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
- b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
- c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.
- d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
- e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment:

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

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

he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions.

(The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group 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 his 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 his avenues of appeal.

6. Training and Promotion:

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- 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. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under

REQUIRED CONTRACT PROVISIONS (con't)

this contract, this subparagraph will be superseded as indicated in the special provision.

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 minority group and women employees 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 his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. 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 best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best 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 SHA 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 minority and women 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 minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) 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 SHA.

8. 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.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

9. 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 completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

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

- (1) The number 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;
- (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
- (4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the SHA 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 PR-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm

does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. General:

a. All mechanics and laborers 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 (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c) the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) 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. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under

Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, 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 paragraphs 4 and 5 of this Section IV.

b. 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.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

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

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

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

(4) with respect to helpers as defined in Section IV.4(c), when such a classification prevails in the area in which the work is performed.

c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification 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 DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour 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.

REQUIRED CONTRACT PROVISIONS (con't)

d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional 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. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. Payment of Fringe Benefits:

a. 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 or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a 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.

4. Apprentices and Trainees (Programs of the U.S. DOL):

a. Apprentices:

(1) 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 DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/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 Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeyman-level employees 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 employee 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 listed in 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 or subcontractor 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-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) 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 journeyman-level 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 for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

(1) 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 DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training

REQUIRED CONTRACT PROVISIONS (con't)

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.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level 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-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor 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. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. 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.

6. Withholding:

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor 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, as 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 SHA contracting officer 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.

7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

8. Violation:

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor 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, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies 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 8 above.

REQUIRED CONTRACT PROVISIONS (*con't*)

V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof 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. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found 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 and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially possible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period).

The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission

of copies of payrolls by all subcontractors.

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

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such 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 the Regulations, 29 CFR 3;

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

e. 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 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, 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 SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions 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.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

REQUIRED CONTRACT PROVISIONS (con't)

- a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.
- b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.
- c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

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 State. 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).

- a. "Its own organization" shall be construed to include only workers employed and paid directly 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, assignee, or agent of the prime contractor.
- 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 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 VII 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 SHA 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 SHA 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 SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION

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 SHA 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. 333).

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. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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, the following notice 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:

REQUIRED CONTRACT PROVISIONS (con't)

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

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

*"Whoever being an officer, agent, or employee of the United States, 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 not more than \$10,000 or imprisoned not more than 5 years or both."*

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

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

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

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed there under.
3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of

Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

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

1. Instructions for Certification - Primary Covered Transactions:

(Applicable to all Federal-aid contracts -49 CFR 29)

- a. By signing and submitting this proposal, the prospective primary 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 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 primary 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 department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
- d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary 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," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary 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 primary 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 Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. 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.

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.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b. Have not within a 3-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;

c. Are not presently indicted for or otherwise criminally or

civily charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary 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 Covered Transactions:

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

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 of 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," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

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.

g. A participation 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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

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.

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 his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

* * * * *

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

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 participation in this transaction 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.

XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

(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

APPENDIX A (Short Version)
REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

The Required Contract Provisions for Federal-aid construction contracts, Form FHWA-1273 (Rev. 4-93) is restated here for emphasis:

Section IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

Section IV.2, Classification

2. Classification

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

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

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

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

(4) with respect to helpers as defined in Section IV.4(c), when such a classification prevails in the area in which the work is performed.

For implementation reference Section IV.2(c), (d) and (e).