

**STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION**

**ADDENDUM NO. 2**

**FOR**

**TRAFFIC SIGNAL CONTROLLER INSTALLATION AND ADAPTIVE TRAFFIC  
SIGNAL CONTROL TECHNOLOGY AT VARIOUS LOCATIONS, OAHU  
FEDERAL-AID PROJECT NO. STP-0300(189)**

**NOVEMBER 4, 2022**

This Addendum shall make the following amendments to the Request for Proposals Documents:

**A. REQUEST FOR PROPOSALS**

Prospective offerors are hereby notified that the receiving of sealed proposals is hereby rescheduled until **January 13, 2023 at 2:00 PM** Hawaii Standard Time (HST). Delete the REQUEST FOR PROPOSALS dated August 31, 2022 and replace it with the attached REQUEST FOR PROPOSALS dated Rev. November 4, 2022.

**B. SPECIFICATIONS**

1. Subsection 1.5 (Procurement Timetable) – Delete page 11 and replace with the attached page 11 dated r11/4/22.
2. Subsection 1.19 (Bid, Performance, and Payment Bond) – Delete pages 17 to 19 and replace them with the attached pages 17 to 19 dated r11/4/22.
3. Subsection 3.7 (Traffic Signal System Maintenance) – Delete page 32 and replace with the attached page 32 dated r11/4/22.
4. Subsection 4.6 (Proposal Organization and Content) – Delete page 38 and replace with the attached page 38 dated r11/4/22.
5. Subsection 4.9.1 (Offeror Contractor License Requirement) – Delete page 40 and replace with the attached page 40 dated r11/4/22.

6. Replace Appendix H - Federal Aid Construction Requirements, in its entirety with the attached.

The following is provided for information:


**C. PRE-PROPOSAL CONFERENCE SUMMARY**

1. A meeting summary of the non-mandatory pre-proposal conference held on September 12, 2022 is attached for your information. The presentation slides and additional DBE information provided by HDOT-OCR are included.

**D. RESPONSE TO QUESTIONS**

The attached Response to Questions is provided for information.

Please acknowledge receipt of this Addendum No. 2 in your proposal.



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JADE T. BUTAY  
Director of Transportation


REQUEST FOR PROPOSALS

FOR

TRAFFIC SIGNAL CONTROLLER INSTALLATION  
& ADAPTIVE TRAFFIC SIGNAL CONTROL TECHNOLOGY  
AT VARIOUS LOCATIONS, OAHU  
PROJECT NO. STP-0300(189)  
(CHAPTER 103D, HRS)

The receiving of SEALED PROPOSALS for TRAFFIC SIGNAL CONTROLLER INSTALLATION & ADAPTIVE TRAFFIC SIGNAL CONTROL TECHNOLOGY AT VARIOUS LOCATIONS, OAHU, ("Project"), FEDERAL AID PROJECT NO.: STP-0300(189), will begin as advertised on August 31, 2022 in HlePRO. Offerors are to register and submit proposals through HlePRO only. See the following HlePRO link for important information on registering: <https://hiepro.ehawaii.gov/welcome.html>.

 **Deadline to submit proposals is hereby rescheduled until January 13, 2023 at 2:00 PM Hawaii Standard Time (HST). Proposals received after said due date and time shall not be considered.**

 To be eligible for award, Offerors must possess a valid State of Hawaii General Engineering "A" **or Specialty Contractor "C-13" license** prior to the award of contract.

Offerors will be responsible for:

- Traffic signal central system, including head-end software and server hardware.
- Configuration and installation of approximately 255 State-furnished traffic signal controllers on Oahu.
- Local controller firmware, including configuration.
- Conflict monitor units, which are compatible with the State-furnished controllers.
- Cellular modems and required accessories with FirstNet cellular service.
- Adaptive Traffic Control System (ATCS) and Automated Traffic Signal Performance Measures (ATSPM) Modules at 118 Oahu intersections.

- Supplemental traffic detection at 118 Oahu intersections.
- Implementation and integration of field controllers, firmware, conflict monitor units, cellular modems, ATCS, ATSPM modules, and the central traffic management system.
- Training of State and County personnel on vendor firmware, central management system, and controller hardware.
- Traffic signal operations and litigation support.
- Traffic signal system maintenance period.
- Software assurance support.

A pre-proposal conference is scheduled for September 12, 2022 at 10:00 AM HST. All prospective Offerors or their representatives (employees) are encouraged to attend, but attendance is not mandatory. **Due to the impacts of COVID 19, the pre-proposal conference will be conducted virtually. Refer to Section 1.5 Procurement Timetable. Offerors intending to attend the pre-proposal teleconference shall notify the RFP Point of Contact (see Section 1.3.2) no less than four (4) working days in advance of the teleconference date. Offerors shall provide phone and email contact that HDOT will use to provide conference number and web conferencing details.**

**Teleconference info will be provided by the RFP Point of Contact to Offerors no less than forty-eight (48) hours in advance of the teleconference.** Anything said at the conference is for clarification purposes and any changes to the proposal documents will be made by addendum.

All questions shall be submitted in writing to Tara.YI.Lucas@hawaii.gov no later than **September 22, 2022 at 2:00 PM HST.**

The Buy America requirements per 23 CFR 635.401 and 23 U.S.C. 313 apply to this project.

Campaign contributions by State and County Contractors. Offerors are hereby notified of the applicability of HRS Section 11-55, which states that campaign contributions are prohibited from specified State of Hawaii ("State") or county government contractors during the term of the contract if the contractors are paid with funds appropriated by the legislative body. For more information, contact the Campaign Spending Commission at (808) 586-0285.

Any protest of this solicitation shall be submitted in writing to the Director of Transportation, in accordance with §103D-701, HRS and §3-126, HAR.

The U.S. Department of Transportation Regulation entitled "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," Title 49, Code of Federal Regulations (CFR), Part 21 is applicable to this project. Offerors are hereby notified that the Department of Transportation will affirmatively ensure that the contract entered into pursuant to this advertisement will be awarded or without discrimination on the grounds of race, color, national origin or sex (as directed by 23 CFR Part 200).

The Equal Employment Opportunity Regulations of the Secretary of Labor implementing Executive Order 11246, as amended, shall be complied with on this project.

The U.S. Department of Transportation Regulations entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs", Title 49, CFR Part 26 is applicable to this project. Offerors are hereby notified that the Department of Transportation will strictly enforce full compliance with all the requirements of the Disadvantaged Business Enterprises (DBE) program with respect to this Project.

Offerors are directed to read and be familiar with EXHIBIT B Requirements for Participation By Disadvantaged Business Enterprises (DBEs), which establishes the program requirements pursuant to Title 49 Code of Federal Regulations Part 26 and, particularly, the requirements of certification, method of award, and evidence of good faith.



The State reserves the right to cancel this request for proposals, to postpone or continue same from time to time, as it deems necessary, or reject any or all proposals and to waive any defects in said proposals for the best interest of the State.

  
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JADE T. BUTAY  
Director of Transportation



Internet Posting: November 4, 2022

- Procurement Officer = The Director of the State of Hawaii, Department of Transportation as the contracting officer
- RFP = Request for Proposals
- State = State of Hawaii, including each department and political subdivisions
- USPS = United States Post Service

## 1.5. PROCUREMENT TIMETABLE

The schedule represents the HDOT’s best estimate of the schedule that will be followed. All times indicated are Hawaii Standard Time (HST). If a component of this schedule, such as “Proposal Due date/time” is delayed, the rest of the schedule of dates and deadlines thereafter shall be shifted by the same number of calendar days; provided that if any date that is shifted falls on a weekend (Saturday or Sunday) or holiday, the date shall be the first working day following the weekend or holiday. The approximate schedule is presented in *Table 1*.

*Table 1: Significant Dates (subject to change)*

Release of Request for Proposals (RFP)	August 31, 2022
Pre-proposal Tele-Conference (non-mandatory)	September 12, 2022 10:00 AM (HST)
Deadline for submission of written questions	September 22, 2022 2:00 PM (HST)
HDOT’s response to written questions	November 4, 2022
Proposal Due date/time (via HlePRO)	January 13, 2023 2:00 PM (HST)
Evaluation of Proposals	January 17, 2023- February 6, 2023
Determination of Priority-Listed Offerors (if necessary)	February 6, 2023
Demonstrations and Discussion with Priority-Listed Offerors (if necessary)	February 14, 2023- February 28, 2023
Best and Final Offer Due date/time (via HlePRO, if necessary)	March 24, 2023 2:00 PM (HST)
Offeror Selection and Notice of Award	May 17, 2023
Contract Notice to Proceed 1	August 9, 2023
Contract Notice to Proceed 2	January 3, 2024
Contract Notice to Proceed 3	April 1, 2024

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- 2) Placing and disposing the materials used.
- 3) Operating and storage of equipment.

The Contractor shall coordinate its work with adjacent projects, including but not limited to:

- Cellular-Based V2X System, F.A.P. No. ATC-1500(119)
- Traffic Signal Modernization at Various Locations, Oahu, Phase 1, F.A.P. No. STP-0300(163)
- Pali Highway (Route 61) Resurfacing and Lighting Improvements, F.A.P. No. NH-061-1(036)
- Honolulu Rail Transit Project, Airport Guideway and Stations (HART)

The Contractor shall fully cooperate with the contractors of the above mentioned projects and the Engineer. This includes, but is not limited to, attending and participating in construction and/or coordination meetings.

The State of Hawaii reserves the right to terminate the contract for lack of funding after each State of Hawaii fiscal year, which ends on the 30<sup>th</sup> of June every year. Refer to HAR 3-122-149 for multi-term contracts.

#### 1.18. CONTRACT AWARD

Award shall be made to the responsible Offeror whose proposal is determined in writing to be the most advantageous, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation.

Upon award, the HDOT will issue a contract to the selected Offeror.

#### 1.19. BID, PERFORMANCE, AND PAYMENT BOND

##### 1.19.1. Bid Bond

The Department will not consider a proposal unless accompanied by:

- A. A deposit of legal tender; or
- B. A valid surety bid bond, underwritten by a company licensed to issue bonds in the State of Hawaii, in the form and composed, substantially, with the same language as provided herewith and signed by both parties; or
- C. A certificate of deposit, share certificate, cashier's check, treasurer's check, teller's check, or official check drawn by, or a certified check accepted by and payable on demand to the State by a bank, savings institution, or credit union insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA).
  1. The offeror may use these instruments only to a maximum of \$100,000.
  2. If the required security or bond amount totals over \$100,000 more than one instrument not exceeding \$100,000 each and issued by different financial institutions shall be acceptable.





3. The instrument shall be made payable at sight to the Department.
4. Proposal Guaranty listed in A. and C. shall be in its original form, and shall be received at the Contracts Office, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813 before the proposal deadline.

In accordance with HRS Chapter 103D-323, the above shall be in a sum not less than 5% of the amount bid.



1.19.2. **Performance and Payment Bond**

At the time of execution of the contract, the successful bidder shall file a good and sufficient performance bond and a payment bond on the forms furnished by the Department conditioned for the full and faithful performance of the contract in accordance with the terms and intent thereof and for the prompt payment to all others for all labor and material furnished by them to the bidder and used in the prosecution of the work provided for in the contract. The bonds shall be of an amount equal to 100 percent of the amount of the contract price and include 5 percent of the contract amount estimated to be required for extra work. The bidder shall limit the acceptable performance and payment bonds to the following:

- A. Legal tender;
- B. Surety bond underwritten by a company licensed to issue bonds in the State of Hawaii; or
- C. A certificate of deposit; share certificate; cashier's check; treasurer's check, teller's check drawn by or a certified check accepted by and payable on demand to the State by a bank savings institution or credit union insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA).
  1. The bidder may use these instruments only to a maximum of \$100,000.
  2. If the required security or bond amount totals over \$100,000 more than one instrument not exceeding \$100,000 each and issued by different financial institutions shall be acceptable.

Such bonds shall also by the terms inure to the benefit of any and all persons entitled to file the claims for labor done or material furnished in the work so as to give them a right of action as contemplated by HRS Section 103D-324.

**1.20. RESPONSIBILITY OF OFFERS; HAWAII COMPLIANCE EXPRESS**

The Offeror is advised that if awarded a contract under this RFP, the Offeror shall, upon award of contract, furnish proof of compliance with the requirements of HRS §103D-310 and HAR §3-122-112 including but not limited to:

- Chapter 237, General Excise Tax Law;
- Chapter 383, Hawaii Employment Security Law;
- Chapter 386, Workers' Compensation Law;
- Chapter 392, Temporary Disability Insurance;

- Chapter 393, Prepaid Health Care Act; and
- One of the following:
  1. Be registered and incorporated or organized under the laws of the State of Hawaii (hereinafter referred to as a “Hawaii business”) or
  2. Be registered to do business in the State of Hawaii (hereinafter referred to as a “compliant non-Hawaii business”).

The Offeror may demonstrate proof of compliance with the above-referenced requirements by submitting a *Certificate of Vendor Compliance* issued by the Hawaii Compliance Express (HCE) online system to the HDOT, Contracts Office upon award of a contract. The HCE service allows vendors to register online through a simple wizard interface at <http://vendors.ehawaii.gov>. The *Certificate of Vendor Compliance* provides current compliance status as of the issuance date, satisfies requirements of HRS §103D-310(c), and is therefore acceptable for contracting purposes. Offerors that elect to use HCE services are required to pay an estimated annual fee of \$12.00 to the Hawaii Information Consortium, LLC (HIC).

Due to the time required to obtain the required HCE *Certificate of Vendor Compliance*, it is highly recommended that the interested Offeror begin the registration process as soon as possible.

**1.21. FAILURE TO EXECUTE CONTRACT, TIMELY SUBMISSION OF CERTIFICATES**

At time of contract award, the above *Certificate of Vendor Compliance* and any other documentation and certification shall be submitted to the HDOT Contracts Office as soon as possible or by the deadline established by the HDOT. If a valid certificate or other compliant documentation is not submitted on a timely basis for award of a contract, award made to an Offeror otherwise responsible may be annulled.

Failure to execute a contract within the time specified by HDOT after the selected Offeror has received the contract for execution may be cause for the annulment of the award. The HDOT may award the contract to the next responsible Offeror, or cancel the solicitation, and issue a new solicitation, whichever is deemed to be in the best interest of the HDOT.

**1.22. NOTIFICATION OF AWARD; NON-SELECTED OFFEROR**

Upon award to the selected Offeror, the HDOT shall post publicly a notice of award. The HDOT will also provide written notification of the award to any non-selected Offeror(s). The HDOT is not responsible for delays or non-receipt of such notification.

**1.23. DEBRIEFING**

The purpose of a debriefing is to inform non-selected Offerors of the basis for contract award. An Offeror(s) not selected for contract award shall submit a written request for a debriefing within three (3) working days after the posting of the contract award. The debriefing shall be held, to the maximum extent possible, within seven (7) working days after the posting of the award.

**1.24. PROTEST**

Any protest of this solicitation shall be submitted in writing to the Director of Transportation, in accordance with HRS § 103D-701 and HAR § 3-126.

4. Adjust or repair Contractor-provided material and equipment within 2 hours from time of notification. When the Offeror fails to satisfy this requirement, the Offeror shall pay liquidated damages to the State, in the amount of \$100.00 per hour of delay.
5. Temporarily replace Contractor-provided material and equipment requiring factory corrections, within 24 hours from time of notification. Contractor shall procure the use of Special Duty Police Officers at its own cost to direct traffic until traffic signal system is put back into operation. When the Offeror fails to satisfy this requirement, the Offeror shall pay liquidated damages to the State, in the amount of \$100.00 per hour of delay.
6. Install factory-corrected or new Contractor-provided material and equipment no later than 30 days from time of notification. When the Offeror fails to satisfy this requirement, the Offeror shall pay liquidated damages to the State, in the amount of \$550.00 per day of delay.
7. Pay repair cost incurred by the State during 30-calendar day interval.
8. Replace the State-furnished traffic signal controllers with State-furnished spares, as needed. Return failed State-furnished traffic signal controllers to the Engineer. Should availability of replacement State-furnished traffic signal controllers cause a delay in the Contractor's response, the Contractor will not be held responsible until replacement State-furnished traffic signal controllers are made available.



For items 3 and 4 above, if extenuating circumstances outside of the successful Offeror's control prevent maintenance personnel from responding on-site within the required time frame despite reasonable efforts made in good faith, HDOT will consider exceptions on a case-by-case basis.

Engineer will coordinate JTMC site access for the successful Offeror, as needed.

The Engineer will pay for the accepted Traffic Signal System Maintenance at the contract price per intersection, per month, as shown in OF-2, Offer Form. Payment will be full compensation for work prescribed in this section and the contract documents.

Any required traffic signal system maintenance of Contractor-provided material and equipment prior to acceptance of an intersection will not be paid separately but will be considered incidental to the various items.

### **3.8. TRAFFIC SIGNAL OPERATION AND LITIGATION SUPPORT**

As directed by the Engineer, the Offeror shall provide support to the HDOT throughout the Traffic Signal System Maintenance period, including:

1. Traffic Signal Operation
  - a. Develop signal timing plans for the Engineer's review and approval.
  - b. Modify signal timing in advance of and monitor operation during planned events.
  - c. Modify signal phasing and timing, as needed.
  - d. Coordinate signal timing with City and County of Honolulu, Department of Transportation Services for City signals in the vicinity, as needed.
2. Litigation Support
  - a. Provide documentation as requested by the State.
  - b. Provide deposition on the operation of the Contractor-provided traffic signal system.
  - c. Provide testimony on the operation of the Contractor-provided traffic signal system, as needed.
3. Complaint Response and Resolution

#### 4.5. PROPOSAL SUBMISSION AND FORMAT

This section prescribes the standard format for a Proposal submitted in response to this RFP.

Offeror shall submit a Proposal using the exact forms or reproductions of such forms as provided and as otherwise instructed by this RFP. Failure to comply may result in a determination that the Offeror's Proposal is not responsible.

The standard format will facilitate the HDOT's review, comparison, evaluation of Proposals, and verification as to whether the minimum requirements are met by each Offeror and the Offeror's Proposal. The format is not intended to limit the content of a Proposal in any way. The Offeror may include any additional data or information that is deemed pertinent to this RFP.

Offeror shall submit one (1) electronic copy of their proposal via HlePRO. Hard copies will not be accepted.

#### 4.6. PROPOSAL ORGANIZATION AND CONTENT



~~Sections of the Proposal shall be separated by index dividers.~~

Proposals must provide all information requested in this RFP in the following order:

Table of Contents:	The table of contents shall clearly identify the material by section and by page number.
Section 1:	Signed Offer Form OF-1 and Subcontractor Statements
Section 2:	Executive Summary
Section 3:	Experience and Capabilities
Section 4:	Work Plan
Section 5:	Proposed Technical Solution
Section 6:	Software Assurance
Section 7:	Pricing (Offer Form OF-2)
Section 8:	Exceptions to the RFP
Appendix A:	Resumes
Appendix B:	Financial Condition

#### 4.7. SECTION 1: SIGNED OFFER FORM, OF-1, AND SUBCONTRACTOR STATEMENTS

This section includes the following:

##### 4.7.1. Signed Offer Form

Found in *Appendix A*, Offer Form OF-1, is required to be completed using the Offeror's exact legal name as registered with the State of Hawaii's Department of Commerce and Consumer Affairs, if applicable, in the appropriate space. Failure to do so may delay proper execution of the contract. Include the Offeror's authorized signature on OF-1. Ink signatures are not required for electronic submission of an Offer but shall be required before an award, if any can be made. It shall also include the mailing address, e-mail address, telephone number, and fax number of the

A statement on whether the Proposal contains any assumptions or constraints and must also identify and describe each such assumption and constraint. If neither assumptions nor constraints are included in the Proposal, a statement to that effect must be made.

**4.8.3. Deviations**

If the Proposal deviates from the specifications or requirements of the RFP, a statement must be included referencing the RFP section where the deviation is taken, a description of each such deviation, and the proposed alternative, if any. If no deviations are included in Offeror's Proposal, a statement to that effect must be made.

**4.8.4. Taxable Transaction**

Work to be performed under this solicitation is a business activity taxable under HRS Chapter 237, and vendors are advised that they may be liable for payment of the GET. If an Offeror is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Offeror shall state its tax-exempt status and cite the HRS chapter or section allowing the exemption.

**4.8.5. Pending Litigation and Summary of Judgments**

A summary listing of judgments or pending lawsuits or actions against Offeror and subcontractors; adverse contract actions, including termination(s), suspension, imposition of penalties, or other actions relating to failure to perform or deficiencies in fulfilling contractual obligations against Offeror and subcontractors. If applicable, explain how such actions may materially impact the Offeror or the Offeror's ability to fully perform and complete the contract. If there are none of these, the Offeror must state so.

**4.8.6. Other Notable Items**

The Offeror shall disclose any other items of note that may have material impact or the Offeror or the Offeror's ability to fully perform and complete the contract.

**4.9. SECTION 3: EXPERIENCE AND CAPABILITIES**

**4.9.1. Offeror Contractor License Requirement**



To be eligible for award, Offeror must possess a valid State of Hawaii General Engineering "A" or Specialty Contractor "C-13" license, prior to the award of the contract.

**4.9.2. Offeror Experience**

The Offeror shall provide a complete client listing for all of the Offeror's projects with related scope of work.

## APPENDIX H: FEDERAL AID CONSTRUCTION REQUIREMENTS

The U.S. Department of Transportation Regulations entitled "Participation by Disadvantaged Business Enterprise in Department of Transportation Programs", Title 49, Code of Federal Regulations, Part 26 is applicable to this project. Offerors are hereby notified that the Department of Transportation will strictly enforce full compliance with all of the requirements of the Disadvantaged Business Enterprise (DBE) program with respect to this project.

Offerors are directed to read and be familiar with EXHIBIT B Requirements for Participation By Disadvantaged Business Enterprises (DBEs), which establishes the program requirements pursuant to Title 49 Code of Federal Regulations Part 26 and, particularly, the requirements of certification, method of award, and evidence of good faith. The DBE forms included in Appendix H shall be submitted by the cost proposal deadline. All Bidders must e-mail the Engineer at [tara.yi.lucas@hawaii.gov](mailto:tara.yi.lucas@hawaii.gov) the Disadvantaged Business Enterprise (DBE) Contract Goal Verification and Good Faith Efforts (GFE) Documentation for Construction, Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement – Trucking Company and Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement –Subcontractor, Manufacturer, or Supplier by January 13, 2023 at 2:00 PM HST. Failure to provide these documents shall be cause for bid/proposal rejection.

## **INSTRUCTIONS FOR CONTRACTOR'S LICENSING**

"A" general engineering contractors and "B" general building contractors are reminded that due to the Hawaii Supreme Court's January 28, 2002 decision in Okada Trucking Co., Ltd. v. Board of Water Supply, et al., 97 Haw. 450 (2002), they are prohibited from undertaking any work, solely or as part of a larger project, which would require the general contractor to act as a specialty contractor in any area where the general contractor has no license. Although the "A" and "B" contractor may still bid on and act as the "prime" contractor on an "A" or "B" project (*See, HRS § 444-7 for the definitions of an "A" and "B" project.*), respectively, the "A" and "B" contractor may only perform work in the areas in which they have the appropriate contractor's license (*An "A" or "B" contractor obtains "C" specialty contractor's licenses either on its own, or automatically under HAR § 16-77-32.*). The remaining work must be performed by appropriately licensed entities. It is the sole responsibility of the contractor to review the requirements of this project and determine the appropriate licenses that are required to complete the project.

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

1. The Bidder's attention is called to the "Equal Opportunity" and the "Specific Equal Employment Opportunity Responsibilities" set forth in the "Required Federal Aid Construction Contract Provisions."

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work on this project are as follows:

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CATEGORY	TIMETABLE	GOAL
Female participation in each trade	Indefinite	6.9%
Minority participation in each	None	69.1% (Oahu)
Trade (female included)	None	70.4% (Hawaii, Maui, Kauai)

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These goals are applicable to all the Contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or Federally assisted construction contract or subcontract.

The Contractor's compliance with the Executive Order shall be based on its implementation of the Equal Opportunity Clause, and its efforts to meet the goals established for the contract resulting from this solicitation. The hours of female and minority employment and training must be substantially uniform throughout the length of the contract, and in trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract and Executive Order. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Area Director, Hawaii Area Office, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 300 Ala Moana Blvd., P.O. Box 50149, Honolulu, Hawaii 96850, within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; and estimated starting and completion dates of the subcontract. The Contractor shall indicate which are minority group subcontractors and the ethnic identity and sex of the owner(s) and policy-making official(s).



## EXHIBIT B

Requirements for Participation  
by  
Disadvantaged Business Enterprises (DBEs)

Project Title: Traffic Signal Controller Installation and Adaptive Signal Control Technology at Various Locations, Oahu

Project No.: STP-0300(189)

Amount of Proposal: \$ \_\_\_\_\_

HDOT DBE Project Goal: Three Percent (3%)

### **I. GENERAL**

This project is subject to Title 49, Code of Federal Regulations, Part 26, entitled "Participation by Disadvantaged Business Enterprise in Department of Transportation Financial Assistance Programs," (hereinafter referred to as the "DBE Regulations") and is incorporated and made a part of this contract herein by this reference. The following shall be incorporated as part of the contract documents for compliance. If any requirements herein are in conflict with the general provisions or special provisions applicable to this project, the requirements herein shall prevail unless specifically superseded or amended in the special provisions or by addendum.

### **II. POLICY**

It is the policy of the U.S. Department of Transportation ("USDOT") and the State of Hawaii, Department of Transportation and its political subdivisions ("Department") that Disadvantaged Business Enterprises ("DBE"), as defined in the DBE Regulations, have an equal opportunity to receive and participate in federally assisted contracts.

### **III. DEFINITION**

Disadvantaged Business Enterprise or **DBE** means a for-profit small business concern—

- (1) That is at least fifty-one (51) percent owned by one (1) or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty-one (51) percent of the stock is owned by one (1) or more such individuals; and
- (2) Whose management and daily business operations are controlled by one (1) or more of the socially and economically disadvantaged individuals who own it.

### **IV. DBE ASSURANCES**

Each contract signed with a consultant (and each subcontract the prime consultant signs with a subconsultant) shall include the following assurance:

“The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate which may include, but is not limited to; 1) withholding monthly progress payments; 2) assessing sanctions; 3) liquidated damages; and/or 4) disqualifying the contractor from future bidding as non-responsible.”

The consultant agrees to include the above statements in any subsequent contracts that it enters into with other consultants, and shall require those consultants to include similar statements in further agreements.

## **V. PROPOSER RESPONSIBILITIES**

All Proposers are required to register with the Department’s Office of Civil Rights (OCR), DBE Section, using the Bidder Registration Form which can be downloaded from the Department’s website at <https://hidot.hawaii.gov/administration/files/2019/03/Bidder-Registration-Fillable-Form.pdf>. Certified DBEs are automatically registered with the Department and are not required to submit a Bidder Registration Form. All other Proposers are required to complete this form which may be faxed to (808) 831-7944, e-mailed to: [HDOT-DBE@hawaii.gov](mailto:HDOT-DBE@hawaii.gov), or mailed to the HDOT DBE Section, 200 Rodgers Boulevard, Honolulu, Hawaii 96819. Proposers are not required to register each time a proposal is submitted, but should notify HDOT DBE Staff of any material changes to the firm, including changes to contact information. Registered Proposers are posted on the website listed above.

Proposers shall fully inform themselves with respect to the requirements of the DBE Regulations. Particular attention is directed to the following matters:

- A. Proposers shall take all necessary steps to ensure that DBEs have an opportunity to participate in this contract.
- B. DBEs may participate as a prime consultant, subconsultant, subcontractor, trucker, manufacturer, or vendor of materials or supplies. DBEs may also team with other DBE or non-DBE firms as part of a joint venture or partnership.
- C. Agreements between a Proposer and a DBE in which a DBE promises not to provide subcontracting quotations to other Proposers are strictly prohibited.
- D. A DBE shall be certified by the Department under the appropriate North American Industry Classification System (NAICS) code and work in their registered field of work in order for credit to be allowed.

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- E. Information regarding the current certification status of DBEs is available on the Internet at <https://hdot.dbesystem.com/>.
- F. Commercially Useful Function (“CUF”). A DBE must perform a CUF. This means that a DBE must be responsible for the execution of a distinct element of the work, must carry out its responsibility by actually performing, managing, and supervising at least 30% of the work involved by using its own employees and equipment, must negotiate price, determine quality and quantity, order and install material (when applicable), and must pay for the material itself.<sup>1</sup>

To determine whether a DBE is performing a CUF, the Department must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, the DBE credit claimed for performance of the work, and other relevant factors. The prime consultant is responsible to ensure that the DBE performs a CUF.

## VI. PROPOSAL REQUIREMENTS

- A. DBEs must be certified by the proposal due date.
- B. The names of DBEs, dollar amount of work committed, and good faith efforts documentation, shall be due with the Proposer’s cost proposal.
- C. Copies or faxes of all DBE Confirmation and Commitment Agreement Forms signed by each DBE shall be submitted to the Project Manager listed in the proposal by the cost proposal deadline. The Confirmation and Commitment Agreement shall include, among other things, the project name and number, work items, quantities, unit pricing, total dollar amount, name and signature of the DBE, address, name, and signature of the subcontractor if the DBE is a second-tier subcontractor, and name and signature of the prime consultant. Failure to provide this completed form shall be cause for proposal rejection.

The DBE Contract Goal Verification and Good Faith Efforts Documentation Form is also due with the submission of the cost proposal. If the contract goal is not met, documentation of good faith efforts including quotations for both DBE and non-DBE subconsultants when a non-DBE is selected over a DBE for the project, shall be submitted on said form and should be attached to the cost proposal.

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<sup>1</sup> The use of joint checks payable to a DBE subconsultant and supplier may be allowed to purchase materials and supplies under limited circumstances. See VIII USE OF JOINT CHECKS UNDER THE DBE PROGRAM

**The above forms must be complete and provide the necessary information to properly evaluate proposals. Failure to provide any of the above shall be cause for proposal rejection.**

**VII. COUNTING DBE PARTICIPATION TOWARDS CONTRACT GOAL**

- A. Count the entire amount of the portion of a contract (or other contract not covered by paragraph B below) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work on the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).
- B. Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, toward DBE goals, provided the Department determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- C. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subconsultant is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
- D. When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.
- E. Count expenditures to a DBE consultant toward DBE goals only if the DBE is performing a commercially useful function on that contract.
- F. The following is a list of appropriate DBE credit to be allowed for work to be performed by an DBE subconsultant. Count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:
  - 1. If the materials or supplies are obtained from an DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE goals;
  - 2. For purposes of determining DBE goal credit, a manufacturer is a firm that operates or maintains a factory or establishment that produces (on the premises) the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications;
  - 3. If the materials or supplies are purchased from an DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals;
  - 4. For purposes of determining DBE goal credit, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the

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contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business;

5. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question;
6. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in the DBE Regulations, if the person both owns and operates distribution equipment for the products. Any supplementing of a regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis;
7. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers;
8. With respect to materials or supplies purchased from an DBE, which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided that the Department determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals; however,
9. If a firm is not currently certified as an DBE in accordance with standards of this part at the time of the execution of the contract, do not count the firm's participation toward any DBE goals, except as provided for in §26.87(i);
10. Do not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward the Department's overall goal; and
11. Do not count the participation of a DBE subconsultant toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

G. The following factors are used in counting DBE participation for trucking companies:

1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals;
2. The DBE must itself own and operate at least one (1) fully licensed, insured, and operational truck used on the contract;

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3. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs;
4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as an DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract;
5. The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate Department operating administration.  
EXAMPLE: DBE firm X uses two (2) of its own trucks on a contract, leases two (2) trucks from DBE Firm Y and six (6) trucks from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four (4) of the six (6) trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight (8) trucks. With respect to the other two (2) trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z;
6. The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.  
EXAMPLE: DBE Firm X uses two (2) of its own trucks on a contract. It leases two (2) additional trucks from non-DBE Firm Z. Firm X uses its own employees to drive the trucks leased from Firm Z. DBE credit would be awarded for the total value of the transportation services provided by all four (4) trucks; and
7. For purposes of determining whether a trucking firm performs a CUF, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

- H. If a firm is not currently certified as a DBE in accordance with standards of this part at the time of the execution of the contract, do not count the firm's participation toward any DBE goals, except as provided for in §26.87(i);
- I. Do not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward the Department's overall goal; and
- J. Do not count the participation of a DBE subconsultant toward a consultant's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.
- K. The proposer may be a joint venture or partnership that has a certified DBE as a partner. A "Joint Venture" means an association between a DBE firm and one (1) or more other firms to carry out a single, for-profit, business enterprise for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract, and whose share in the capital contribution, control, management, risks and profits are commensurate with its ownership interest.
- L. Effects of a Summary Suspension of a DBE. When a DBE's certification is suspended, the DBE may not be considered to meet a contract goal on a new contract and any work it does on a contract received during the suspension shall not be counted towards the overall goal. The DBE may continue to perform work under an existing contract executed before the DBE received a Notice of Suspension and may be counted towards the contract goal during the period of suspension as long as the DBE is performing a CUF under the existing contract.
- M. Effects of Decertification of a DBE. Should a DBE become decertified during the term of the subcontract for reasons beyond the control of and with no fault or negligence on the part of the consultant, the work remaining under the subcontract may be credited towards the contract goal, but are not included in the overall accomplishments.

Should the DBE be decertified after contract award and before notice to proceed, the consultant must still meet the DBE goal by either; a) withdrawing the subcontract from the DBE and expending good faith efforts to replace it with a DBE that is currently certified for that same work; or b) continuing with the subcontract with the decertified firm and expending good faith efforts to find other work not already subcontracted out to DBEs in an amount to meet the DBE goal either by; 1) increasing the participation of other DBEs on the project; 2) documenting good faith efforts; or 3) by a combination of the above.

#### **VIII. USE OF JOINT CHECKS UNDER THE DBE PROGRAM**

- A. The following guidelines apply to the use of joint checks:

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1. The second party (typically the prime consultant) acts solely as a guarantor;
  2. The DBE must release the check to the supplier;
  3. The use of joint checks is a commonly recognized business practice;
  4. The Department must approve the use of joint checks prior to use by consultant and/or DBEs. As part of this approval process the Department will analyze industry practice to confirm that the use of joint checks is commonly employed outside of the DBE program for non-DBE subcontractors on both federal and state funded contracts. Using joint checks shall not be approved if it conflicts with other aspects of the DBE Regulations regarding CUF; and
  5. The Department will monitor the use of joint checks closely to avoid abuse.
- B. Consultants and DBEs should review the following general guidelines when determining whether to use joint checks closely to avoid abuse:
1. That standard industry practice applies to all consultants (federal and state contracts);
  2. Use of joint checks must be available to all subconsultants;
  3. Material industry sets the standard industry practice, not prime consultants;
  4. Short term, not to exceed reasonable time (i.e., one (1) year, two (2) years) to establish/increase a credit line with the material supplier;
  5. No exclusive arrangement between one (1) prime and one (1) DBE in the use of joint checks that might bring the independence of the DBE into question;
  6. Non-proportionate ratio of DBE's normal capacity to size of contract and quantity of material to be provided under the contract;
  7. The DBE is normally responsible to install and furnish the work item; and
  8. The DBE must be more than an extra participant in releasing the check to the material supplier.
- C. The Department shall allow the use of joint checks if the following general conditions are met:
1. DBE submits request to the Department for action;
  2. There is a formalized agreement between all parties that specify the conditions under which the arrangement shall be permitted;
  3. There is a full and prompt disclosure of the expected use of joint checks;
  4. The Department will provide prior approval;
  5. DBE remains responsible for all other elements of 49 CFR 26.55(c)(1);
  6. The agreement states clearly and determines that independence is not threatened because the DBE retains final decision making responsibility;

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7. The Department will determine that the request is not an attempt to artificially inflate DBE participation;
8. Standard industry practice is only one (1) factor;
9. The Department will monitor and maintain oversight of the arrangement by reviewing cancelled checks and/or certification statement of payment; and
10. The Department will verify there is no requirement by prime consultant that the DBE is to use a specific supplier nor the prime consultant's negotiated unit price

**IX. DEMONSTRATION OF GOOD FAITH EFFORTS FOR CONTRACT AWARD**

- A. It is the sole responsibility of the proposer to submit any and all documents, logs, correspondence, and any other records or information to the Department that will demonstrate that the proposer made good faith efforts to meet the DBE goal. In its good faith evaluation, the Department shall perform the following as part of its evaluation: a) request additional information and documents from the proposer; b) compare the proposer's proposal against the proposals of other proposers, and compare the DBEs and DBE work areas utilized by the proposer with the DBEs listed in other proposals submitted for this contract; c) verify contacts by proposers with DBEs; and d) compare the DBE and the categories of DBE work targeted by the proposer for participation in the contract, with the total pool of available DBEs ready, willing and able to perform work on each particular subcontract targeted by the proposer. Actions on the part of the proposer that will be considered demonstrative of good faith efforts include, but are not limited to, the following:
1. Whether the proposer submitted the required information with its cost proposal (i.e. DBE name, address, NAICS code, description of work, project name, and number), and dollar amounts for all subconsultants with their proposal;
  2. Whether the proposer solicited through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform part or all of the work to be included under the contract. The Department will also consider whether the proposer solicited the participation of potential DBEs as early in the procurement process as practicable, and allowed sufficient time for the DBEs to properly inquire about the project and respond to the solicitation. The Department will also review whether the proposer took appropriate steps to follow up with interested DBEs in a timely manner to facilitate participation by DBEs in this project;
  3. Whether the proposer identified and broke up portions of work that can be performed by DBEs in order to increase the likelihood that a DBE will be able to participate, and that the DBE goal could be achieved (e.g. breaking

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out contract items into economically feasible units to facilitate DBE participation even when the proposer might otherwise prefer to self-perform these work items);

4. Whether the proposer made available or provided interested DBEs with adequate information about the plans, specifications, and requirements of the project in a timely manner, and assisted them in responding to the proposer's solicitation;
5. Whether the proposer negotiated in good faith with interested DBEs. Evidence of such negotiations includes documenting: a) the names, addresses and telephone numbers of DBEs that were contacted; b) a description of the information that was provided to DBEs regarding the plans and specifications; and c) detailed explanation for not utilizing individual DBEs on the project;
6. Whether the proposer solely relied on price in determining whether to use a DBE. The fact that there may be additional or higher costs associated with finding and utilizing DBEs are not, by themselves, sufficient reasons for a proposer's refusal to utilize a DBE, or the failure to meet the DBE goal, provided that such additional costs are not unreasonable. Also, the ability or desire of a proposer to perform a portion of the work with its own forces, that could have been undertaken by an available DBE, does not relieve the proposer of the responsibility to make good faith efforts to meet the DBE goal, and to make available and solicit DBE participation in other areas of the project to meet the DBE goal;
7. Whether the proposer rejected DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The DBEs standing within the industry, membership in specific groups, organizations or associations, and political or social affiliation are not legitimate basis for the rejection or non-solicitation of bids from particular DBEs;
8. Whether the proposer made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance;
9. Whether the proposer made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services;
10. Whether the proposer effectively used the services of available minority/women community organizations, minority/women business groups, consultants' groups, and local, state and federal minority/women business assistance offices or other organizations to provide assistance in recruitment and placement of DBEs;
11. Whether the proposer, who selects a non-DBE over an DBE subconsultant, has quotes of each DBE and non-DBE subconsultant submitted to the proposer for work on the contract; and for each DBE that was contacted but not utilized by the proposer for a contract, the proposer has a detailed written explanation for each DBE detailing the reasons for the proposer's failure or inability to utilize, or to allow the DBE to participate in the contract; and

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12. Whether other proposers met the goal and whether the apparent successful proposer could have met the goal with additional efforts. The Department may determine that an apparent successful proposer who fell short of meeting the goal, made good faith efforts when it met or exceeded the average DBE participation obtained by other proposers.

**X. ADMINISTRATIVE RECONSIDERATION.**

If it is determined by the Department that the apparent successful proposer has failed to meet the provisions of 49 CFR Section 26.53(a), the proposer may submit a request for administrative reconsideration. If under the provisions of 49 CFR, Section 26.53(d), it is determined by the Department that the apparent successful proposer has failed to meet the provisions of this subsection, the proposer may submit a written request for administrative reconsideration.

- A. Within five (5) working days of being informed in writing by the Department that the proposer has not documented sufficient GFE, a proposer may request administrative reconsideration. Proposers should make this request in writing to the following official:

Director of Transportation  
Hawaii Department of Transportation  
869 Punchbowl Street, Room 509  
Honolulu, Hawaii 96813

- B. The reconsideration official, or his or her designee (referred to as “reconsideration official”), shall not have played any role in the original determination that the proposer failed to meet the goal or make adequate good faith efforts to do so.
- C. As part of this reconsideration, the proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate GFE to do so. The proposer will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate GFE to do so.
- D. In an administrative reconsideration, the reconsideration official will review all previously submitted documents, oral and written arguments, and other evidence presented in the reconsideration, in making the decision.
- E. The Department shall inform the proposer of the decision within thirty (30) days of the proceeding. The decision will state the Department’s findings, and explain the basis of those findings, with respect to whether or not the proposer met the contract goal, or whether or not the proposer made adequate GFE to achieve the contract goal.

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- F. The reconsideration decision is not administratively appealable to USDOT but is appealable under HRS 103D-709.

**XI. AWARD OF CONTRACT**

- A. In a request for proposal (RFP) procurement, the Department reserves the right to reject any or all proposals. The award of contract, if it is awarded, will be to the proposer with the highest score in accordance with the evaluation criteria set forth in the RFP and who meets or exceeds the DBE project goal, or who makes good faith efforts to meet or exceed the DBE project goal, as determined by the Department.
- B. If the proposer with the highest score does not meet the DBE project goal and does not demonstrate to the satisfaction of the Department that it made good faith efforts to meet the DBE project goal, such proposal shall be rejected. The Department will then consider the next highest scoring proposal for award in accordance with paragraph A above.

**XII. REPLACEMENT OF A DBE ON A PROJECT WITH A CONTRACT GOAL**

Under this contract, the prime consultant shall utilize the specific DBE listed to perform the work and supply the materials for which each is listed unless the consultant obtains written consent from the Department to replace a DBE. If the Department's consent is not provided, the consultant shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. The Department reserves the right to request copies of all DBE subcontracts.

The Department will require a consultant to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. A prime consultant's inability to find a replacement DBE at the original price is not sufficient to demonstrate that good faith efforts have been made to replace the original DBE. The fact that the consultant has the ability and/or desire to perform the contract work with its own forces does not relieve the consultant of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

The Department will require the prime consultant to promptly provide written notice to the project manager of the DBE's inability or unwillingness to perform and provide reasonable documentation.

The written notice by the consultant must include the following:

1. The date the consultant determined the certified DBE to be unwilling, unable or ineligible to perform work on the contract;

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2. The projected date that the consultant shall require a substitution or replacement DBE to commence work if consent is granted by the Department;
3. Documentation of facts that describe and cite specific actions or inactions on the part of the affected DBE that led to the consultant's conclusion that the DBE is unwilling, unable, or ineligible to perform work on the contract;
4. A brief statement of the affected DBE's capacity and ability or inability to perform the work as determined by the consultant;
5. Documentation of consultant's good faith efforts to enable affected DBE to perform the work;
6. The current percentage of work completed on each proposal item by the affected DBE;
7. The total dollar amount currently paid per proposal item for work performed by the affected DBE;
8. The total dollar amount per proposal item remaining to be paid to the DBE for work completed but for which the DBE has not received payment, and with which the consultant has no dispute; and
9. The total dollar amount per proposal item remaining to be paid to the DBE for work completed, for which the DBE has not received payment, and with which the consultant and DBE have a dispute.

The prime consultant shall send a copy of the written notice to replace a certified DBE on a contract to the affected DBE. The affected DBE may submit a written response within five (5) calendar days to the Department to explain its position on its performance on the committed work. The Department shall consider both the prime consultant's request and DBE's stated position before approving the termination or substitution request, or determining if any action shall be taken against the consultant.

There shall be no substitution or termination of a DBE subconsultant at any time without the prior written consent of the Department. The Department will provide written consent only if the consultant has good cause, as determined by the Department, to terminate the DBE. Good cause may include, but is not limited to the following circumstances:

1. The DBE subconsultant fails or refuses to execute a written contract;
2. The listed DBE subconsultant fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards;
3. The listed DBE subconsultant fails or refuses to meet the prime consultant's reasonable, nondiscriminatory bond requirements;
4. The listed DBE subconsultant becomes bankrupt, insolvent, or exhibits credit unworthiness;
5. The listed DBE subconsultant is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1200 or applicable state law;
6. The Department has determined that the listed DBE subconsultant is not a responsible consultant;

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7. The listed DBE subconsultant voluntarily withdraws from the project and provides to the Department written notice of its withdrawal;
8. The listed DBE subconsultant is ineligible to receive DBE credit for the type of work required; and
9. A DBE owner dies or becomes disabled with the result that the listed DBE consultant is unable to complete its work on the contract.

Upon approval from the Department to replace a DBE, the consultant's good faith efforts shall be documented and submitted to the Department within seven (7) calendar days. This time period may be extended for another seven (7) calendar days upon request by the prime consultant.

If a DBE subconsultant is unable to perform work under the contract, and is to be replaced, the consultant's failure to obtain a substitute certified DBE or to make good faith effort to obtain such a substitute DBE subconsultant to perform said work, may constitute a breach of this contract for which the Department may terminate the contract or pursue such remedy as deemed appropriate by the Department.

### **XIII. CONTRACT COMPLIANCE**

This contract is subject to contract compliance tracking, and the prime consultant and all subconsultants are required to report payments electronically in the Department's online Certification and Contract Compliance Management System (hereafter referred to as "online tracking system"). The prime consultant shall report the date payment was made by the Department and shall report payment to all subconsultants for the audit period. The prime consultant and all subconsultants are responsible for responding by any noted response date or due date to any instructions or request for information, and to check the online tracking system on a regular basis to manage contact information and contract records.

The prime consultant is responsible for ensuring all subconsultants have completed all requested items and that their contact information is accurate and up-to-date. The Department may require additional information related to the contract to be provided electronically through the online tracking system at any time before, during, or after contract award. Information related to consultant access of the online tracking system will be provided to designated point of contact with each consultant upon award of the contract. The online tracking system is web-based and can be accessed at the following Internet address: <https://hdot.dbesystem.com/>.

### **XIV. PAYMENT**

- A. The Department will make an estimate in writing each month based on the items of work performed and materials incorporated in the work and the value therefore at the unit prices or lump sum prices set forth in the contract. All progress estimates and payments will be approximate only and shall be subject to

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correction at any time prior to or in the final estimate and payment. The Department will not withhold any amount from any payment to the consultant, including retainage.

- B. The consultant shall pay all subconsultants within ten (10) calendar days after receipt of any progress payments from the Department. This clause applies to both DBE and non-DBE subconsultants, and all tiers of subcontracts.
- C. The consultant will verify that payment or retainage has been released to the subconsultants or its suppliers within the specified time through entries in the Department's online tracking system during the corresponding monthly audits. Prompt payment will be monitored and enforced through the consultant's reporting of payments to its subconsultants and suppliers in the online tracking system.

Subconsultants, including lower tier subconsultants and/or suppliers will confirm the timeliness and the payment amounts received utilizing the online tracking system. Discrepancies will be investigated by the DBE Program Office and the project engineer. Payments to the subconsultants, including lower tier subconsultants, and including retainage released after the subconsultant or lower tier subconsultant's work has been accepted, will be reported by the consultant or the subconsultant.

- D. When any subconsultant has satisfactorily completed its work as specified in the subcontract, and there are no bona fide disputes, the consultant shall make prompt and full payment to the subconsultant of all monies due, including retainage, within ten (10) calendar days after the subconsultant's work is satisfactorily completed. A subconsultant's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented, as required by the Department. The consultant must obtain the prior written approval from the Department before it can continue to withhold retainage from any subconsultant who has completed its portion of the work. This clause applies to both DBE and non-DBE subconsultants, and all tiers of subcontracts.

## **XV. RECORDS**

The consultant shall maintain and keep all records necessary for the Department to determine compliance with the consultant's DBE obligations. The records shall be available at reasonable times and places for inspection by the Department and appropriate Federal agencies. The records to be kept by the consultant shall include:

- 1. The names, race/ethnicity, gender, address, phone number, and contact person of all DBE and non-DBE consultants, subconsultants, , and vendors identified as DBEs (for vendor to identify whether it is a supplier or manufacturer);

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2. The nature of work of each DBE and non-DBE consultant, subconsultant, manufacturer, supplier, trucker and vendor;
3. The dollar amount contracted with each DBE and non-DBE consultant, subconsultant, manufacturer, supplier, trucker and vendor; and
4. Cumulative dollar amount of all change orders to the subcontract.

**XVI. FAILURE TO COMPLY WITH DBE REQUIREMENTS**

The consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT assisted contracts. All consultants, subconsultants, manufacturers and suppliers are hereby advised that failure to carry out all DBE requirements specified herein shall constitute a material breach of contract that may result in termination of the contract or such other remedy as deemed appropriate by the Department including but not limited to: 1) withholding monthly progress payments; 2) assessing sanctions; 3) liquidated damages; and/or 4) disqualifying the contractor from future bidding as non-responsible.



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

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

**ATTACHMENTS**

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

**I. GENERAL**

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

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

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

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

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **6. Training and Promotion:**

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

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

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

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

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

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

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

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

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

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

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

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

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

#### **10. Assurances Required:**

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

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

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

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

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

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

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

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

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

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

### III. NONSEGREGATED FACILITIES

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

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

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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

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

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

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

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

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

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## **3. Payrolls and basic records (29 CFR 5.5)**

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

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

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or

subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

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

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

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

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

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

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

#### 4. Apprentices and trainees (29 CFR 5.5)

##### a. Apprentices (programs of the USDOL).

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

Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

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

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

##### b. Trainees (programs of the USDOL).

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

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

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the

corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

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

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

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 29 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

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

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

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

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

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor

set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### **10. Certification of eligibility (29 CFR 5.5)**

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

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

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

#### **V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

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

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

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)\* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.

\* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

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

The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

## **VI. SUBLETTING OR ASSIGNING THE CONTRACT**

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

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

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

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or

equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

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

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

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

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

## **VII. SAFETY: ACCIDENT PREVENTION**

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

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

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

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance



with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

### **VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

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

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

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

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

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

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

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

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

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders

or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* \* \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is

submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

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

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

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

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

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

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

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

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

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

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

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

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

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

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

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier

subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

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

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

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

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

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

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

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

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

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

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

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

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

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

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

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

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

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

**Requirements of Chapter 104, HRS**  
**Wages and Hours of Employees on Public Works Law**

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Chapter 104, HRS, applies to every public works construction project over \$2,000, regardless of the method of procurement or financing (purchase order, voucher, bid, contract, lease arrangement, warranty, SPRB).

**Rate of Wages for Laborers and Mechanics**

- Minimum prevailing wages (basic hourly rate plus fringe benefits), as determined by the Director of Labor and Industrial Relations and published in wage rate schedules, shall be paid to the various classes of laborers and mechanics working on the job site. [§104-2(a), (b), Hawaii Revised Statutes (HRS)]
- If the Director of Labor determines that prevailing wages have increased during the performance of a public works contract, the rate of pay of laborers and mechanics shall be raised accordingly. [§104-2(a) and (b), HRS; §12-22-3(d) Hawaii Administrative Rules (HAR)]

**Overtime**

- Laborers and mechanics working on a Saturday, Sunday, or a legal holiday of the State or more than eight hours a day on any other day shall be paid overtime compensation at not less than one and one-half times the basic hourly rate plus the cost of fringe benefits for all hours worked. If the Director of Labor determines that a prevailing wage is defined by a collective bargaining agreement, the overtime compensation shall be at the rates set by the applicable collective bargaining agreement [§§104-1, 104-2(c), HRS; §12-22-4.1, HAR]

**Weekly Pay**

- Laborers and mechanics employed on the job site shall be paid their full wages at least once a week, without deduction or rebate, except for legal deductions, within five working days after the cutoff date. [§104-2(d), HRS]

**Posting of Wage Rate Schedules**

- Wage rate schedules with the notes for prevailing wages and special overtime rates, shall be posted by the contractor in a prominent and easily accessible place at the job site. A copy of the entire wage rate schedule shall be given to each laborer and mechanic employed under the contract, except when the employee is covered by a collective bargaining agreement. [§104-2(d), HRS]

**Withholding of Accrued Payments**

- If necessary, the contracting agency may withhold accrued payments to the contractor to pay to laborers and mechanics employed by the contractor or subcontractor on the job site any difference between the wages required by the public works contract or specifications and the wages received. [§104-2(e), HRS]

**Certified Weekly Payrolls and Payroll Records**

- A certified copy of all payrolls shall be submitted weekly to the contracting agency. [§104-3(a), HRS; §12-22-10, HAR]
- The contractor is responsible for the submission of certified copies of the payrolls of all subcontractors. The certification shall affirm that the payrolls are correct and complete, that the wage rates listed are not less than the applicable rates contained in the applicable wage rate schedule, and that the classifications for each laborer or mechanic conform with the work the laborer or mechanic performed. [§104-3(a), HRS; §12-22-10, HAR]
- Payroll records shall be maintained by the contractor and subcontractors for three years after completion of construction. The records shall contain: [§104-3(b), HRS; §12-22-10, HAR]
  - the name and home address of each employee
  - the last four digits of social security number
  - a copy of the apprentice's registration with DLIR
  - the employee's correct classification
  - rate of pay (basic hourly rate + fringe benefits)
  - itemized list of fringe benefits paid
  - daily and weekly hours worked
  - weekly straight time and overtime earnings
  - amount and type of deductions
  - total net wages paid
  - date of payment
- Records shall be made available for examination by the contracting agency, the Department of Labor and Industrial Relations (DLIR), or any of its authorized representatives, who may also interview employees during working hours on the job. [§§104-3(c), 104-22(a), HRS; §12-22-10, HAR]

**Termination of Work on Failure to Pay Wages**

- If the contracting agency finds that any laborer or mechanic employed on the job site by the contractor or any subcontractor has not been paid prevailing wages or overtime, the contracting agency may, by written notice to the contractor, terminate the contractor's or subcontractor's right to proceed with the work or with the part of the work in which the required wages or overtime compensation have not been paid. The contracting agency may complete this work by contract or otherwise, and the contractor or contractor's sureties shall be liable to the contracting agency for any excess costs incurred. [§104-4, HRS]

**Apprentices**

- Apprentice wage rates apply to contractors who are a party to a bona fide apprenticeship program which has been registered with the DLIR. In order to be paid apprentice rates, apprentices must be parties to an agreement either registered with or recognized as a USDOL nationally approved apprenticeship program by the DLIR, Workforce Development Division, (808) 586-8877, and the apprentice must be individually registered by name with the DLIR. [§12-22-6(1) and (2), HAR]
- The number of apprentices on any public work in relation to the number of journeyworkers in the same craft classification as the apprentices employed by the same employer on the same public work may not exceed the ratio allowed under the apprenticeship standards registered with or recognized by the DLIR. A registered or recognized apprentice receiving the journeyworker rate will not be considered a journeyworker for the purpose of meeting the ratio requirement. [§12-22-6(3), HAR]

**Enforcement**

- To ensure compliance with the law, DLIR and the contracting agency will conduct investigations of contractors and subcontractors. If a contractor or subcontractor violates the law, the penalties are: [§104-24, HRS]
  - First Violation Equal to 25% of back wages found due or \$250 per offense up to \$2,500, whichever is greater.
  - Second Violation Equal to amount of back wages found due or \$500 for each offense up to \$5,000, whichever is greater.
  - Third Violation Equal to two times the amount of back wages found due or \$1,000 for each offense up to \$10,000, whichever is greater; and  
**Suspension** from doing any new work on any public work of a governmental contracting agency for three years.
- A violation would be deemed a second violation if it occurs within two years of the **first notification of violation**, and a third violation if it occurs within three years of **the second notification of violation**. [§104-24, HRS; §12-22-25(b), HAR]
- **Suspension:** For a first or second violation, the department shall immediately suspend a contractor who fails to pay wages or penalties until all wages and penalties are paid in full. For a third violation, the department shall penalize and suspend the contractor as described above, **except that if the contractor continues to violate the law, then the department shall immediately suspend the contractor for a mandatory three years. The contractor shall remain suspended until all wages and penalties are paid in full.** [§§104-24, 104-25, HRS]
- **Suspension:** Any contractor who fails to make payroll records accessible or provide requested information within 10 days, or fails to keep or falsifies any required record, shall be assessed a penalty including suspension as provided in Section 104-22(b) and 104-25(a)(3), HRS. [§104-3(c), HRS; §12-22-26, HAR]
- If any contractor interferes with or delays any investigation, the contracting agency shall withhold further payments until the delay has ceased. Interference or delay includes failure to provide requested records or information within ten days, failure to allow employees to be interviewed during working hours on the job, and falsification of payroll records. The department shall assess a penalty of \$10,000 per project, and \$1,000 per day thereafter, for interference or delay. [§104-22(b), HRS; §12-22-26, HAR]
- Failure by the contracting agency to include in the provisions of the contract or specifications the requirements of Chapter 104, HRS, relating to coverage and the payment of prevailing wages and overtime, is not a defense of the contractor or subcontractor for noncompliance with the requirements of this chapter. [§104-2(f), HRS]

**For additional information, visit the department's website at <http://labor.hawaii.gov/wsd> or contact any of the following DLIR offices:**



- Oahu (Wage Standards Division).....(808) 586-8777
- Hawaii Island .....(808) 974-6464
- Maui and Kauai .....(808) 243-5322

"General Decision Number: HI20220001 10/14/2022

Superseded General Decision Number: HI20210001

State: Hawaii

Construction Types: Building, Heavy (Heavy and Dredging), Highway and Residential

Counties: Hawaii Statewide.

BUILDING CONSTRUCTION PROJECTS; RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories); HEAVY AND HIGHWAY CONSTRUCTION PROJECTS AND DREDGING

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<ul style="list-style-type: none"> <li>. Executive Order 14026 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2022.</li> </ul>
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<ul style="list-style-type: none"> <li>. Executive Order 13658 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.</li> </ul>

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

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



Modification Number	Publication Date
0	01/07/2022
1	01/14/2022
2	02/18/2022
3	02/25/2022
4	03/04/2022
5	03/11/2022
6	03/18/2022
7	03/25/2022
8	04/15/2022
9	07/08/2022
10	08/19/2022
11	08/26/2022
12	09/02/2022
13	09/09/2022
14	09/30/2022
15	10/14/2022

ASBE0132-001 06/05/2022

	Rates	Fringes
Asbestos Workers/Insulator Includes application of all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems. Also the application of firestopping material for wall openings and penetrations in walls, floors, ceilings and curtain walls.....	\$ 42.80	25.85

BOIL0627-005 01/01/2021

	Rates	Fringes
BOILERMAKER.....	\$ 37.25	31.25

BRHI0001-001 08/30/2021

	Rates	Fringes
BRICKLAYER Bricklayers and Stonemasons..	\$ 46.46	30.43
Pointers, Caulkers and Weatherproofers.....	\$ 46.71	30.43

BRHI0001-002 08/30/2021

	Rates	Fringes
Tile, Marble & Terrazzo Worker Terrazzo Base Grinders.....	\$ 42.59	32.57
Terrazzo Floor Grinders and Tenders.....	\$ 41.04	32.57
Tile, Marble and Terrazzo Workers.....	\$ 44.40	32.57

CARP0745-001 10/01/2021

	Rates	Fringes
Carpenters:		
Carpenters; Hardwood Floor Layers; Patent Scaffold Erectors (14 ft. and over); Piledrivers; Pneumatic Nailers; Wood Shinglers and Transit and/or Layout Man.....	\$ 51.25	24.84
Millwrights and Machine Erectors.....	\$ 51.50	24.84
Power Saw Operators (2 h.p. and over).....	\$ 51.40	24.84

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 CARP0745-002 10/01/2021

	Rates	Fringes
Drywall and Acoustical Workers and Lathers.....	\$ 51.50	24.84

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 ELEC1186-001 08/22/2022

	Rates	Fringes
Electricians:		
Cable Splicers.....	\$ 60.51	30.90
Electricians.....	\$ 53.55	30.69
Telecommunication worker....	\$ 34.94	13.69

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 ELEC1186-002 08/22/2022

	Rates	Fringes
Line Construction:		
Cable Splicers.....	\$ 60.51	30.90
Groundmen/Truck Drivers.....	\$ 40.16	25.34
Heavy Equipment Operators...	\$ 48.20	28.43
Linemen.....	\$ 53.55	30.69
Telecommunication worker....	\$ 34.94	13.69

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 ELEV0126-001 01/01/2022

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 65.33	36.885+a+b

- a. VACATION: Employer contributes 8% of basic hourly rate for 5 years service and 6% of basic hourly rate for 6 months to 5 years service as vacation pay credit.
- b. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the Friday after Thanksgiving Day and Christmas Day.

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 ENGI0003-002 09/03/2018

	Rates	Fringes
Diver (Aqua Lung) (Scuba)		
Diver (Aqua Lung) (Scuba) (over a depth of 30 feet)...	\$ 66.00	31.26
Diver (Aqua Lung) (Scuba)		

(up to a depth of 30 feet)..	\$ 56.63	31.26
Stand-by Diver (Aqua Lung (Scuba).....	\$ 47.25	31.26
Diver (Other than Aqua Lung)		
Diver (Other than Aqua Lung).....	\$ 66.00	31.26
Diver Tender (Other than Aqua Lung).....	\$ 44.22	31.26
Stand-by Diver (Other than Aqua Lung).....	\$ 47.25	31.26
Helicopter Work		
Airborne Hoist Operator for Helicopter.....	\$ 45.80	31.26
Co-Pilot of Helicopter.....	\$ 45.98	31.26
Pilot of Helicopter.....	\$ 46.11	31.26
Power equipment operator - tunnel work		
GROUP 1.....	\$ 42.24	31.26
GROUP 2.....	\$ 42.35	31.26
GROUP 3.....	\$ 42.52	31.26
GROUP 4.....	\$ 42.79	31.26
GROUP 5.....	\$ 43.10	31.26
GROUP 6.....	\$ 43.75	31.26
GROUP 7.....	\$ 44.07	31.26
GROUP 8.....	\$ 44.18	31.26
GROUP 9.....	\$ 44.29	31.26
GROUP 9A.....	\$ 44.52	31.26
GROUP 10.....	\$ 44.58	31.26
GROUP 10A.....	\$ 44.73	31.26
GROUP 11.....	\$ 44.88	31.26
GROUP 12.....	\$ 45.24	31.26
GROUP 12A.....	\$ 45.60	31.26
Power equipment operators:		
GROUP 1.....	\$ 41.94	31.26
GROUP 2.....	\$ 42.05	31.26
GROUP 3.....	\$ 42.22	31.26
GROUP 4.....	\$ 42.49	31.26
GROUP 5.....	\$ 42.80	31.26
GROUP 6.....	\$ 43.45	31.26
GROUP 7.....	\$ 43.77	31.26
GROUP 8.....	\$ 43.88	31.26
GROUP 9.....	\$ 43.99	31.26
GROUP 9A.....	\$ 44.22	31.26
GROUP 10.....	\$ 44.28	31.26
GROUP 10A.....	\$ 44.43	31.26
GROUP 11.....	\$ 44.58	31.26
GROUP 12.....	\$ 44.94	31.26
GROUP 12A.....	\$ 45.30	31.26
GROUP 13.....	\$ 42.22	31.26
GROUP 13A.....	\$ 42.49	31.26
GROUP 13B.....	\$ 42.80	31.26
GROUP 13C.....	\$ 43.45	31.26
GROUP 13D.....	\$ 43.77	31.26
GROUP 13E.....	\$ 43.88	31.26

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Fork Lift (up to and including 10 tons); Partsman (heavy duty repair shop parts room when needed).

GROUP 2: Conveyor Operator (Handling building material); Hydraulic Monitor; Mixer Box Operator (Concrete Plant).

GROUP 3: Brakeman; Deckhand; Fireman; Oiler; Oiler/Gradechecker; Signalman; Switchman; Highline Cableway

Signalman; Bargeman; Bunker man; Concrete Curing Machine (self-propelled, automatically applied unit on streets, highways, airports and canals); Leveeman; Roller (5 tons and under); Tugger Hoist.

GROUP 4: Boom Truck or dual purpose "A" Frame Truck (5 tons or less); Concrete Placing Boom (Building Construction); Dinky Operator; Elevator Operator; Hoist and/or Winch (one drum); Straddle Truck (Ross Carrier, Hyster and similar).

GROUP 5: Asphalt Plant Fireman; Compressors, Pumps, Generators and Welding Machines ("Bank" of 9 or more, individually or collectively); Concrete Pumps or Pumpcrete Guns; Lubrication and Service Engineer (Grease Rack); Screedman.

GROUP 6: Boom Truck or Dual Purpose "A" Frame Truck (over 5 tons); Combination Loader/Backhoe (up to and including 3/4 cu. yd.); Concrete Batch Plants (wet or dry); Concrete Cutter, Groover and/or Grinder (self-propelled unit on streets, highways, airports, and canals); Conveyor or Concrete Pump (Truck or Equipment Mounted); Drilling Machinery (not to apply to waterliners, wagon drills or jack hammers); Fork Lift (over 10 tons); Loader (up to and including 3 and 1/2 cu. yds); Lull High Lift (under 40 feet); Lubrication and Service Engineer (Mobile); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Man or Material Hoist; Mechanical Concrete Finisher (Large Clary, Johnson Bidwell, Bridge Deck and similar); Mobile Truck Crane Driver; Portable Shotblast Concrete Cleaning Machine; Portable Boring Machine (under streets, highways, etc.); Portable Crusher; Power Jumbo Operator (setting slip forms, etc., in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Self-propelled Pavement Breaker; Skidsteer Loader with attachments; Slip Form Pumps (Power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Small Rubber Tired Tractors; Trencher (up to and including 6 feet); Underbridge Personnel Aerial Platform (50 feet of platform or less).

GROUP 7: Crusher Plant Engineer, Dozer (D-4, Case 450, John Deere 450, and similar); Dual Drum Mixer, Extend Lift; Hoist and/or Winch (2 drums); Loader (over 3 and 1/2 cu. yds. up to and including 6 yards.); Mechanical Finisher or Spreader Machine (asphalt), (Barber Greene and similar) (Screedman required); Mine or Shaft Hoist; Mobile Concrete Mixer (over 5 tons); Pipe Bending Machine (pipelines only); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Roller Operator (Asphalt); Self-Propelled Elevating Grade Plane; Slusher Operator; Tractor (with boom) (D-6, or similar); Trencher (over 6 feet and less than 200 h.p.); Water Tanker (pulled by Euclids, T-Pulls, DW-10, 20 or 21, or similar); Winchman (Stern Winch on Dredge).

GROUP 8: Asphalt Plant Operator; Barge Mate (Seagoing); Cast-in-Place Pipe Laying Machine; Concrete Batch Plant (multiple units); Conveyor Operator (tunnel); Deckmate; Dozer (D-6 and similar); Finishing Machine Operator (airports and highways); Gradesetter; Kolman Loader (and similar); Mucking Machine (Crawler-type); Mucking Machine (Conveyor-type); No-Joint Pipe Laying Machine; Portable Crushing and Screening Plant; Power Blade Operator (under 12); Saurman Type Dragline (up to and including 5 yds.);

Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer Operator, Tractor (D-6 and similar); Tri-Batch Paver; Tunnel Badger; Tunnel Mole and/or Boring Machine Operator Underbridge Personnel Aerial Platform (over 50 feet of platform).

GROUP 9: Combination Mixer and Compressor (gunite); Do-Mor Loader and Adams Elegrader; Dozer (D-7 or equal); Wheel and/or Ladder Trencher (over 6 feet and 200 to 749 h.p.).

GROUP 9A: Dozer (D-8 and similar); Gradesetter (when required by the Contractor to work from drawings, plans or specifications without the direct supervision of a foreman or superintendent); Push Cat; Scrapers (up to and including 20 cu. yds); Self-propelled Compactor with Dozer; Self-Propelled, Rubber-Tired Earthmoving Equipment (up to and including 20 cu. yds) (621 Band and similar); Sheep's Foot; Tractor (D-8 and similar); Tractors with boom (larger than D-6, and similar).

GROUP 10: Chicago Boom; Cold Planers; Heavy Duty Repairman or Welder; Hoist and/or Winch (3 drums); Hydraulic Skooper (Koehring and similar); Loader (over 6 cu. yds. up to and including 12 cu. yds.); Saurman type Dragline (over 5 cu. yds.); Self-propelled, rubber-tired Earthmoving Equipment (over 20 cu. yds. up to and including 31 cu. yds.) (637D and similar); Soil Stabilizer (P & H or equal); Sub-Grader (Gurries or other automatic type); Tractors (D-9 or equivalent, all attachments); Tractor (Tandem Scraper); Watch Engineer.

GROUP 10A: Boat Operator; Cable-operated Crawler Crane (up to and including 25 tons); Cable-operated Power Shovel, Clamshell, Dragline and Backhoe (up to and including 1 cu. yd.); Dozer D9-L; Dozer (D-10, HD41 and similar) (all attachments); Gradall (up to and including 1 cu. yd.); Hydraulic Backhoe (over 3/4 cu. yds. up to and including 2 cu. yds.); Mobile Truck Crane Operator (up to and including 25 tons) (Mobile Truck Crane Driver Required); Self-propelled Boom Type Lifting Device (Center Mount) (up to and including 25 tons) (Grove, Drott, P&H, Pettibone and similar); Trencher (over 6 feet and 750 h.p. or more); Watch Engineer (steam or electric).

GROUP 11: Automatic Slip Form Paver (concrete or asphalt); Band Wagon (in conjunction with Wheel Excavator); Cable-operated Crawler Cranes (over 25 tons but less than 50 tons); Cable-operated Power Shovel, Clamshell, Dragline and Backhoe (over 1 cu. yd. up to 7 cu. yds.); Gradall (over 1 cu. yds. up to 7 cu. yds.); DW-10, 20, etc. (Tandem); Earthmoving Machines (multiple propulsion power units and 2 or more Scrapers) (up to and including 35 cu. yds., "" struck"" m.r.c.); Highline Cableway; Hydraulic Backhoe (over 2 cu. yds. up to and including 4 cu. yds.); Leverman; Lift Slab Machine; Loader (over 12 cu. yds); Master Boat Operator; Mobile Truck Crane Operator (over 25 tons but less than 50 tons); (Mobile Truck Crane Driver required); Pre-stress Wire Wrapping Machine; Self-propelled Boom-type Lifting Device (Center Mount) (over 25 tons m.r.c); Self-propelled Compactor (with multiple-propulsion power units); Single Engine Rubber Tired Earthmoving Machine (with Tandem Scraper); Tandem Cats; Trencher (pulling attached shield).

GROUP 12: Clamshell or Dipper Operator; Derricks; Drill Rigs;

Multi-Propulsion Earthmoving Machines (2 or more Scrapers) (over 35 cu. yds ""struck""m.r.c.); Operators (Derricks, Piledrivers and Cranes); Power Shovels and Draglines (7 cu. yds. m.r.c. and over); Self-propelled rubber-tired Earthmoving equipment (over 31 cu. yds.) (657B and similar); Wheel Excavator (up to and including 750 cu. yds. per hour); Wheel Excavator (over 750 cu. yds. per hour).

GROUP 12A: Dozer (D-11 or similar or larger); Hydraulic Excavators (over 4 cu. yds.); Lifting cranes (50 tons and over); Pioneering Dozer/Backhoe (initial clearing and excavation for the purpose of providing access for other equipment where the terrain worked involves 1-to-1 slopes that are 50 feet in height or depth, the scope of this work does not include normal clearing and grubbing on usual hilly terrain nor the excavation work once the access is provided); Power Blade Operator (Cat 12 or equivalent or over); Straddle Lifts (over 50 tons); Tower Crane, Mobile; Traveling Truss Cranes; Universal, Liebherr, Linden, and similar types of Tower Cranes (in the erection, dismantling, and moving of equipment there shall be an additional Operating Engineer or Heavy Duty Repairman); Yo-Yo Cat or Dozer.

GROUP 13: Truck Driver (Utility, Flatbed, etc.)

GROUP 13A: Dump Truck, 8 cu.yds. and under (water level); Water Truck (up to and including 2,000 gallons).

GROUP 13B: Water Truck (over 2,000 gallons); Tandem Dump Truck, over 8 cu. yds. (water level).

GROUP 13C: Truck Driver (Semi-trailer. Rock Cans, Semi-Dump or Roll-Offs).

GROUP 13D: Truck Driver (Slip-In or Pup).

GROUP 13E: End Dumps, Unlicensed (Euclid, Mack, Caterpillar or similar); Tractor Trailer (Hauling Equipment); Tandem Trucks hooked up to Trailer (Hauling Equipment)

**BOOMS AND/OR LEADS (HOURLY PREMIUMS):**

The Operator of a crane (under 50 tons) with a boom of 80 feet or more (including jib), or of a crane (under 50 tons) with leads of 100 feet or more, shall receive a per hour premium for each hour worked on said crane (under 50 tons) in accordance with the following schedule:

Booms of 80 feet up to but not including 130 feet or Leads of 100 feet up to but not including 130 feet	0.50
Booms and/or Leads of 130 feet up to but not including 180 feet	0.75
Booms and/or Leads of 180 feet up to and including 250 feet	1.15
Booms and/or Leads over 250 feet	1.50

The Operator of a crane (50 tons and over) with a boom of 180 feet or more (including jib) shall receive a per hour premium for each hour worked on said crane (50 tons and over) in accordance with the following schedule:

Booms of 180 feet up to  
and including 250 feet 1.25  
Booms over 250 feet 1.75

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ENGI0003-004 09/04/2017

	Rates	Fringes
Dredging: (Boat Operators)		
Boat Deckhand.....	\$ 41.22	30.93
Boat Operator.....	\$ 43.43	30.93
Master Boat Operator.....	\$ 43.58	30.93
Dredging: (Clamshell or Dipper Dredging)		
GROUP 1.....	\$ 43.94	30.93
GROUP 2.....	\$ 43.28	30.93
GROUP 3.....	\$ 42.88	30.93
GROUP 4.....	\$ 41.22	30.93
Dredging: (Derricks)		
GROUP 1.....	\$ 43.94	30.93
GROUP 2.....	\$ 43.28	30.93
GROUP 3.....	\$ 42.88	30.93
GROUP 4.....	\$ 41.22	30.93
Dredging: (Hydraulic Suction Dredges)		
GROUP 1.....	\$ 43.58	30.93
GROUP 2.....	\$ 43.43	30.93
GROUP 3.....	\$ 43.28	30.93
GROUP 4.....	\$ 43.22	30.93
GROUP 5.....	\$ 37.88	26.76
Group 5.....	\$ 42.88	30.93
GROUP 6.....	\$ 37.77	26.76
Group 6.....	\$ 42.77	30.93
GROUP 7.....	\$ 36.22	26.76
Group 7.....	\$ 41.22	30.93

CLAMSHELL OR DIPPER DREDGING CLASSIFICATIONS

- GROUP 1: Clamshell or Dipper Operator.
- GROUP 2: Mechanic or Welder; Watch Engineer.
- GROUP 3: Barge Mate; Deckmate.
- GROUP 4: Bargeman; Deckhand; Fireman; Oiler.

HYDRAULIC SUCTION DREDGING CLASSIFICATIONS

- GROUP 1: Leverman.
- GROUP 2: Watch Engineer (steam or electric).
- GROUP 3: Mechanic or Welder.
- GROUP 4: Dozer Operator.
- GROUP 5: Deckmate.
- GROUP 6: Winchman (Stern Winch on Dredge)
- GROUP 7: Deckhand (can operate anchor scow under direction of Deckmate); Fireman; Leveeman; Oiler.

DERRICK CLASSIFICATIONS

- GROUP 1: Operators (Derricks, Piledrivers and Cranes).
- GROUP 2: Saurman Type Dragline (over 5 cubic yards).
- GROUP 3: Deckmate; Saurman Type Dragline (up to and including 5 yards).
- GROUP 4: Deckhand, Fireman, Oiler.

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ENGI0003-044 09/03/2018

	Rates	Fringes
Power Equipment Operators (PAVING)		
Asphalt Concrete Material Transfer.....	\$ 42.92	32.08
Asphalt Plant Operator.....	\$ 43.35	32.08
Asphalt Raker.....	\$ 41.96	32.08
Asphalt Spreader Operator...\$	43.44	32.08
Cold Planer.....\$	43.75	32.08
Combination Loader/Backhoe (over 3/4 cu.yd.).....\$	41.96	32.08
Combination Loader/Backhoe (up to 3/4 cu.yd.).....\$	40.98	32.08
Concrete Saws and/or Grinder (self-propelled unit on streets, highways, airports and canals).....\$	42.92	32.08
Grader.....\$	43.75	32.08
Laborer, Hand Roller.....\$	41.46	32.08
Loader (2 1/2 cu. yds. and under).....\$	42.92	32.08
Loader (over 2 1/2 cu. yds. to and including 5 cu. yds.).....\$	43.24	32.08
Roller Operator (five tons and under).....\$	41.69	32.08
Roller Operator (over five tons).....\$	43.12	32.08
Screed Person.....\$	42.92	32.08
Soil Stabilizer.....\$	43.75	32.08

\* IRON0625-001 09/01/2022

	Rates	Fringes
Ironworkers:.....\$	45.00	39.00
a. Employees will be paid \$.50 per hour more while working in tunnels and coffer dams; \$1.00 per hour more when required to work under or are covered with water (submerged) and when they are required to work on the summit of Mauna Kea, Mauna Loa or Haleakala.		

LAB00368-001 09/05/2022

	Rates	Fringes
Laborers:		
Driller.....\$	41.00	24.25
Final Clean Up.....\$	30.45	19.57
Gunite/Shotcrete Operator and High Scaler.....\$	40.50	24.25
Laborer I.....\$	40.00	24.25
Laborer II.....\$	37.40	24.25
Mason Tender/Hod Carrier...\$	40.50	24.25
Powderman.....\$	41.00	24.25
Window Washer (bosun chair).\$	39.50	24.25

#### LABORERS CLASSIFICATIONS

Laborer I: Air Blasting run by electric or pneumatic compressor; Asphalt Laborer, Ironer, Raker, Luteman, and Handroller, and all types of Asphalt Spreader Boxes; Asphalt Shoveler; Assembly and Installation of Multiplates,



Liner Plates, Rings, Mesh, Mats; Batching Plant (portable and temporary); Boring Machine Operator (under streets and sidewalks); Buggymobile; Burning and Welding; Chainsaw, Faller, Logloader, and Bucker; Compactors (Jackson Jumping Jack and similar); Concrete Bucket Dumpman; Concrete Chipping; Concrete Chuteman/Hoseman (pouring concrete) (the handling of the chute from ready-mix trucks for such jobs as walls, slabs, decks, floors, foundations, footings, curbs, gutters, and sidewalks); Concrete Core Cutter (Walls, Floors, and Ceiling); Concrete Grinding or Sanding; Concrete: Hooking on, signaling, dumping of concrete for trepane work over water on caissons, pilings, abutments, etc.; Concrete: Mixing, handling, conveying, pouring, vibrating, otherwise placing of concrete or aggregates or by any other process; Concrete: Operation of motorized wheelbarrows or buggies or machines of similar character, whether run by gas, diesel, or electric power; Concrete Placement Machine Operator: operation of Somero Hammerhead, Copperheads, or similar machines; Concrete Pump Machine (laying, coupling, uncoupling of all connections and cleaning of equipment); Concrete and/or Asphalt Saw (Walking or Handtype) (cutting walls or flatwork) (scoring old or new concrete and/or asphalt) (cutting for expansion joints) (streets and ways for laying of pipe, cable or conduit for all purposes); Concrete Shovelers/Laborers (Wet or Dry); Concrete Screeding for Rough Strike-Off: Rodding or striking-off, by hand or mechanical means prior to finishing; Concrete Vibrator Operator; Coring Holes: Walls, footings, piers or other obstructions for passage of pipes or conduits for any purpose and the pouring of concrete to secure the hole; Cribbers, Shorer, Lagging, Sheeting, and Trench Jacking and Bracing, Hand-Guided Lagging Hammer Whaling Bracing; Curbing (Concrete and Asphalt); Curing of Concrete (impervious membrane and form oiler) mortar and other materials by any mode or method; Cut Granite Curb Setter (setting, leveling and grouting of all precast concrete or stone curbs); Cutting and Burning Torch (demolition); Dri Pak-It Machine; Environmental Abatement: removal of asbestos, lead, and bio hazardous materials (EPA and/or OSHA certified); Falling, bucking, yarding, loading or burning of all trees or timber on construction site; Forklift (9 ft. and under); Gas, Pneumatic, and Electric tools; Grating and Grill work for drains or other purposes; Green Cutter of concrete or aggregate in any form, by hand, mechanical means, grindstone or air and/or water; Grout: Spreading for any purpose; Guinea Chaser (Grade Checker) for general utility trenches, sitework, and excavation; Headerboard Man (Asphalt or Concrete); Heat Welder of Plastic (Laborers' AGC certified workers) (when work involves waterproofing for waterponds, artificial lakes and reservoir) heat welding for sewer pipes and fusion of HDPE pipes; Heavy Highway Laborer (Rigging, signaling, handling, and installation of pre-cast catch basins, manholes, curbs and gutters); High Pressure Nozzleman - Hydraulic Monitor (over 100# pressure); Jackhammer Operator; Jacking of slip forms: All semi and unskilled work connected therewithin; Laying of all multi-cell conduit or multi-purpose pipe; Magnesite and Mastic Workers (Wet or Dry)(including mixer operator);Mortar Man; Mortar Mixer (Block, Brick, Masonry, and Plastering); Nozzleman (Sandblasting and/or Water Blasting): handling, placing and operation of nozzle; Operation, Manual or Hydraulic jacking of shields and the use of such other mechanical equipment as may be necessary; Pavement Breakers; Paving, curbing and surfacing of streets, ways, courts, under and overpasses, bridges,

approaches, slope walls, and all other labor connected therewith; Pilecutters; Pipe Assessment in place, bolting and lining up of sectional metal or other pipe including corrugated pipe; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, HDPE, metallic or non-metallic, conduit, and any other stationary-type of tubular device used for conveying of any substance or element, whether water, sewage, solid, gas, air, or other product whatsoever and without regard to the nature of material from which tubular material is fabricated; No-joint pipe and stripping of same, Pipewrapper, Caulker, Bander, Kettleman, and men applying asphalt, Laykold, treating Creosote and similar-type materials (6-inch pipe and over); Piping: resurfacing and paving of all ditches in preparation for laying of all pipes; Pipe laying of lateral sewer pipe from main or side sewer to buildings or structure (except Contactor may direct work be done under proper supervision); Pipe laying, leveling and marking of the joint used for main or side sewers and storm sewers; Laying of all clay, terra cotta, ironstone, vitrified concrete, HDPE or other pipe for drainage; Placing and setting of water mains, gas mains and all pipe including removal of skids; Plaster Mortar Mixer/Pump; Pneumatic Impact Wrench; Portable Sawmill Operation: Choker setters, off bearers, and lumber handlers connected with clearing; Posthole Digger (Hand Held, Gas, Air and Electric); Powderman's Tender; Power Broom Sweepers (Small); Preparation and Compaction of roadbeds for railroad track laying, highway construction, and the preparation of trenches, footings, etc., for cross-country transmission by pipelines, electrical transmission or underground lines or cables (by mechanical means); Raising of structure by manual or hydraulic jacks or other methods and resetting of structure in new locations, including all concrete work; Ramming or compaction; Rigging in connection with Laborers' work (except demolition), Signaling (including the use of walkie talkie) Choke Setting, tag line usage; Tagging and Signaling of building materials into high rise units; Riprap, Stonepaver, and Rock Slinger (includes placement of stacked concrete, wet or dry and loading, unloading, signaling, slinging and setting of other similar materials); Rotary Scarifier (including multiple head concrete chipping Scarifier); Salamander Heater, Drying of plaster, concrete mortar or other aggregate; Scaffold Erector Leadman; Scaffolds: (Swing and hanging) including maintenance thereof; Scaler; Septic Tank/Cesspool and Drain Fields Digger and Installer; Shredder/Chipper (tree branches, brush, etc.); Stripping and Setting Forms; Stripping of Forms: Other than panel forms which are to be re-used in their original form, and stripping of forms on all flat arch work; Tampers (Barko, Wacker, and similar type); Tank Scaler and Cleaners; Tarman; Tree Climbers and Trimmers; Trencher (includes hand-held, Davis T-66 and similar type); Trucks (flatbed up to and including 2 1/2 tons when used in connection with on-site Laborers' work; Trucks (Refuse and Garbage Disposal) (from job site to dump); Vibra-Screed (Bull Float in connection with Laborers' work); Well Points, Installation of or any other dewatering system.

Laborer II: Asphalt Plant Laborer; Boring Machine Tender; Bridge Laborer; Burning of all debris (crates, boxes, packaging waste materials); Chainman, Rodmen, and Grade

Markers; Cleaning, clearing, grading and/or removal for streets, highways, roadways, aprons, runways, sidewalks, parking areas, airports, approaches, and other similar installations; Cleaning or reconditioning of streets, ways, sewers and waterlines, all maintenance work and work of an unskilled and semi-skilled nature; Concrete Bucket Tender (Groundman) hooking and unhooking of bucket; Concrete Forms; moving, cleaning, oiling and carrying to the next point of erection of all forms; Concrete Products Plant Laborers; Conveyor Tender (conveying of building materials); Crushed Stone Yards and Gravel and Sand Pit Laborers and all other similar plants; Demolition, Wrecking and Salvage Laborers: Wrecking and dismantling of buildings and all structures, with use of cutting or wrecking tools, breaking away, cleaning and removal of all fixtures, All hooking, unhooking, signaling of materials for salvage or scrap removed by crane or derrick; Digging under streets, roadways, aprons or other paved surfaces; Driller's Tender; Chuck Tender, Outside Nipper; Dry-packing of concrete (plugging and filling of she-bolt holes); Fence and/or Guardrail Erector: Dismantling and/or re-installation of all fence; Finegrader; Firewatcher; Flagman (Coning, preparing, stablishing and removing portable roadway barricade devices); Signal Men on all construction work defined herein, including Traffic Control Signal Men at construction site; General Excavation; Backfilling, Grading and all other labor connected therewith; Digging of trenches, ditches and manholes and the leveling, grading and other preparation prior to laying pipe or conduit for any purpose; Excavations and foundations for buildings, piers, foundations and holes, and all other construction. Preparation of street ways and bridges; General Laborer: Cleaning and Clearing of all debris and surplus material. Clean-up of right-of-way. Clearing and slashing of brush or trees by hand or mechanical cutting. General Clean up: sweeping, cleaning, wash-down, wiping of construction facility and equipment (other than "Light Clean up (Janitorial) Laborer. Garbage and Debris Handlers and Cleaners. Appliance Handling (job site) (after delivery unloading in storage area); Ground and Soil Treatment Work (Pest Control); Gunite/Shotcrete Operator Tender; Junk Yard Laborers (same as Salvage Yard); Laser Beam "Target Man" in connection with Laborers' work; Layout Person for Plastic (when work involves waterproofing for waterponds, artificial lakes and reservoirs); Limbers, Brush Loaders, and Pilers; Loading, Unloading, carrying, distributing and handling of all rods and material for use in reinforcing concrete construction (except when a derrick or outrigger operated by other than hand power is used); Loading, unloading, sorting, stockpiling, handling and distribution of water mains, gas mains and all pipes; Loading and unloading of all materials, fixtures, furnishings and appliances from point of delivery to stockpile to point of installation; hooking and signaling from truck, conveyance or stockpile; Material Yard Laborers; Pipelayer Tender; Pipewrapper, Caulker, Bander, Kettleman, and men applying asphalt, Laykold, Creosote, and similar-type materials (pipe under 6 inches); Plasterer Laborer; Preparation, construction and maintenance of roadbeds and sub-grade for all paving, including excavation, dumping, and spreading of sub-grade material; Prestressed or precast concrete slabs, walls, or sections: all loading, unloading, stockpiling, hooking on of such slabs, walls or sections; Quarry Laborers; Railroad, Streetcar, and Rail Transit Maintenance and Repair; Roustabout; Rubbish Trucks in connection with

Building Construction Projects (excluding clearing, grubbing, and excavating); Salvage Yard: All work connected with cutting, cleaning, storing, stockpiling or handling of materials, all cleanup, removal of debris, burning, back-filling and landscaping of the site; Sandblasting Tender (Pot Tender): Hoses and pots or markers; Scaffolds: Erection, planking and removal of all scaffolds used for support for lathers, plasters, brick layers, masons, and other construction trades crafts; Scaffolds: (Specially designed by carpenters) laborers shall tend said carpenter on erection and dismantling thereof, preparation for foundation or mudsills, maintenance; Scraping of floors; Screeds: Handling of all screeds to be reused; handling, dismantling and conveyance of screeds; Setting, leveling and securing or bracing of metal or other road forms and expansion joints; Sheeting Piling/trench shoring (handling and placing of skip sheet or wood plank trench shoring); Ship Scalers; Shipwright Tender; Sign Erector (subdivision traffic, regulatory, and street-name signs); Sloper; Slurry Seal Crews (Mixer Operator, Applicator, Squeegee Man, Shuttle Man, Top Man); Snapping of wall ties and removal of tie rods; Soil Test operations of semi and unskilled labor such as filling sand bags; Stripper (Asphalt, Concrete or other Paved Surfaces); Tool Room Attendant (Job Site); Traffic Delineating Device Applicator; Underpinning, lagging, bracing, propping and shoring, loading, signaling, right-of-way clearance along the route of movement, The clearance of new site, excavation of foundation when moving a house or structure from old site to new site; Utilities employees; Water Man; Waterscape/Hardscape Laborers; Wire Mesh Pulling (all concrete pouring operations); Wrecking, stripping, dismantling and handling concrete forms an false work.

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 LAB00368-002 09/05/2022

	Rates	Fringes
Landscape & Irrigation Laborers		
GROUP 1.....	\$ 27.25	15.80
GROUP 2.....	\$ 28.25	15.80
GROUP 3.....	\$ 22.15	15.80

LABORERS CLASSIFICATIONS

GROUP 1: Installation of non-potable permanent or temporary irrigation water systems performed for the purposes of Landscaping and Irrigation architectural horticultural work; the installation of drinking fountains and permanent or temporary irrigation systems using potable water for Landscaping and Irrigation architectural horticultural purposes only. This work includes (a) the installation of all heads, risers, valves, valve boxes, vacuum breakers (pressure and non-pressure), low voltage electrical lines and, provided such work involves electrical wiring that will carry 24 volts or less, the installation of sensors, master control panels, display boards, junction boxes, conductors, including all other components for controllers, (b) and metallic (copper, brass, galvanized, or similar) pipe, as well as PVC or other plastic pipe including all work incidental thereto, i.e., unloading, handling and distribution of all pipes fittings, tools, materials and equipment, (c) all soldering work in connection with the

above whether done by torch, soldering iron, or other means; (d) tie-in to main lines, thrust blocks (both precast and poured in place), pipe hangers and supports incidental to installation of the entire irrigation system, (e) making of pressure tests, start-up testing, flushing, purging, water balancing, placing into operation all irrigation equipment, fixtures and appurtenances installed under this agreement, and (f) the fabrication, replacement, repair and servicing of landscaping and irrigation systems. Operation of hand-held gas, air, electric, or self-powered tools and equipment used in the performance of Landscape and Irrigation work in connection with architectural horticulture; Choke-setting, signaling, and rigging for equipment operators on job-site in the performance of such Landscaping and Irrigation work; Concrete work (wet or dry) performed in connection with such Landscaping and Irrigation work. This work shall also include the setting of rock, stone, or riprap in connection with such Landscape, Waterscape, Rockscape, and Irrigation work; Grubbing, pick and shovel excavation, and hand rolling or tamping in connection with the performance of such Landscaping and Irrigation work; Sprigging, handseeding, and planting of trees, shrubs, ground covers, and other plantings and the performance of all types of gardening and horticultural work relating to said planting; Operation of flat bed trucks (up to and including 2 1/2 tons)..:

GROUP 2. Layout of irrigation and other non-potable irrigation water systems and the layout of drinking fountains and other potable irrigation water systems in connection with such Landscaping and Irrigation work. This includes the layout of all heads, risers, valves, valve boxes, vacuum breakers, low voltage electrical lines, hydraulic and electrical controllers, and metallic (coppers, brass, galvanized, or similar) pipe, as well as PVC or other plastic pipe. This work also includes the reading and interpretation of plans and specifications in connection with the layout of Landscaping, Rockscape, Waterscape, and Irrigation work; Operation of Hydro-Mulching machines (sprayman and driver), Drillers, Trenchers (riding type, Davis T-66, and similar) and fork lifts used in connection with the performance of such Landscaping and Irrigation work; Tree climbers and chain saw tree trimmers, Sporadic operation (when used in connection with Landscaping, Rockscape, Waterscape, and Irrigation work) of Skid-Steer Loaders (Bobcat and similar), Cranes (Bantam, Grove, and similar), Hoptos, Backhoes, Loaders, Rollers, and Dozers (Case, John Deere, and similar), Water Trucks, Trucks requiring a State of Hawaii Public Utilities Commission Type 5 and/or type 7 license, sit-down type and "gang" mowers, and other self-propelled, sit-down operated machines not listed under Landscape & Irrigation Maintenance Laborer; Chemical spraying using self-propelled power spraying equipment (200 gallon capacity or more).

GROUP 3: Maintenance of trees, shrubs, ground covers, lawns and other planted areas, including the replanting of trees, shrubs, ground covers, and other plantings that did not "take" or which are damaged; provided, however, that re-planting that requires the use of equipment, machinery, or power tools shall be paid for at the rate of pay specified under Landscape and Irrigation Laborer, Group 1; Raking, mowing, trimming, and runing, including the use of "weed eaters", hedge trimmers, vacuums, blowers, and other

hand-held gas, air, electric, or self-powered tools, and the operation of lawn mowers (Note: The operation of sit-down type and "gang" mowers shall be paid for at the rate of pay specified under Landscape & Irrigation Laborer, Group 2); Guywiring, staking, propping, and supporting trees; Fertilizing, Chemical spraying using spray equipment with less than 200 gallon capacity, Maintaining irrigation and sprinkler systems, including the staking, clamping, and adjustment of risers, and the adjustment and/or replacement of sprinkler heads, (Note: the cleaning and gluing of pipe and fittings shall be paid for at the rate of pay specified under Landscape & Irrigation Laborer(Group 1); Watering by hand or sprinkler system and the performance of other types of gardening, yardman, and horticultural-related work.

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 LAB00368-003 09/05/2022

	Rates	Fringes
Underground Laborer		
GROUP 1.....	\$ 40.60	24.25
GROUP 2.....	\$ 42.10	24.25
GROUP 3.....	\$ 42.60	24.25
GROUP 4.....	\$ 43.60	24.25
GROUP 5.....	\$ 43.95	24.25
GROUP 6.....	\$ 44.20	24.25
GROUP 7.....	\$ 44.65	24.25

GROUP 1: Watchmen; Change House Attendant.

GROUP 2: Swamper; Brakeman; Bull Gang-Muckers, Trackmen; Dumpmen (any method); Concrete Crew (includes rodding and spreading); Grout Crew; Reboundmen

GROUP 3: Chucktenders and Cabletenders; Powderman (Prime House); Vibratorman, Pavement Breakers

GROUP 4: Miners - Tunnel (including top and bottom man on shaft and raise work); Timberman, Retimberman (wood or steel or substitute materials thereof); Blasters, Drillers, Powderman (in heading); Microtunnel Laborer; Headman; Cherry Pickerman (where car is lifted); Nipper; Grout Gunmen; Grout Pumpman & Potman; Gunite, Shotcrete Gunmen & Potmen; Concrete Finisher (in tunnel); Concrete Screed Man; Bit Grinder; Steel Form Raisers & Setters; High Pressure Nozzleman; Nozzleman (on slick line); Sandblaster-Potman (combination work assignment interchangeable); Tugger

GROUP 5: Shaft Work & Raise (below actual or excavated ground level); Diamond Driller; Gunite or Shotcrete Nozzleman; Rodman; Groundman

GROUP 6: Shifter

GROUP 7: Shifter (Shaft Work & Raiser)

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 PAIN1791-001 07/01/2022

	Rates	Fringes
Painters:		
Brush.....	\$ 40.00	30.59
Sandblaster; Spray.....	\$ 40.00	30.59

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PAIN1889-001 07/01/2022

	Rates	Fringes
Glaziers.....	\$ 41.50	38.37

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PAIN1926-001 02/27/2022

	Rates	Fringes
Soft Floor Layers.....	\$ 38.77	33.31

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PAIN1944-001 01/02/2022

	Rates	Fringes
Taper.....	\$ 43.85	32.65

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PLAS0630-001 09/05/2022

	Rates	Fringes
PLASTERER.....	\$ 45.00	33.58

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PLAS0630-002 08/31/2020

	Rates	Fringes
Cement Masons:		
Cement Masons.....	\$ 42.65	32.29
Trowel Machine Operators....	\$ 42.80	32.29

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PLUM0675-001 07/03/2022

	Rates	Fringes
Plumber, Pipefitter, Steamfitter & Sprinkler Fitter...	\$ 50.13	29.05

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ROOF0221-001 09/05/2021

	Rates	Fringes
Roofers (Including Built Up, Composition and Single Ply).....	\$ 42.55	20.78

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SHEE0293-001 02/27/2022

	Rates	Fringes
Sheet metal worker.....	\$ 46.22	30.64

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\* SUHI1997-002 09/15/1997

	Rates	Fringes
Drapery Installer.....	\$ 13.60 **	1.20
FENCE ERECTOR (Chain Link Fence).....	\$ 9.33 **	1.65

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

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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$15.00) or 13658 (\$11.25). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.



## Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

## Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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## WAGE DETERMINATION APPEALS PROCESS

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

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division

U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"



## Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement Trucking Company

This commitment is subject to the award and receipt of a signed contract from the Hawaii Department of Transportation (HDOT) for the subject project. DBEs must be certified by the proposal due date.

<b>Project #:</b>	<b>County:</b>
<b>NAICS CODE/DESCRIPTION OF WORK:</b>	<b>SECONDARY NAICS CODE:</b>

\*All quantities and units should match the bid tab item whenever possible.

The prime contractor shall inform HDOT the dates when the trucking firm starts and completes all work under the subcontract.

<b>Estimated Beginning Date (Month/Year):</b>	<b>Estimated Completion Date (Month/Year):</b>
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<b>TRUCKING COMPANY:</b>	Item No.	Item Description	Unit	Unit Price / Rate	Amount
				\$	\$
				\$	\$
				\$	\$
	<b>TOTAL COMMITMENT AMOUNT</b>				

1. Number of hours contracted or quantities to be hauled: \_\_\_\_\_
2. Number of fully operational trucks to be used: \_\_\_\_\_ Tractor/trailers: \_\_\_\_\_ Dump trucks: \_\_\_\_\_
3. Number of fully operational trucks owned by DBE: \_\_\_\_\_ Dump trucks: \_\_\_\_\_ Tractors/trailers: \_\_\_\_\_
4. If Owner Operators or additional trucking companies are to be used answer the following:

Name of Trucking Company	DBE Y/N	Estimated Dollar Amount to be Contracted	Number and Type of Trucks (specify)
		\$	
		\$	

The prime contractor certifies by signature on this agreement to utilize the DBE trucking company as listed on the agreement form. If a DBE trucking company is unable to perform the work as listed on this agreement form, the prime contractor will follow the substitution/replacement approval process as outlined in Exhibit B. **IMPORTANT! The signatures of the DBE, prime contractor, and subcontractor (only if the DBE will be a second tier sub) confirms that all information on this Agreement is true and correct. Parties should sign Agreement in the order in which they are listed.**

<b>DBE NAME:</b>	Name/Title (please print):
Address:	Signature:
Phone:                      Fax:	Date:
Email:	Name/Title (please print):
<b>Prime Contractor:</b>	Signature:
Address:	Date:
Phone:                      Fax:	Name/Title (please print):
Email:	Signature:
<b>Subcontractor (only if the DBE will be a second tier sub):</b>	Date:
Address:	Signature:
Phone:                      Fax:	Date:
Email:	Date:

HDOT retains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you.



**Disadvantaged Business Enterprise (DBE)  
Confirmation and Commitment Agreement  
Trucking Company  
INSTRUCTIONS**

The purpose of this agreement is to secure the commitment of the bidder/offeror to utilize the listed DBE trucking company, and the DBE's confirmation that it will perform work for the bidder/offeror on this project. The information on this form shall be provided by the DBE.

Project #	Self-explanatory
County	County where project is located
NAICS Code/Description of Work	Primary North American Industry Classification System code under which DBE is certified to perform and description of work to be done
Secondary NAICS Code	List other NAICS codes firm is certified to perform
Estimated Beginning Date (Month/Year)	Date DBE shall begin work on the project
Estimated Completion Date (Month/Year)	Date DBE's work will be completed
Trucking Company	Name of DBE trucking company
Item No.	List pay item number
Item Description	Description of item
Unit	Unit of measure – e.g. weight or hours
Unit Price/Rate	Cost per unit or hourly rate
Amount	Total amount per pay item
Total Commitment Amount	Sum of all pay items and total commitment of bidder/offeror to DBE
Number of hours contracted or quantities to be hauled	Approximate number of hours or tonnage to be hauled
Number of fully operational trucks to be used:	Total number of trucks to be used for the project
Tractor/Trailers	Number of tractor trailers to be used
Dump Trucks	Number of dump trucks to be used
Number of fully operational trucks owned by DBE	Number of listed DBE's trucks to be used on this project
Name of Trucking Company	If other trucking companies (DBE or non-DBE) are to be leased, list name and information about type of trucks in this section
Estimated Dollar Amount to be Contracted	Provide information about estimated cost to lease trucks
Number of Dump Trucks, Tractor/Trailer	Self-explanatory
DBE NAME	DBE Company name
Name/Title	Name and title of DBE's representative
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of DBE's representative
Date	Date agreement is signed
Prime Contractor	Company name

Name/Title	Name and title of prime contractor's representative
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of prime contractor's representative
Date	Date agreement is signed
Subcontractor (only if the DBE will be a second tier sub):	Name of subcontractor only if the listed DBE trucking company will be performing work under this subcontractor
Name/Title	Name and title of the subcontractor's representative
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of subcontractor
Date	Date agreement is signed



## Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement Subcontractor, Manufacturer, or Supplier

This commitment is subject to the award and receipt of a signed contract from the Hawaii Department of Transportation (HDOT) for the subject project. DBEs must be certified by the proposal due date.

<b>Project #:</b>	<b>County:</b>
<b>NAICS CODE/DESCRIPTION OF WORK:</b>	<b>SECONDARY NAICS CODE:</b>

\*All quantities and units should match the bid tab item whenever possible.

The prime contractor shall inform HDOT of the dates when the subcontractor starts and completes all work under the subcontract.

<b>Estimated Beginning Date (Month/Year):</b>	<b>Estimated Completion Date (Month/Year):</b>
---	--

<b>SUBCONTRACTOR:</b>	Item No.	Item	Approx. Quantity	Unit	Unit Price	Amount
					\$	\$
					\$	\$
					\$	\$
					\$	\$
<b>TOTAL COMMITMENT AMOUNT</b>						\$

<b>MANUFACTURER:</b>	Item No.	Item	Approx. Quantity	Unit	Unit Price	Amount
					\$	\$
					\$	\$
<b>TOTAL COMMITMENT AMOUNT</b>						\$

<b>SUPPLIER:</b>	Item No.	Item	Approx. Quantity	Unit	Unit Price	Amount
					\$	\$
					\$	\$
<b>TOTAL COMMITMENT AMOUNT</b>						\$

The prime contractor certifies by signature on this agreement that subcontracts will be executed between the prime contractor and the DBE subcontractors as listed on the agreement form. If a DBE subcontractor is unable to perform the work as listed on this agreement form, the prime contractor will follow the substitution/replacement approval process as outlined in Exhibit B.

**IMPORTANT! The signatures of the DBE, prime contractor, and subcontractor (only if the DBE will be a second tier sub) confirms that all information on this Agreement is true and correct. Parties should sign Agreement in the order in which they are listed.**

<b>DBE NAME:</b>	Name/Title (please print):
Address:	Signature:
Phone:                      Fax:	
Email:	
<b>Prime Contractor:</b>	Name/Title (please print):
Address:	Signature:
Phone:                      Fax:	
Email:	
<b>Subcontractor (only if the DBE will be a second tier sub):</b>	Name/Title (please print):
Address:	Signature:
Phone:                      Fax:	
Email:	

HDOT retains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you.



## Disadvantaged Business Enterprise (DBE) Confirmation and Commitment Agreement Subcontractor, Manufacturer, or Supplier INSTRUCTIONS

The purpose of this agreement is to secure the commitment of the bidder/offeror to utilize the listed DBE, and the DBE's confirmation that it will perform work for the bidder/offeror on this project. The information on this form shall be provided by the DBE.

Project #	Self-explanatory
County	County where project is located
NAICS Code/Description of Work	Primary North American Industry Classification System code under which DBE is certified to perform and description of work to be done
Secondary NAICS Code	List other NAICS codes firm is certified to perform
Estimated Beginning Date (Month/Year)	Date DBE shall begin work on the project
Estimated Completion Date (Month/Year)	Date DBE's work will be completed
Subcontractor	Name of DBE subcontractor (company name)
Item No.	List pay item number
Item	Description of item
Approx. Quantity	Self-explanatory
Unit	List unit of measure
Unit Price	Cost per unit
Amount	Total amount per pay item
Total Commitment Amount	Sum of all pay items and total commitment of bidder/offeror to DBE
Manufacturer	Name of DBE manufacturer
Supplier	Name of DBE supplier (aka regular dealer)
DBE NAME	DBE Company name
Name/Title	Name and title of DBE's representative
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of DBE's representative
Date	Date agreement is signed
Prime Contractor	Company name
Name/Title	Name and title of prime contractor's representative
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of prime contractor's representative
Date	Date agreement is signed
Subcontractor (only if the DBE will be a second tier sub):	Name of subcontractor only if the listed DBE will be performing work under this subcontractor as a second tier subcontractor/supplier/manufacturer

Name/Title	Name and title of the subcontractor's representative that the listed DBE will work under as a second tier subcontractor/supplier/manufacturere
Address	Self-explanatory
Phone	Self-explanatory
Fax	Self-explanatory
Email	Self-explanatory
Signature	Signature of subcontractor's representative
Date	Date agreement is signed





## Disadvantaged Business Enterprise (DBE) Contract Goal Verification and Good Faith Efforts (GFE) Documentation For Construction

<b>Project #:</b>	<b>County:</b>
<b>DBE Project Goal:</b>	<b>Prime Contractor:</b>

As required by the specifications "EXHIBIT B Requirements for Participation by Disadvantaged Business Enterprises (DBEs)," the dollar amount of each subcontract (both DBE and non-DBE firms) for all subcontractors, manufacturers, suppliers, and trucking companies is due with the submission of the cost proposal. **Failure to provide required information sufficient to evaluate the bid/proposal shall be cause for bid/proposal rejection.**

Calculation of the DBE contract goal for this project is the proportionate contract dollar value of work performed, materials, and goods to be supplied by DBEs. DBE credit shall not be given for mobilization, force account items, and allowance items. This DBE contract goal is applicable to all the contract work performed for this project and is calculated as follows:

1. DBE contract goal percentage = Contract Dollar Value of the work to be performed by DBE subcontractors and manufacturers, plus 60% of the contract dollar value of DBE suppliers, divided by the sum of all contract items (sum of all contract items is the total amount for comparison of bids less mobilization, force account items, and allowance items).
2. The Department shall adjust the bidder's/offeror's DBE contract goal to the amount of the project goal if it finds that the bidder/offeror met the goal but erroneously calculated a lower percentage. If the amount the bidder/offeror submits as its contract goal exceeds the project goal, the bidder/offeror shall be held to the higher goal.

Name of Subcontractor, Supplier, Manufacturer, and Trucking Company	DBE (Y/N)	Bid Item Number and Description	Approx. Quantity/Hours	Unit	Unit Price/Rate	Dollar Amount

A. Dollar amount of the work to be performed by DBE subcontractors, manufacturers, and trucking companies, plus 60% of the dollar amount of DBE suppliers	
B. Sum of all work items less mobilization, force account items, allowance items	
<b>A/B = DBE contract goal</b>	

NAME and SIGNATURE of AUTHORIZED REPRESENTATIVE of PRIME CONTRACTOR: \_\_\_\_\_ DATE: \_\_\_\_\_

## Summary of Good Faith Efforts (GFE)

As required by the specifications “*EXHIBIT B Requirements for Participation by Disadvantaged Business Enterprises (DBEs)*”, documentation of GFE shall be submitted with the submission of the cost proposal. **The bidder/offeror shall respond to the following questions and describe efforts to obtain DBE participation whether or not the DBE project goal is met.** Responses must be sufficient to properly evaluate the bidder’s/offeror’s good faith efforts. Copies of correspondence return receipts, telephone logs, or other documentation will be required to support GFE. Attach additional sheets, if necessary. Based on responses given, HDOT shall make a determination of the bidders’ GFE. **Failure to provide required information sufficient to evaluate the bid/proposal shall be cause for bid/proposal rejection.**

1. Did you submit the required information with the submission of the cost proposal (i.e. DBE name, address, NAICS code, description of work, project name, and number)?
2. Explain your GFE if any, to solicit through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform part or all of the work to be included under the contract.
  - a. Explain your GFE if any, to solicit the participation of potential DBEs as early in the procurement process as practicable.
  - b. Explain your GFE if any, to allow sufficient time for the DBEs to properly inquire about the project and respond to the solicitation.
  - c. Explain your GFE if any, to take appropriate steps to follow up with interested DBEs in a timely manner to facilitate participation by DBEs in this project.
3. Explain your GFE if any, to identify and break up portions of work that can be performed by DBEs in order to increase the likelihood that a DBE will be able to participate, and that the DBE goal could be achieved (e.g. breaking out contract items into economically feasible units to facilitate DBE participation even when you might otherwise prefer to self-perform these work items).
4. Explain your GFE if any, to make available or provide interested DBEs with adequate information about the plans, specifications, and requirements of the project in a timely manner, and assist them in responding to your solicitation.
5. Explain your GFE if any, to negotiate in good faith with interested DBEs. Evidence of such negotiations includes documenting:
  - a) the names, addresses and telephone numbers of DBEs that were contacted;
  - b) a description of the information that was provided to DBEs regarding the plans and specifications; and
  - c) detailed explanation for not utilizing individual DBEs on the project.
6. Did you solely rely on price in determining whether to use a DBE? If yes please explain. The fact that there may be additional or higher costs associated with finding and utilizing DBEs are not, by themselves, sufficient reasons for your refusal to utilize a DBE or

NAME and SIGNATURE of AUTHORIZED REPRESENTATIVE of PRIME CONTRACTOR:

DATE:

failure to meet the DBE goal, provided that such additional costs are not unreasonable. Also, the ability or desire to perform a portion of the work with your own forces, that could have been undertaken by an available DBE, does not relieve you of the responsibility to make good faith efforts to meet the DBE goal, and to make available and solicit DBE participation in other areas of the project to meet the DBE goal.

7. Did you reject DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities? If yes, please explain. The DBEs standing within the industry, membership in specific groups, organizations or associates, and political or social affiliation are not legitimate basis for the rejection or non-solicitation of bids from particular DBEs.
8. Explain your GFE to assist interested DBEs in obtaining bonding, lines of credit, or insurance.
9. Explain your GFE if any, to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.
10. If you selected a non-DBE over a DBE subcontractor, please provide the quotes of each DBE and non-DBE subcontractor submitted to you for work on the contract; and for each DBE that was contacted but not utilized for a contract, provide a detailed written explanation for each DBE detailing the reasons for not utilizing or allowing the DBE to participate in the contract.
11. Explain your GFE if any, to effectively use the services of available minority/women community organizations, minority/women business groups, contractors' groups, and local, state and federal minority/women business assistance offices or other organizations to provide assistance in recruitment and placement of DBEs.

NAME and SIGNATURE of AUTHORIZED REPRESENTATIVE of PRIME CONTRACTOR:

DATE:



**Disadvantaged Business Enterprise (DBE)  
Contract Goal Verification and Good Faith Efforts (GFE)  
Documentation For Construction  
INSTRUCTIONS**

Project #	Self-explanatory
County	County where project is located
DBE Project Goal	Indicate DBE goal listed in the proposal and/or on Exhibit B - Requirements for Participation by Disadvantaged Business Enterprises (DBEs)
Prime Contractor	Name of prime contractor
Name of Subcontractor, Supplier, Manufacturer, and Trucking Company	Company name of subcontractor, supplier, manufacturer, or trucking firm
DBE (Y/N)	Y for yes and N for no
Bid Item Number and Description	Pay item and description
Approx. Quantity/ Hours	Self-explanatory
Unit	Unit of measure
Unit Price/ Rate	Self-explanatory
Dollar Amount	Total dollar amount committed to subcontractor, supplier, manufacturer, or trucking firm
A. Dollar amount of the work to be performed by DBE subcontractors, manufacturers, and trucking companies, plus 60% of the dollar amount of DBE suppliers	Total amount of DBE participation
B. Sum of all work items less mobilization, force account items, allowance items	List total of work items minus mobilization, force accounts and allowances. DBE credit shall not be given for mobilization, force account items, and allowance items.
A/B = DBE contract goal	Self-explanatory
Name and Signature of Authorized Representative of Prime Contractor	Self-explanatory (Note: bidder must sign and date every page of form.)
Date	Date form is signed
Summary of Good Faith Efforts (GFE)	Complete by answering questions in detail and providing documentation to support how bidder demonstrated good faith efforts to meet the goal, irrespective of whether or not the goal was met.

## EQUAL OPPORTUNITY

### 1. Selection of Labor

During the performance of this contract, the contractor shall not discriminate against labor from any other State, possession or territory of the United States.

### 2. Employment Practices

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

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; 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 Division setting forth the provisions of this nondiscrimination clause.

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

c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State Highway Division advising the said labor union or workers' representative of the contractor's commitments under this Section 2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor will comply with all provisions of

Executive Order 11246 of September 24, 1965, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.

e. The contractor will furnish all information and reports required by executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

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

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

3. Selection of Subcontractors. Procurement of Materials, and leasing of Equipment

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter

referred to as the "contractor") agrees as follows:

a. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. Nondiscrimination: The contractor with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

c. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

d. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Highway Division or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the State Highway Division, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions, of this contract, the State Highway Division shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

(1) withholding of payments to the contractor under the contract until the contractor complies, and/or

(2) cancellation, termination or suspension of the contract, in whole or in part.

f. Incorporation of Provisions: The contractor shall include the provision of this Section 3 in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the State Highway Division or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State Highway Division to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.



**DISCLOSURE OF LOBBYING ACTIVITIES**  
 Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
 (See reverse for public burden disclosure.)

Approved by  
 0348-0046

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, <i>if known</i> :  Congressional District, <i>if known</i> :		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime  Congressional District, <i>if known</i> :
6. Federal Department/Agency:	7. Federal Program Name/Destination:  CFDA Number, <i>if applicable</i> :	
8. Federal Action Number, <i>if known</i> :	9. Award Amount, <i>if known</i> : \$	
10. a. Name and address of Lobbying Entity (if individual, last name, first name, MI):  b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):  <p align="center">(attach Continuation Sheet(s) SF-LLL-A, if necessary)</p>		
11. Amount of Payment ( <i>check all that apply</i> ): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment ( <i>check all that apply</i> ): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
12. Form of Payment ( <i>check all that apply</i> ): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employees(s) or Member(s) contacted, for Payment Indicated in Item 11:  <p align="center">(attach Continuation Sheet(s) SF-LLL-A, if necessary)</p>		
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi- annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

## **INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal Agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10.
  - (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
  - (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) or Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES  
CONTINUATION SHEET

Approved by  
0348-0046

Reporting Entity: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

STATEMENT OF COMPLIANCE

Date \_\_\_\_\_

I, \_\_\_\_\_ do hereby state:

(Name of signatory party) (Title)  
 (1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_ on  
 the \_\_\_\_\_; that during the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_,  
 (Building or work)  
 \_\_\_\_\_ and ending the \_\_\_\_\_ day of \_\_\_\_\_, all persons employed on said project have been paid the  
 full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said  
 \_\_\_\_\_ from the full weekly wages earned by any person and that no deductions have  
 (Contractor or subcontractor)  
 been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in  
 Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948.63  
 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276g), and described below:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborers or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above - Referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate program for the benefit of such employees, except as noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

Each Laborer or mechanic listed in the above referenced payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
REMARK	

NAME AND TITLE	SIGNATURE
THE WILFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.	

## INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE

This statement of compliance meets needs resulting from the amendment of the Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay fringe benefits as predetermined by the Department of Labor, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the fringes to the various plans, funds, or programs or by making these payments to the employees as cash in lieu of fringes.

The contractor should show on the face of his payroll all monies paid to the employees whether as basic or as cash in lieu of fringes. The contractor shall represent in the statement of compliance that he is paying to others fringes required by the contract and not paid as cash in lieu of fringes. Detailed instructions follow:

### Contractors who pay all required fringe benefits:

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

### Contractors who pay no fringe benefits:

A contractor who pays no fringe benefits shall pay to the employee and insert in the straight time hourly rate column of his payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on the basic or regular rate plus the required cash in lieu of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column, thus \$3.25/.40. In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

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

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

## PRE-PROPOSAL CONFERENCE NOTES

Project: Traffic Signal Controller Installation & Adaptive Traffic Signal Control Technology at Various Locations, Oahu, Federal-Aid Project No. STP-0300(189)

Subject: Pre-proposal Conference

Date/Time: September 12, 2022 / 10:00 - 10:20 AM, Hawaii Standard Time (HST)

Held: Conference Call Dial-in Number: (808) 829-4853; 687 495 847#  
Microsoft Teams

<u>Present</u>	Tara Lucas, HDOT-TO	Syed Shah, Shah & Assoc
	Benson Chow, HDOT-TO	Daniel Smoot, Phoenix Pacific
	Reed Matsuo, HDOT-TO	Steve Mager, Q-Free
	Kristine Pascua, HDOT-TO	Dana McCombs, Econolite
	Daniel Williams, HDOT-OCR	David Spinney, Econolite
	Lisa Chang, HDOT-OCR	Marc Porter, Econolite
	Glen Fromm, ICX	Dustin Hinds, Cubic
	Zey Tong, ICX	Gabe McFadden, Cubic
		Marshall Cheek, Cubic

### Discussed:

#### A. HDOT opens meeting at 10:00 A.M.:

1. Pre-proposal conference is not mandatory and is intended for clarification prior to bidding.
2. Offerors have until September 22, 2022, 2:00 PM (HST) to submit any questions.
3. Offerors shall submit proposals via HlePRO only. Proposal hard copies will not be accepted.
4. Addenda will be issued for any discrepancies found in the RFP and also with a summary of this meeting.

#### B. RFP Process and Significant Dates

1. Deadline for submission of written questions: September 22, 2022, 2:00 P.M. (HST)
2. HDOT's response to written questions: October 4, 2022
3. Proposal due date: October 26, 2022 2:00 P.M. (HST)

#### C. Project Overview

An overview of the project was provided and portions of the RFP were highlighted. See attached for the PPT.

DBE requirements were discussed at length by Daniel Williams (HDOT-OCR). The following links were provided via MS Teams chat function:

Bidder Registration Form: <https://hidot.hawaii.gov/administration/files/2019/03/Bidder-Registration-Fillable-Form.pdf>

DBE Directory: <https://hdot.dbesystem.com/>

See attached for additional DBE information provided by HDOT-OCR regarding this project.

D. Questions

No questions were asked by the attendees.

E. HDOT thanked participants for their participation. The meeting adjourned at 10:20 A.M.

Prepared by: HDOT



**Traffic Signal Controller Installation &  
Adaptive Traffic Signal Control  
Technology at Various Locations, Oahu  
F.A.P. No. STP-0300(189)**

Pre-Proposal Conference  
September 12, 2022



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**Agenda**

- Opening
- RFP Process and Significant Dates
- Project Overview
- Project Schedule
- Proposal Guidelines
- DBE Requirements
- Next Steps
- Questions


September 12, 2022



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# Opening

- Pre-proposal conference is non-mandatory and is intended for clarification prior to submittal of offers
- Written questions can be submitted until September 22, 2022, 2:00 PM (HST) (Section 1.5)
- Addenda will be issued:
  - For any discrepancies found in the RFP
  - With the summary of this meeting

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# RFP Process and Significant Dates

Section 1.5 Procurement Timetable (Subject to Change)	
Deadline for Submission of Written Questions	September 22, 2022
HDOT's Response to Written Questions	October 4, 2022
Proposal Due Date/Time	October 26, 2022 2:00 PM (HST)
Discussion with Priority-Listed Offerors (if necessary)	November 29, 2022- December 12, 2022
Best and Final Offer (if necessary)	January 9, 2023 2:00 PM (HST)
Contract Notice to Proceed 1	May 25, 2023
Contract Notice to Proceed 2	October 17, 2023
Contract Notice to Proceed 3	January 15, 2024

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## Project Overview (Section 2.1)

- **Site Evaluation (Section 3.4.1)**
  - Inventory of traffic signal controller cabinets and existing detection
  - Assessment of existing operating conditions and identification of potential implementation issues
  - Documentation of site evaluation findings, including proposed locations (in plan format) for new detection equipment
- **Traffic Signal Central System (Section 3.5.2)**
  - Includes hardware, software, and all necessary licenses
  - ATSPM and ATCS modules
  - To be installed at the Honolulu Joint Traffic Management Center
- **Configuration and installation of State-furnished traffic signal controllers (Section 3.5.3)**
  - State furnished Q-Free Intelight 2070LX controllers
  - Includes new conflict monitor, cellular modem communications, and firmware
  - Installation at HDOT signalized intersections on Oahu (255 total)

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## Project Overview - Continued (Section 2.1)

- **ATCS - Adaptive Traffic Control System and Supplemental Detection (Section 3.5.4)**
  - Installation of ATCS to enable signal timing adjustments to cycle, split, and offset based on real time traffic conditions
  - Installation of intersection and mid-block magnetometer detection to support ATCS
- **Traffic signal optimization (Section 3.10)**
  - Generate optimization approach
  - Develop and implement optimization measures, as directed by the Engineer
- **Traffic signal system maintenance (Section 3.6)**
  - Approximately 3 years after acceptance of each intersection
- **Traffic signal operation and litigation support (Section 3.7)**
  - As directed by the Engineer

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## Project Schedule (Section 1.17)

- NTP1
  - 150 calendar days
  - For procurement, traffic signal central system activities, and site evaluation of existing conditions
  - Includes all project planning, system documentation, implementation plan and traffic signal central system procurement and acceptance testing.
- NTP2
  - 90 calendar days
  - For Phase 1 of in-field implementation activities
  - 21 signalized intersections in East Oahu
  - Will include controller and supplemental detection installation along with system integration work
- NTP3
  - 360 calendar days
  - For subsequent phases of in-field implementation activities and integration

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## Proposal Guidelines – Highlight for Emphasis

- OF-1 (Section 4.7.1, Appendix A)
  - Completed and signed
  - Also to be completed by Subcontractors (Section 4.7.2)
- OF-2 (Section 4.13, Appendix B)
  - Include Hawaii General Excise Tax (GET)
  - Completed and signed
- Executive Summary (Section 4.8)
  - Hawaii General Excise Tax (Section 4.8.4)
  - Pending litigation & summary of judgments (Section 4.8.5)

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# Proposal Guidelines – Highlight for Emphasis (Continued)




- Experience and Capabilities (Section 4.9)
  - License Requirement – General Engineering “A” Contractor license (Section 4.9.1)
  - References for relevant projects (Section 4.9.2)
  - Key personnel & team organization (Section 4.9.3)
    - Offerors shall discuss how they intend to comply with HRS chapter 444 (Hawaii contractor licensing requirements)
- Work Plans (Section 4.10)
  - Proposed implementation plan, showing proposed phases by corridor or area and sequence of phases
- Proposed Technical Solution (Section 4.11, Appendix I)
  - Requirements matrices
- Bond (Section 1.19, Appendix C)
  - Bid, performance, and payment bond

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# DBE Requirements (Appendix H)



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## Next Steps

- Addenda will include a summary of this meeting and any relevant changes to the RFP.
- Deadline to submit written questions: September 22, 2022, 2:00 PM (HST)
- Offerors shall submit proposals via HlePRO
- Proposal due date/time: October 26, 2022, 2:00 PM (HST)

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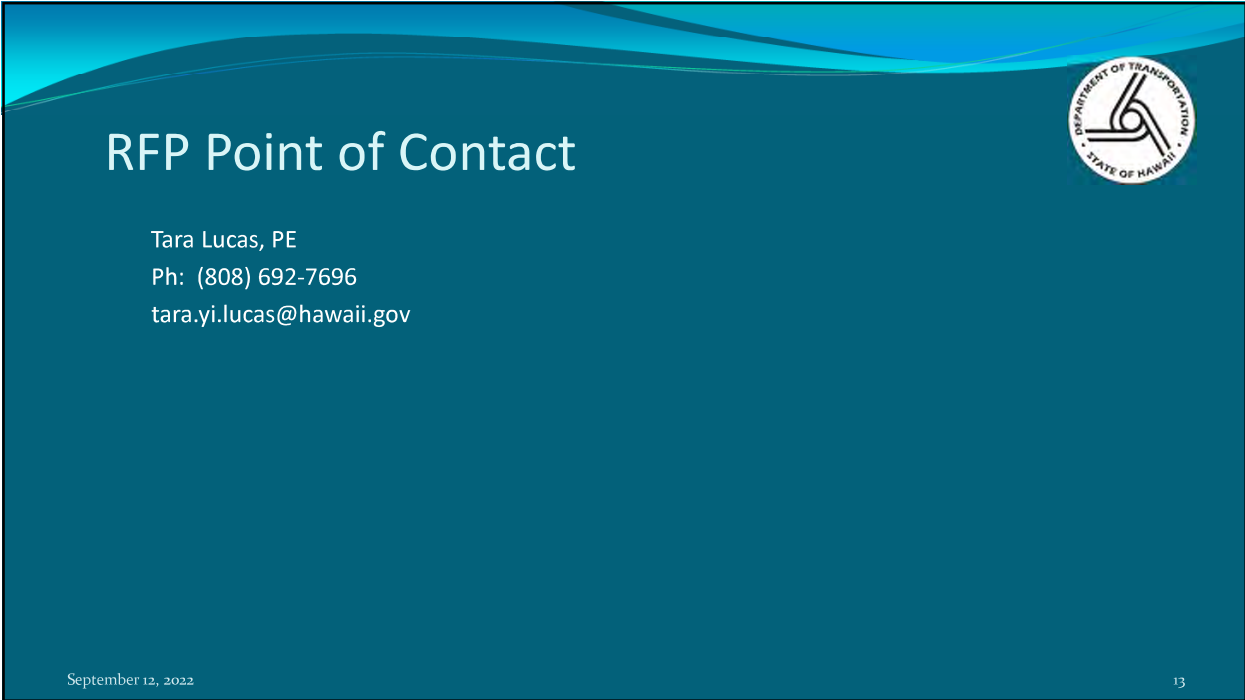


## Questions?

- Please identify your name and your company's name prior to asking your questions


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RFP Point of Contact

Tara Lucas, PE  
Ph: (808) 692-7696  
tara.yi.lucas@hawaii.gov



September 12, 2022

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**State of Hawaii, Dept. of Transportation – Administration Division (HDOT OCR)**  
**Disadvantaged Business Enterprises (DBE) Program**  
**Pre – Proposal Meeting – 9-12-22**  
**TRAFFIC SIGNAL CONTROLLER INSTALLATION & ADAPTIVE TRAFFIC SIGNAL**  
**CONTROL TECHNOLOGY AT VARIOUS LOCATIONS**  
**F.A.P. No. STP-0300(189)**

Policy of the State of Hawaii, Department of Transportation’s (HDOT) DBE Program:

To ensure equal opportunity and non-discrimination in the award and administration of United States DOT-assisted contracts. Contractors shall take all necessary and reasonable steps in accordance with the regulations (49 CFR, Part 26) to ensure that DBE's have an equal opportunity to compete for and perform on contracts.

DBE Goal for this project: 3.0%

- Be sure to document discussions, phone calls, faxes or memos relating to your efforts in meeting the DBE goal.
- DBEs must be certified by the proposal due date.
- DBE subcontractors, manufacturers, suppliers, trucking companies and any second tier subcontractors shall be listed on the respective DBE forms in order to receive credit.

1. Copies or faxes of all DBE Confirmation and Commitment Agreement Forms signed by each DBE shall be submitted to the Project Manager listed in the proposal by the cost proposal deadline.

**DBE Confirmation and Commitment Agreement.** This form must be **signed by the bidder/offeror and each DBE** subcontractor, manufacturer, supplier, or trucking company and submitted to the Project Manager. Information to be provided on the form shall include, among other things, the project number, the DBE’s NAICS codes, description of work, bid items with corresponding price information, prime contractor name and contact information DBE name and contact information and subcontractor name and contact information if the DBE is a second tier subcontractor.

To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract.

1. The DBE Contract Goal Verification and Good Faith Efforts Documentation Form is also due with the submission of the cost proposal.

**DBE Contract Goal Verification and Good Faith Efforts (GFE) Documentation for Construction.** List the dollar amount of all subcontractors, manufacturers, suppliers, and trucking companies (both DBE and non-DBE firms). Bidder/offeror must also list the DBE project goal on this form. The bidder/offeror must submit documentation demonstrating how the DBE goal was met or how the bidder/offeror attempted to meet the goal if the goal was not met. This documentation shall include quotations for both DBE and non-DBE subcontractors when a non-DBE is selected over a DBE for the project.

Documentation of good faith efforts is required irrespective of whether the bidder/offeror met the DBE project goal.

The above forms must be complete and provide the necessary information to properly evaluate bids/proposals. Failure to provide any of the above shall be cause for bid/proposal rejection.

- Calculation of the DBE contract goal for this project is the proportionate contract dollar value of work performed, materials, and goods to be supplied by DBEs. DBE credit shall not be given for mobilization, force account items and allowance items. This DBE contract goal is applicable to all the contract work performed for this project.

DBE contract goal percentage = Contract Dollar Value of the work to be performed by DBE subcontractors and manufacturers, plus 60% of the contract dollar value of DBE suppliers, divided by the sum of all contract items (sum of all contract items is the total amount for comparison of bids less mobilization, force account items, and allowance items).

The Department shall adjust the bidder's/offeror's DBE contract goal to the amount of the project goal if it finds that the bidder/offeror met the goal but erroneously calculated a lower percentage. If the amount the bidder/offeror submits as its contract goal exceeds the project goal, the bidder/offeror shall be held to the higher goal.

- In the bid documents, be sure to refer to DBE Requirements section and pay special attention to Section VIII. Demonstration of Good Faith Efforts for Contract Award, which summarizes the kinds of efforts that will be considered demonstrative of good faith efforts.
- All federally funded projects awarded after October 1, 2017 are required to use the Certification and Contract Compliance Management System program, an online payment tracking system. This project will be required to use the Certification and Contract Compliance Management System program. HDOT OCR will work with the Project Engineer and selected bidder to get the contract information to create a contract record for the project. Subcontractors, suppliers, manufacturers, trucking companies, etc. that are selected to work on this project are expected to log in (on a regular basis) and indicate if payment was prompt and provide all required information.
- BIDDER REGISTRATION FORM. All firms bidding or quoting on DOT projects, including vendors, subcontractors, manufacturers, truckers, etc., must register as a bidder. Certified DBEs are automatically registered as a bidder with the HDOT.  
Bidder Registration Form can be found at:  
<https://hidot.hawaii.gov/administration/files/2019/03/Bidder-Registration-Fillable-Form.pdf>
- Be sure to check the DBE Directory online at: <https://hdot.dbesystem.com/> to ensure the DBEs listed are certified.



## RESPONSE TO QUESTIONS RECEIVED FOR STP-0300(189)

- Q1: Is there an estimated budget for this project?
- A1: The current estimated cost for this project is between \$30,000,000 and \$40,000,000.
- Q2: Is there a pre-bid attendees list available?
- A2: A pre-proposal conference attendees list is included as part of the attached meeting minutes.
- Q3: Can a C-13 license bid as prime since this project is mostly electrical work and no civil work involved?
- A3: See Addendum 2 Section A and B.5. above.
- Q4: In Appendix I, Requirement A-55 states that the controller firmware shall provide a "double reservice". Can the agency provide a description of this operation?
- A4: The Offeror's response should address capabilities of the firmware to support special phasing and timing operations. Double re-service was provided as a possible example representing a second reservice if the agency desired that operation. Offeror should address firmware's ability to support special phasing and timing operations and any relevant examples that will help agency understand the Offeror's product offering.
- Q5: The agency makes it clear in Central System requirements (Section C-1) that NTCIP communications is preferred. However, in prior sections, extensive security and encryption requirements are desired between central and controller (firmware). NTCIP by nature, is not encrypted and many of the cyber security and encryption requirements seem to be in conflict. Can the agency clarify any of these requirements?
- A5: More detail is needed on the specific requirements being referenced to provide a detailed response. The Offeror's submittal should include a response to the requirements matrix including compliance, non-compliance and exceptions of their product with the listed requirements. Where conflicts are identified by the Offeror, the submittal should identify those and, in this case, address the security and encryptions capabilities of their proposed product.

Q6: In Appendix I, Requirement C-70 requires the solution provide software and hardware watchdog timer process to monitor system processes. Can the agency elaborate on this feature?

A6: From a standard definition, a watchdog timer (WDT) is a timer that monitors microcontroller (MCU) programs to see if they are out of control or have stopped operating. It acts as a “watchdog” watching over MCU operation. The Offeror should address if this common software system feature is part of the proposed product.

Q7: Can the agency define a “group-based” alarm referred to in Appendix I, Requirement C-79?

A7: The Offeror's response should address capability of their system to create vehicle detector groups and, in this case, the ability of the system to retrieve alarms from that detector group.

Q8: Can the agency define who's change management polices are referred to in Appendix I, Requirement C-119?

A8: The reference in this RFP is to the Change Management policies and procedures of the software product provider.

Q9: In Appendix I, requirements C-123, is the agency requesting a cloud-based backup solution?

A9: No.

Q10: In Appendix I, requirement C-208, it states that the Solution MOEs include detector call that are "Currently active". Can the agency describe in detail what this metric looks like? What is the intent of this metric since hundreds of detectors can be active in a system at any given time?

A10: Offeror's submittal should address whether their proposed solution MOE's currently includes a metric that provides an overall quantity/percentage of active detector calls in the operational system or if this metric would be developed or will not be available.

Q11: In Appendix I, requirement C-216, what does a real time traffic volume and occupancy look like? Typically these are counted in a bin of 5 or 15 minutes. Can the agency provide an example of a real time traffic volume?

- A11: Offeror's submittal should address availability of an MOE to view real-time (current) volume, occupancy and speed versus historical data. If relevant to response, Offeror should note what 'real-time' data is available within their system for this MOE.
- Q12: Section 3.4.1(1) Site Evaluation of Existing Conditions: Some of the Sites listed have a Type 338 Cabinet. There is no room to install the additional Equipment required under this RFP without running into conflict with existing wiring or equipment. Is HDOT responsible for upgrading the existing to a 332 Cabinet?
- A12: During the Site Evaluation, the successful offerer will report incompatibility issues which might prevent the implementation of equipment to be installed during the project scope. This may include insufficient space in the existing cabinet, which HDOT will address on a case-by-case basis.
- Q13: Section 3.1.1 Traffic Signal Central System: Will HDOT be providing an Internet Service Connection at the JTMC for the Traffic Signal Central System, or will the installation and monthly service fee be the responsibility of the Offerer?
- A13: HDOT will provide the internet service connection at the JTMC for the central system.
- Q14: Will Software Suppliers be required to demo Controller Software including the installation process on State furnished Q-Free Intelight 2070LX Controllers during the selection process?
- A14: As stated in Section 5.5 - Demonstrations and discussions may be conducted with Priority-Listed Offerors, if deemed advantageous by the HDOT.
- Q15: Section 3.4.1(5) Site Evaluation of Existing Conditions: The Evaluation of Supplemental Detector Sensor Locations do not address the possibility that Existing Ducts may be Blocked or Full. Will the HDOT consider this as an Additional Expense to remedy the issue as part of the Implementation phase?
- A15: See Appendix J, Section 623, lines 39 to 45. Please note that any solutions to address blocked or full conduits shall not include installation of new conduit ductlines as part of this project.
- Q16: Section 3.7(1) Traffic Signal System Maintenance: If we are called out on a trouble call, and troubleshooting reveals that the cause is by equipment or

component that is not supplied as part of this Contract, will we be allowed to charge HDOT for the Service Call?

A16: HDOT will consider allowing this charge on a case-by-case basis.

Q17: Section 3.7(3) Traffic Signal System Maintenance: How will the "Arrive on-site within 1 hour from time of notification" be measured and verified?

A17: Time of notification begins once HDOT requests field service via the successful Offeror's telephone hotline. HDOT will record the time of request and confirm this with the telephone hotline operator. HDOT on-site forces will then record maintenance personnel time of arrival.

Q18: Section 3.7(3) Traffic Signal System Maintenance: In the event that an area wide Power or Weather related issue causes multiple intersections to experience problems at the same time, will an exception be made to the 1 Hour response time?

A18: If extenuating circumstances outside of the successful offeror's control prevent maintenance personnel from responding on-site within the required time frame despite reasonable efforts made in good faith, HDOT will consider exceptions on a case-by-case basis.

Q19: Section 3.7(8) Traffic Signal System Maintenance: In the remote possibility that the HDOT runs out of spare 2070 Controllers, will we be allowed to install a Temporary 2070LX Controller of our choice in order to limit the amount of time that the intersection/Cabinet is left in Flash Mode? If not, does HDOT acknowledge that the intersection/Cabinet is to be left in Flash Mode until a HDOT provided 2070LX is made available?

A19: HDOT will consider the temporary use of a non-HDOT furnished 2070LX controller on a case-by-case basis.

Q20: Section 770.13 Mid-Block Magnetometer Detection: Can we propose a different above ground detection technology in lieu of the in-pavement Magnetometer Detector?

A20: All offerors shall base their bid on the intersection and mid-block magnetometer detection specified in Appendix J, Section 770. Other detection solutions may be proposed to HDOT in the proposal.

Q21: The RFP indicates that the Contractor must possess a General Engineering A contractor license prior to the award of a contract. Are any specialty licenses required to perform the work?

A21: See response to Q3. Offerors shall review the scope of work and make a determination.

Q22: Will liquidated damages be assessed for failure to meet the time for completion specified for each NTP?

A22: Liquidated damages will be assessed per Appendix J, Section 108.08. For this project, HDOT considers substantial completion as applicable to the completion of all NTP phases in entirety, which the contractor will have a total of 600 calendar days to complete. Liquidated damages will not be assessed separately for each NTP phase.

Q23: Can the A license holder be a subcontractor on the Prime's team?

A23: See response to Q3.

Q24: Would HDOT please clarify the need for an A license for Electrical Work typically covered by a C-10 license?

A24: See response to Q3.

Q25: The majority of work required on this project is more in line with an electrical C-13 license requirement. Would the DOT consider removing the requirement for General Engineering A and replace with electrical C-13?

A25: See response to Q3.

Q26: The project requires the contractor to implement detection technology where necessary and appropriate, inclusive of in-ground magnetometers. Does HDOT specifically require the use of magnetometers? May the contractor recommend alternative detection solutions provided that the solution meets or exceeds the project requirements?

A26: See response to Q20.

Q27: Will the agency provided Controllers include an ATC compliant kernel with glibc libraries?

A27: All the agency purchased controllers have ATC compliant kernels and all libraries can be supplied.

Q28: Please clarify what is meant by “alter the state of the signal controller” in Requirement D-2.5.1

D-2.5.1

(Phase-based only) The ATCS shall alter the state of the signal controller for all phases at the user-specified intersection.

A28: The requirement is stating that the ATCS shall be able to act on or adjust all phases in the signal controller when in phase-based operation.

Q29: Section 4.9.1: Will the bidder be required to have any license (A, B, or C) at the time of bid?

A29: See response to Q3.

Q30: Section 4.9.1: The State Contractor FAQ clearly states “Is a license required to bid on a project? Yes. A license is required to offer to undertake work which requires a license” yet this RFP says the offerors must possess an “A” license prior to award, not prior to bid. Is this RFP exempt from the requirement to be licensed at time of bid?

A30: See response to Q3. Federal requirements prohibit requiring a contractor to obtain a license before submission of a bid or before the bid may be considered for award of a contract. Federal requirements need to be met because federal funds will be used for this project.

Q31: Is it HDOT’s intention to allow all offerors 126 calendar days from the proposal due date to obtain an A license?

A31: No. See response to Q3.

Q32: Must all bidders quote the listed amount of mid block detection systems or is value engineering allowed?

A32: All offerors shall base their bid on the quantities listed in Appendix B, OF-2. Value engineering solutions may be suggested to HDOT in the proposal.

Q33: Section 3.4.1(5) Site Evaluation of Existing Conditions: To further elaborate on the question under The Evaluation of Supplemental Detector Sensor Locations, if we discover that Existing Ducts may be Blocked or Full, will the

HDOT be responsible for fixing the Ducts? Or will HDOT request that the Offerer fix the Duct and Invoice for Time and Materials?

A33: See response to Q15.

Q34: Section 5.1: Who are the Evaluation Committee members?

A34: The name of members of the evaluation committee will be disclosed at time of award.

Q35: Section 5.1: If the identities of the Evaluation Committee members is not available, are the Committee members sufficiently versed in traffic signalization industry terminologies to understand and converse on a technical presentation, this is to assist with tailoring our Proposal package.

A35: The evaluation committee shall consist of at least three governmental employees with sufficient qualifications in the area of the goods, services, or construction to be procured.

Q36: We would prefer to bid other technology vs. the listed video and road-invasive puck technology. Would it be possible to have this alternative approved ahead of time rather than at the time of award opening?

A36: See response to Q20.

Q37: Could HDOT please provide the Appendix I - Requirements Matrix in Excel format?

A37: The requested file has been posted on HlePRO.

Q38: Per Section 2.6, sections of the Proposal shall be separated by index dividers. What kind of index dividers does HDOT require? Just a title page before each section?

A38: Per Section B.3. of this addendum, the requirement for index dividers has been removed.

Q39: Would HDOT consider a 2 week extension?

A39: The deadline to submit proposals is January 13, 2023 at 2:00 PM Hawaii Standard Time.

Q40: Per Section 770.12 lines 16 & 17 calls for video detection at the stop bar and either video or radar for the advanced detection..... Would the State allow Radar for both Stop Bar and Advanced Detection with a camera for visual confirmation?

A40: See response to Q20.

Q41: For Project No. STP-0300(189) would the Hawaii Department of Transportation be open to a cloud hosted system- either on a agency owned cloud or a provided Azure Cloud?

A41: All offerors shall base their bid on an agency hosted system housed at the JTMC. Other hosting solutions may be proposed to HDOT in the proposal.

Q42: For Project No.STP-0300(189) would the Hawaii Department of Transportation be open to a complete Software as a Service (SaaS) hosted system in place of a perpetual license?

A42: All offerors shall base their bid on the Traffic Signal Central System Licenses as specified in Section 3.1.2. Other solutions may be proposed to HDOT in the proposal.

Q43: For Project No.STP-0300(189) would the Hawaii Department of Transportation be open to alternate stop bar and advanced detection other than what is listed in the RFP?

A43: See response to Q20.