

# **Kentucky Transportation Cabinet**

## **Title VI/Nondiscrimination Guidebook for Sub-recipients**



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# Introduction

## About the Kentucky Transportation Cabinet

The mission of the Kentucky Transportation Cabinet (KYTC) is “to provide a safe, efficient, environmentally sound and fiscally responsible transportation system that delivers economic opportunity and enhances the quality of life in Kentucky.”

The Kentucky Transportation Cabinet is a multi-modal transportation agency responsible for overseeing the development and maintenance of transportation systems across the Commonwealth.

The KYTC is responsible for managing more than 27,000 miles of highways, including roughly 20,500 miles of secondary roads, 3,600 miles of primary roads, and more than 1,400 interstate and parkway miles. The KYTC provides guidance for 230 licensed airports and heliports, and KYTC administers all motor vehicle and driver’s licensure for more than three million drivers in the Commonwealth.

The KYTC is provided annual federal financial assistance by the United States Department of Transportation (U.S. DOT), including funding from the following administrations:

- Federal Highway Administration (FHWA)
- Federal Transit Administration (FTA)
- Federal Aviation Administration (FAA)

These organizations assist in the KYTC’s continued growth in all transportation related areas.

The KYTC has created a multi-modal transportation system which creates workforce opportunities through innovative ideas and the planning, building, and sustaining of projects, many of which are revolutionary. The projects are vital in creating economic growth and development, appeal to individuals within a varied job market who have the potential to join the KYTC workforce.

## Who Must Comply?

Title VI of the Civil Rights Act of 1964 states “no person in the United States shall, on the grounds of race, color, and national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance (42 U.S.C. Section § 2000d).”

Recipients of federal financial aid must comply with various nondiscrimination laws and regulations. As defined by 23 CFR 200.5(n), a recipient is any entity or individual to whom federal assistance is provided, either directly or indirectly through another recipient, for any program. The term “sub-recipient” means a recipient that indirectly receives Federal aid from KYTC, a direct recipient.

*Title VI of the Civil Rights Act of 1964 “prohibits discrimination on the grounds of race, color, and national origin in programs or activities receiving federal financial assistance*

*(42 U.S.C. Section 2000d).”*



## KYTC's Title VI Sub-recipient Monitoring Program

As a recipient of federal financial assistance, KYTC is required to conduct Title VI reviews of its sub-recipients in order to effectively and efficiently monitor compliance with the nondiscrimination requirements of Title VI. The purpose of the Title VI Sub-recipient Monitoring program is to promote compliance with Title VI of the Civil Rights Act of 1964. Compliance is monitored through proactive oversight.

The KYTC is committed to the implementation of a comprehensive Title VI Sub-recipient Monitoring Program as a part of the Title VI requirements, a periodic review of sub-recipients is conducted in order to ensure that its sub-recipients are not exhibiting discriminatory practices in their programs, activities, and services.

KYTC's sub-recipients include, but are not limited to Area Development Districts (ADD), Metropolitan Planning Organizations (MPO), Local Public Agencies (LPA), councils of government, airport authorities, universities/colleges, and other recipients of federal financial aid.

## Looking Ahead

The basis of this guide<sup>1</sup> is to be a building block upon which sub-recipients can develop their Title VI program. The information provided by this guide does not institute any new legal requirements and is not to be considered a comprehensive list of every aspect of the Title VI requirements of Title VI Sub-recipient Monitoring program of the KYTC's Office for Civil Rights and Small Business Development's (OCRSBD).

This guide is to be a point of reference to aid sub-recipients with the Title VI review process, and to pinpoint key components that the OCRSBD highly recommends sub-recipients integrate in their Title VI program. If sub-recipients choose to use this guide as a foundation for their Title VI program by following the recommendations detailed within, sub-recipients should be advised that this guide does not ensure compliance with all aspects of the Title VI, but rather is intended to improve the sub-recipient's potential to comply with the various components of the Title VI/ Nondiscrimination requirements.

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<sup>1</sup> *This guide does not consist of every situation and compliance determinations are made on a case-by-case basis.*





# Nondiscrimination Laws and Executive Orders

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Title VI of the Civil Rights Act of 1964 is a federal law that protects individuals, groups and organizations from discrimination on the basis of race, color or national origin in federally assisted programs and activities. Since other nondiscrimination authorities have expanded the scope and range of Title VI application and reach, reference to Title VI includes other provisions of Federal statutes and related authorities to the extent that they prohibit discrimination in programs and activities receiving Federal financial assistance.

Title VI requirements include, but are not limited to:

- The 1970 Uniform Act (42 U.S.C. 4601) prohibits unfair and inequitable treatment of persons who have been displaced or whose property will be acquired as a result of federally assisted programs or activities.
- Section 162(a) of the Federal-Aid Highway Act of 1973 (Section 324, Title 23 U.S.C.) prohibits discrimination based on sex (gender).
- Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on a handicap/disability.
- The Age Discrimination Act of 1975 (Section 6101-6107, Title 42 U.S.C.) prohibits discrimination based on age.
- The Civil Rights Restoration Act of 1987, P.L. 100-209 clarifies the intent of Title VI to include all programs and activities of entities whether those programs and activities are federally funded or not.
- 23 CFR Part 200, the Federal Highway Administration's Title VI Program Implementation and Review Procedures.
- 49 CFR Part 21, the U.S. Department of Transportation's Implementing Regulations of Title VI of the Civil Rights Act of 1964.
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, addresses disproportionate adverse environmental, social and economic impacts that may exist in communities, specifically minority and low-income populations.
- Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, addresses access to services for persons whose primary language is not English and who have limited ability to read, write, speak, or understand English.

KYTC's Title VI practices and reviews adhere to all nondiscrimination requirements, including federal laws, regulations, and executive orders.



# KYTC's Title VI Program

## Title VI

The KYTC's Title VI program is established in accordance with Federal rules under 49 C.F.R. Part 21 and 23 C.F.R. Part 200. The Title VI program is also within the scope of responsibilities of the Office for Civil Rights and Small Business Development (OCRSD).

The OCRSD is responsible for overseeing the Title VI program and is staffed with a Title VI Coordinator who serves as a point of reference and contact due to his or her knowledge of Title VI applicable regulations. KYTC's Title VI Coordinator will assist and support the Title VI program, and shall:

- Provide technical assistance to program personnel and sub-recipients
- Assist program personnel and sub-recipients to correct discriminatory practices or policies and advise program area Title VI Liaisons within KYTC's district and division offices
- Review documents to ensure Title VI compliance and protective measures are in place to prevent possible discrimination
- Conduct Title VI compliance reviews of program emphasis areas and sub-recipients
- Develop Title VI training materials and conduct training sessions and workshops
- Create Title VI information for dissemination to the public and, when applicable, provide information in languages other than English
- Process Title VI external complaints of discrimination in accordance with the FHWA processes for investigating external complaints of discrimination.

## KYTC's Title VI Compliance Review Process

The OCRSD conducts compliance reviews of sub-recipients in order to:

- Ensure compliance with Title VI
- Provide procedural support throughout the implementation of the Title VI program
- In the event that deficiencies are found, they will be remedied

The Title VI Coordinator will review all ADD's and MPO's triennially using the FHWA's Title VI Non-discrimination Review Guidelines. The Title VI Coordinator will collaborate with program area Title VI liaisons to conduct periodic pre-grant and post-grant reviews of select sub-recipients of FHWA financial aid or federal funds for other roadway projects (i.e. bridges) to ensure adherence to Title VI requirements. Sub-recipients are selected using a risk-based method; reviews consist of a combination of desk audits and on-site reviews. Appropriate staff members will routinely confirm that guidelines provided to consultants, contractors, and sub-recipients include Title VI language, provisions, and related requirements, where applicable.

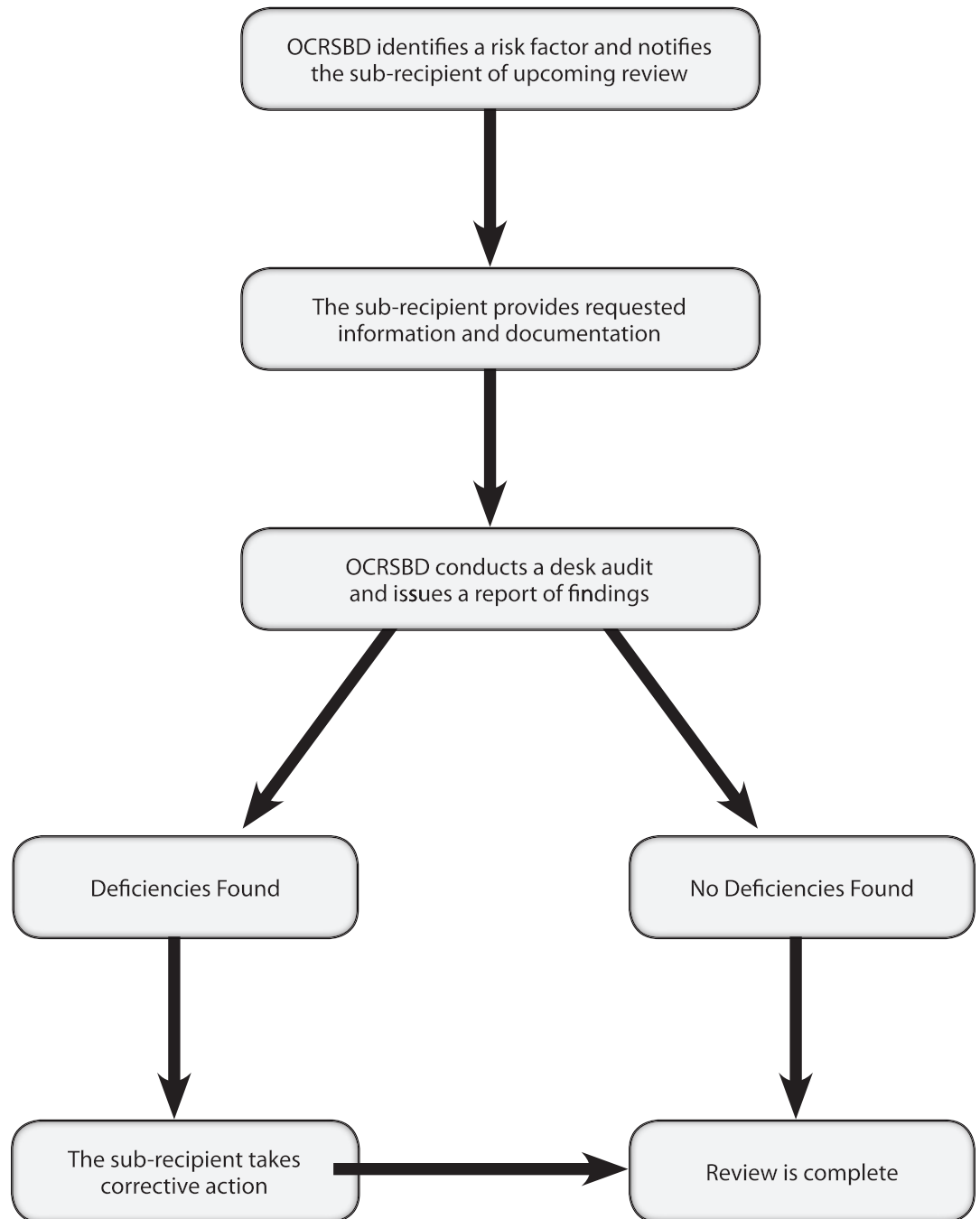


## Breakdown of Compliance Review Process

- Notification – The Office for Civil Rights and Small Business Development (OCRSD) will notify sub-recipients of upcoming reviews via letter and/or email. Detailed within the notification will be a request for information and documents needed to assist with the review.
- Desk Audit – The Title VI Coordinator will review documents and information submitted by the sub-recipient. The findings of the desk audit will be prepared in a report, which may include recommendations to strengthen the sub-recipient's Title VI program.
- On-site Review – Contingent upon the findings from the desk audit, an on-site review may be necessary. If an on-site review is needed, the sub-recipient will be notified.
- Deficiencies – If deficiencies are discovered, they will be documented in the report and the sub-recipient will be required to take corrective action. However, if there are no deficiencies, the report may include recommendations in order to strengthen the sub-recipient's Title VI program.
- Follow Up Monitoring – The OCRSD will determine if additional monitoring is needed in order for the sub-recipient to become compliant, and to ensure continuous compliance with Title VI/ Nondiscrimination requirements.



# Title VI Compliance Review Flow Chart



# Title VI Requirements

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As beneficiaries of federal financial assistance, sub-recipients are required to ensure their programs, policies, and activities comply with Title VI/Nondiscrimination requirements. A critical component of the compliance monitoring process is documentation, which is needed in order to provide evidence, proof, and support of historical facts during monitoring and compliance review activities. It should become common practice to document policy decisions, procedures, analyses, actions, and outcomes. It is imperative for sub-recipients to be compliant with Title VI. Therefore sub-recipients must implement a methodology of procedures and practices that prohibit discrimination. The methodology should include the following:

1. Develop a Title VI/Nondiscrimination Policy Statement
2. Develop Title VI/Nondiscrimination Assurances
3. Appoint a Title VI/Nondiscrimination Coordinator
4. Develop a Title VI/Nondiscrimination Plan
5. Develop procedures for processing external discrimination complaints
6. Maintain a list of external discrimination complaints and lawsuits
7. Provide accommodations for Limited English Proficient Persons
8. Address Environmental Justice in minority populations and low-income populations
9. Ensure nondiscrimination in the public participation process
10. Collect and analyze data to ensure nondiscrimination in programs and activities
11. Ensure that solicitations for bid/requests for proposals contain the Title VI/Nondiscrimination Assurance paragraph
12. Ensure that sub-contracts contain the appropriate contract provisions and language from the Title VI Assurances
13. Ensure nondiscrimination in the award of contracts
14. Develop a Title VI/Nondiscrimination Annual Work Plan & Accomplishment Report



## Title VI/Nondiscrimination Policy Statement<sup>2</sup>

Develop a Title VI Nondiscrimination Policy Statement assuring nondiscrimination in the agency's programs, activities, and services.

### Recommendations

- Issue a policy statement, signed by the head of the agency which expresses the agency's commitment to the nondiscrimination provisions of Title VI
- Publish in languages other than English, where appropriate
- Circulate the Policy Statement internally and to the general public
- Nondiscrimination Provision – "That no person shall on the grounds of race, color, national origin, sex, age, and disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the recipient regardless of whether those programs and activities are Federally funded or not."

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<sup>2</sup> A sample nondiscrimination statement can be found in Document Index A.



# Title VI/Nondiscrimination Assurances<sup>3</sup>

Have a signed assurance to establish full and affirmative compliance with Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities.

## Recommendations

- Ensure the U.S. DOT Standard Title VI Assurances is signed by the head of the agency
- The head of the agency should re-sign the U.S. DOT Standard Title VI Assurances
- Ensure annual certification and assurances for the Federal Transit Administration (FTA)
- Contractors, consultants, and suppliers are not required to sign the U.S. DOT Standard Title VI Assurances

2

Title VI Requirement #2

<sup>3</sup> The U.S. DOT Standard Title VI Assurances template can found in Document Index B.



## Title VI/Nondiscrimination Coordinator<sup>4</sup>

Designate a Title VI Coordinator who has a responsible position in the organization and has easy access to the head of the agency. The Title VI Coordinator should be responsible for monitoring Title VI activities.

### Recommendations

- Organizational chart and/or literature should identify the Title VI Coordinator
- The Title VI Coordinator's responsibilities should be clearly outlined in accordance with FHWA Title VI/Nondiscrimination Guidelines
- Maintain meeting agendas/minutes which demonstrate that Civil Rights requirements are being addressed by the Title VI Coordinator
- Contractors, consultants, and suppliers are not required to identify a Title VI Program Coordinator

### Title VI Coordinator/Specialist Responsibilities

- Assisting program personnel to remedy any Title VI issues or discriminatory practices or policies found through self-monitoring and review activities
- Primary person responsible for Title VI implementation and monitoring of programs and/or activities receiving Federal financial aid
- Ensuring that Title VI requirements are included in policies and that the procedures used have built in precautions to avoid any acts of discrimination
- Implementing procedures to ensure the timely processing of Title VI external discrimination complaints
- Attending trainings on Title VI
- Coordinating the development and implementation of a Title VI and related statutes training program
- Creating Title VI information that will be disseminated to the public. The information should be offered in languages other than English.

<sup>4</sup> Please note that the important consideration is the individual's duties, not their title per se.





# Title VI/Nondiscrimination Plan<sup>5</sup>

Develop a Title VI/Nondiscrimination Plan that will describe how the agency implements the Title VI/Nondiscrimination requirements; include provisions of Environmental Justice (EJ) and Limited English Proficiency (LEP).

## Recommendations

- Adopt KYTC's Title VI/Nondiscrimination Plan to use as a template
- Include procedures to ensure effective and efficient implementation, compliance, and enforcement of Title VI
- Incorporate data on EJ and LEP populations; based on the most recent Census data
- Contractors, consultants, and suppliers are not required to submit a Title VI Implementation Plan

## KYTC's Title VI/Nondiscrimination Plan Development Guide

The purpose of this report is to communicate how the agency will implement the Title VI/Nondiscrimination requirements, such as Environmental Justice and Limited English Proficiency. At a minimum, the Title VI/Nondiscrimination Plan should include the following sections:

- Introduction
- Policy Statement
- Delegation of Authority and Responsibility
- FHWA Assurances for Title VI and Other Nondiscrimination Statutes and Regulations
- Organization/staff responsibilities
- Complaint disposition procedures
- Process to identify/eliminate discrimination
- Process to resolve deficiencies identified by FHWA
- Internal monitoring program
  - ▶ Data collection
  - ▶ Data analysis
  - ▶ Data reporting
  - ▶ Federal program areas process reviews procedures
- External monitoring program
  - ▶ Monitoring sub-recipients

<sup>5</sup> KYTC's Title VI/Nondiscrimination Plan can be found on KYTC's Websight.  
<http://transportation.ky.gov/Civil-Rights-and-Small-Business-Development/Pages/default.aspx>



# 4

## Title VI Requirement #4 cont.

- Public Participation Plan should include:
  - ▶ How the Title VI/Nondiscrimination Plan relates to the Public Participation Plan
- Title VI/Nondiscrimination related training component (internal and external)
- Environmental Justice (EJ) Plan/Process
- Limited English Proficiency (LEP) Plan
- Implementation Plan (if appropriate – i.e. when a new Title VI/Nondiscrimination Plan has been developed)
- External Communication – Notification to Beneficiaries
- Reporting to FHWA (Title VI Goals & Accomplishments)
- Attachments may include:
  - ▶ Example of the Compliant Log
  - ▶ Title VI/Nondiscrimination Brochure



# Processing External Discrimination Complaints

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Develop procedures for the timely processing and disposition of external discrimination complaints.

## Recommendations

- Ensure complaints are investigated by personnel trained in compliance investigations
- External discrimination complaints filed under Title VI with the sub-recipient in which the sub-recipient or its lower tier sub-recipient is named as the respondent are required to be forwarded to KYTC for investigation within 3 calendar days of receipt
- Develop an external discrimination complaint form
- Distribute written discrimination complaint processing procedures to agency personnel
- Make the public aware of the procedures for filing a discrimination complaint, (for example, make the information available on the agency's website or in a brochure)

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Title VI Requirement #5



## List of External Discrimination Complaints and Lawsuits

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Maintain a log of any external discrimination complaints or lawsuits filed.

### Recommendations

- Maintain a complaint log that includes any complaints or lawsuits filed against the agency
- Maintain all correspondence related to the complaint

### Compliant Log List should identify the follow:

1. Each complaint by race, color, sex, or national origin
2. The recipient
3. The nature of the complaint
4. The date(s) the complaint was filed and the investigation completed
5. The disposition
6. Other pertinent information
7. The status of the compliant investigation or lawsuit
8. Corrective action(s) taken, if any



# Accommodations for Persons with Limited English Proficient

Ensure meaningful access to the agency's services, information, and activities for individuals who are Limited English Proficient (LEP).

## Recommendations

- Develop an agency LEP Plan that establishes guidelines in accordance with Executive Order (EO)13166, Improving Access to Services for Persons with Limited English Proficiency
- Identify LEP populations affected by a project using the most recent U.S. Census data
- Conduct a language needs assessment
- Translate written materials routinely provided in English into regularly encountered languages other than English

## Limited English Proficiency Plan

- Prior to drafting the plan a language needs assessment should be conducted to determine the following factors:
  - a) The number or proportion of LEP Person in the eligible service population
  - b) The frequency with which LEP individuals come in contact with the agency's programs or activities
  - c) The nature of the importance of the program, activity, or services provided by the agency
  - d) The resources available to the agency and the costs
- Develop methods to provide oral interpretation either in person or via telephone interpretation services, and the procedures used by staff to access those services
- Attend training that focuses on helping staff better communicate with LEP persons
- Post notices detailing the agency's Title VI obligations and complaint procedures that have been translated into languages other than English
- Notify LEP customers of the availability of languages they interpret or translate
- Translate the agency's external website
- Continually monitor and evaluate efforts to provide language access
- Translate vital documents. Vital documents are documents that contain information that is critical for receiving services and/or benefits; or documents that are required by law

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Title VI Requirement #7



## Environmental Justice

Identifying and addressing, as necessary, disproportionately high and adverse human health environmental effects of its programs, policies, and activities on minority and low income populations.

### Recommendations

- Incorporate the requirements of Executive Order 12898, Federal Actions to Address Environmental Justice in Minority and Low Income Populations, into the agency's programs, policies, and activities
- Use current U.S. Census data to identify minority and low income populations that could potentially be affected by a project
- Develop public participation procedures to ensure the inclusion of the identified population within the scope of the proposed project

### Environmental Justice Plan

- Notify affected protected group residents of public meetings or hearings regarding a proposed project, and make meetings and hearings accessible
- Disseminate to the public their rights to call or write the agency to view plans and discuss environmental concerns
- Ensure and monitor compliance with Title VI requirements in all aspects of the environmental process and environmental documentation



# Public Participation Plan

Explains the processes used to gather information from the public as well as educates the public on their Title VI rights and responsibilities in the transportation decision-making process.

## Recommendations

- Develop an agency Public Participation Plan
- State how the agency notifies the public in the agency's public involvement/participation procedures
- Conduct early and continuous public involvement surveys
- Provide timely information
- Document efforts to utilize demographic data or knowledge of the community to perform outreach to specific populations

## Public Participation Plan

Public Participation Plan details:

- Include maps of the identified EJ and LEP populations (based on most recent U.S. Census data)
- The Title VI/Nondiscrimination Coordinator should actively participate in the development/update efforts and should be included in the approval process
- The Title VI/Nondiscrimination Coordinator should monitor how the agency implements the plan

Public involvement/participation procedures should detail how the agency notifies the public regarding:

- The development of transportation plans and improvement programs and how it solicits and addresses the public's comments in the final documents
- Public hearings and public meetings and how it collects and addresses the public's comments

Reach out to and consider the needs of minority and low income populations

Maintain a stakeholders list with contact information for organizations and individuals

Periodically review and evaluate the public participation process/procedures

Ensure the process/procedures are compliant with the Title VI/Nondiscrimination requirements (including EJ and LEP)

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Title VI Requirement #9



## Data Collection and Analysis

Explains the agency's process for collecting statistical data on race, color, national origin, etc. in impacted and affected communities.

### Recommendations

- Collect and analyze data to ensure that transportation programs, services, facilities, and projects effectively meet the needs of "all persons" without discrimination
- Develop data collection methods designed to capture a description of community boundaries
- Engage and track historically under represented public populations and businesses in the planning, project development, and maintenance processes
- The collection of data such as demographic maps, the racial composition of affected neighborhoods may be necessary or appropriate
- Track historically under represented public populations and businesses in the planning, project development, and maintenance processes the demographic data and other tools can be used for Title VI and EJ compliance in regards to future mobility projects.
- Collect data on demographics at public meetings with regard to the participants
- Send correspondence to community leaders, community based organizations, or local data collecting agencies requesting their assistance in identifying the demographics of the population affected by the agency's programs and activities





# Solicitation for Bids/Request for Proposals

Include the Title VI/Nondiscrimination paragraph from the U.S. DOT Standard Title VI Assurances in all solicitations for bid or Request for Proposals.

## Recommendations

- Create procedures that review solicitation for bids/request for proposals to ensure that they include the required Nondiscrimination paragraph (see assurance paragraph below) from the U.S. DOT Standard Title VI Assurances (see Document B in the Documents Index for the U.S. DOT Standard Assurance Template)
- The sub-recipient is responsible for ensuring its sub-recipients insert this information into all of its sub-contracts, regardless of tier

## Assurance Paragraph

*"The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act hereby notifies all bidders that it will affirmatively insure that any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

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Title VI Requirement #11



## Title VI Contract Provisions

Include the appropriate special provisions and Title VI language in all contracts.

### Recommendations

- Develop procedures to ensure and monitor clauses from Appendix A in the U.S. DOT Title VI Assurances are inserted into every contract subject to the Act and the Regulations
- The sub-recipient is responsible for ensuring its sub-recipients insert this information in all its sub-recipients contracts, regardless of tier
- The clauses of Appendix B from the U.S. DOT Standard Title VI Assurances are to be inserted in every contract subject to the Act and the Regulations
- A copy of Form FHWA-1273, "Required Contract Provisions Federal Aid Construction Contracts," which ensures nondiscrimination in the selection of employees and subcontractors, is physically attached to all Federal aid construction contracts of \$10,000 or more
- Develop procedures to ensure and monitor contracts for contract compliance with Title VI/Nondiscrimination requirements and Assurances



# Affirmative Action Program

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Ensure nondiscrimination in the award of contract in connection with projects receiving federal financial aid.

## Recommendations

- Participate in KYTC's Disadvantaged Business Enterprise (DBE) Program
- Provide technical assistance to your DBEs on Title VI matters
- Participate in outreach forums through public and private organizations to increase small business participation in federal aid contracts
- Develop methods to distribute information related to the agency's procurement opportunities through various media outlets to provide all bidders with access to contracting information and opportunities
- Ensure that the bidding and contract award procedures are consistent with the Nondiscrimination and Affirmative Action requirements of Title VI
- Periodically review outreach activities to ensure small, disadvantaged, minority, and women owned businesses are invited to participate

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Title VI Requirement #13



## Annual Reporting

Develop a Title VI/Nondiscrimination Goals & Accomplishments Report that details how the agency is effectively implementing its Title VI/Nondiscrimination program.<sup>6</sup>

### Recommendations

- Develop procedures to ensure and monitor clauses from Appendix A in the U.S. DOT Title VI Assurances are inserted into every contract subject to the Act and the Regulations
- The sub-recipient is responsible for ensuring its sub-recipients insert this information in all its sub-recipients contracts, regardless of tier

### Title VI/Nondiscrimination Goals & Accomplishments Report Guide

- Organization: Title VI/Nondiscrimination Component
- Internal Monitoring Program
  - Federal program area reviews conducted during FY (Previous FY)
  - Results of Reviews Conducted during FY (Previous FY)
  - Review Schedule for FY (Upcoming FY)
- External Monitoring Program
  - Sub-recipient reviews conducted during FY (Previous FY)
  - Results of Reviews Conducted during FY (Previous FY)
  - Review Schedule for FY (Upcoming FY)
- Title VI/Nondiscrimination training summary
- Title VI/Nondiscrimination complaints summary
- Special Emphasis Areas
- Environmental Justice
- Limited English Proficiency

<sup>6</sup> See Document Index for KYTC's Title VI/Nondiscrimination Annual Goals and Accomplishments Report development guide.



# Resources

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## Training Resources

### Fundamentals of Title VI/Environmental Justice

Presents a framework for using a variety of approaches and tools for accomplishing environmental justice goals in federal aid programs and other transportation projects. National Highway Institute (NHI)

<http://www.nhi.fhwa.dot.gov/default.aspx>

### Preventing Discrimination in the Federal-Aid Program

Participants learn how to apply Title VI, as well as how to integrate law and regulation implementation in each federal aid highway project from an interdisciplinary approach. FHWA Resource Center <http://www.fhwa.dot.gov/resourcecenter/teams/civilrights/index.cfm>

### Federal-aid Essentials

Offers a central online library of informational videos and resources, designed specifically for local public agencies.

<http://www.fhwa.dot.gov/federal-aidessentials/index.cfm>

## Publications

### Title VI/Nondiscrimination Plan

<http://transportation.ky.gov/Civil-Rights-and-Small-Business-Development/Documents/Title%20VI%20Program%20Plan%202015.pdf>

### Title VI/Nondiscrimination in the Federal-aid Highway Program Handbook

<..\Title VI Nondiscrimination in the Federal-Aid Highway Program Handbook.pdf>

### Limited English Proficiency Program and the Federal-aid Highway Program Handbook

<..\LEP\LEP Desk Reference.pdf>




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# Documents Index



# Document A

## KYTC's Title VI/Nondiscrimination Policy Statement

  
**COMMONWEALTH OF KENTUCKY  
TRANSPORTATION CABINET**  
Frankfort, Kentucky 40622  
www.transportation.ky.gov/

**Matthew G. Bevin**  
Governor

**TITLE VI POLICY STATEMENT**

**Greg Thomas**  
Secretary

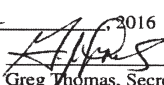
**OFFICIAL ORDER** 110249

It is the policy of the Kentucky Transportation Cabinet ("Cabinet") to afford equal opportunity to all persons to the end that no person in the United States shall, on the grounds of race, color, sex, disability, age or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Transportation.

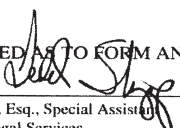
Program and activities to which this policy applies include, but are not limited to, the use of grants in connection with federal-aid highway systems, the Surface Transportation and Reauthorization & Reform Act of 2015, the Highway Safety Act of 1966 and the National Traffic and Motor Vehicle and Safety Act of 1966, leases of real property and the grant of permits, licenses, easements and rights of way covering real property, Urban Mass Transportation Research Programs, and other grants for the support of basic scientific research.

This policy shall be prominently posted in all personnel office, EEO offices, and on the Cabinet's internal website.

Signed and approved this 27<sup>th</sup> day of June, 2016

  
\_\_\_\_\_  
Greg Thomas, Secretary  
Kentucky Transportation Cabinet


**APPROVED AS TO FORM AND LEGALITY**

  
\_\_\_\_\_  
Todd Shipp, Esq., Special Assistant  
Office of Legal Services

I have read this policy statement and understand the provisions contained within and acknowledge the receipt of this policy.

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

Social Security Number \_\_\_\_\_

  
An Equal Opportunity Employer M/F/D





# Document B

## U.S. DOT Standard Title VI Assurances Template

The (Name of Agency) (hereinafter referred to as the “Recipient”) HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the (Name of Appropriate Administration), and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations, a copy of which is attached.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to the programs administered by the Recipient:

1. That the Recipient agrees that each “program” and each “facility as defined in sub-sections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all programs administered by the Recipient and in adapted form in all proposals for negotiated agreements:

The (Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidden that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix B of this assurance, ‘as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.



5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under (Name of Appropriate Program); and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under programs administered by the Recipient.
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property, or real property, or interest therein, or structures, or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient by the Department of Transportation under the programs administered by the Recipient and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the (Name of Appropriate Program). The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient

\_\_\_\_\_  
(Title of Recipient)

By \_\_\_\_\_  
(Signature of Authorized Official)

Dated \_\_\_\_\_  
Appendices A, B, and C



## APPENDIX A

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:

1. **Compliance with Regulations:** The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Cod of Federal Regulations, Part 21, they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **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 sub-contractors, including procurements 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 any activity, project, or program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a sub-contract, including procurements of materials, or leases of equipment, each potential sub-contractor 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.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Kentucky Transportation Cabinet be pertinent to ascertain compliance with the Regulations, orders, and instructions. Where any information required of a contractor if in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Kentucky Transportation Cabinet, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the nondiscrimination provisions of this contract, the Recipient shall impose such contract sanctions as it or the Kentucky Transportation Cabinet may determine to be appropriate, including, but not limited to:
  - a) withholding payments to the contractor under the contract until the contractor complies; and/or
  - b) cancellation, termination, or suspension of the contract in whole or in part.
6. **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every sub-contract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto.

The contractor shall take action with respect to any sub-contract or procurement as the Recipient or the Kentucky Transportation Cabinet may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a sub-contractor, or supplier because of such direction, the contractor may request the Recipient to enter into such litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.



## APPENDIX B

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures, or improvements thereon, or interest therein from the United States.

### (GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation as authorized by law and upon the condition that the Recipient will accept title to the lands and maintain the project constructed thereon, in accordance with all applicable Department of Transportation authorities, the Regulations for the administration of the programs administered by the Recipient, and the policies and procedures prescribed by the Kentucky Transportation Cabinet and also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

### (HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the Recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which shall remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the Recipient, its successors and assigns.

The Recipient, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that, (1) no person shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [and]\* (2) that the Recipient shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, nondiscrimination in Federally assisted programs of the Department of Transportation, effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction].\*

\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of the Title VI of the Civil Rights Act of 1964.



## APPENDIX C

The following clauses will be included in all deeds, licenses, leases, permits, or similar instruments entered into by the Recipient pursuant to the provisions of Assurance 7(a).

The (grantee, lessee, permittee, etc. as appropriate) for himself, his, heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21 Nondiscrimination in Federally assisted programs of the Department of Transportation effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]\*

That in the event of breach of any of the above Nondiscrimination covenants, the Recipient shall have the right to terminate the [lease, license, permit, etc.] and to re-enter and repossess said lands and facilities thereon, and hold the same as if the [licenses, lease, permit, etc.] had never been made or issued.

[Include in deeds.]\*

That in the event of breach of any of the above nondiscrimination covenants, the Recipient shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall there upon revert to and vest in and become the absolute property of the of Recipient and its assigns.\*

The following clauses will be included in deeds, licenses, permits, or similar agreements entered into by the Recipient pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, permittee, etc., as appropriate) for himself, his, heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use all premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21 Nondiscrimination in Federally assisted programs of the Department of Transportation effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.



[Include in licenses, leases, permits, etc.]\*

That in the event of breach of any of the above Nondiscrimination covenants, the Recipient shall have the right to terminate the [license, permit, etc., as appropriate] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, permit, etc., as appropriate] had never been made or issued.

[Include in deeds]\*

That in the event of breach of any of the above nondiscrimination covenants, the Recipient shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the Recipient and its assigns.

\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of the Title VI of the Civil Rights Act of 1964.





Matthew G. Bevin  
Governor

COMMONWEALTH OF KENTUCKY  
TRANSPORTATION CABINET  
Frankfort, Kentucky 40622  
www.transportation.ky.gov/

Greg Thomas  
Secretary

OFFICIAL ORDER 110248

**STANDARD TITLE VI ASSURANCE**

**Kentucky Transportation Cabinet**

**Standard Title VI Assurances**

The Kentucky Transportation Cabinet, (hereinafter referred to as the "Recipient") hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78Stat. 252, 42 U.S.C. 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21) Nondiscrimination in Federally Assisted Program of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that it will promptly take any necessary measures to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specifics assurances with respects to its Federal-aid Highway Program:

1. That the Recipient agrees that each "facility" and each "program" as defined in subsections 21.23(b) and 21.23(e) of the Regulations will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal-aid Highway Program and, in a adapted form in all proposals for negotiated agreements.



An Equal Opportunity Employer M/F/D





#### Construction Proposals

The Kentucky Transportation Cabinet, Department of Highways in accordance with the provisions of the Title VI of the Civil Rights Act of 1964 (78 Stat. 252) and the regulations of the Federal Department of Transportation (49 CFR, Part 21), issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that the contract entered into pursuant to this advertisement will be awarded to the lowest responsible bidder without discrimination on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability.

#### Agreements for Other Services

Compliance with Regulations: The Consultant shall comply with the regulations of the Transportation Cabinet, Department of Highways, relative to nondiscrimination in Federally Assisted Programs of the Transportation Cabinet, Department of Highways (49 CFR, Part 21) which are herein incorporated by reference and made a part of this contract.

3. That the Recipient shall insert one of these nondiscrimination clauses in every contract subject to the Act and the Regulations.
4. That the Recipient shall also insert into every relevant contract a clause stating that the contractors will not discriminate against any employee or applicant for employment because of race, color, national origin, sex age (over 40), religion, sexual orientation, gender identity, veteran status, or disability.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, these assurances shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form of, or for the acquisition of real property, these assurances shall extend to rights to space on, over, or under such property.
7. That these assurances obligate the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, real property or interest therein or structures or improvement thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose



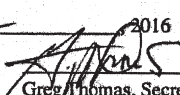


involving the provision of similar services or benefit; or (b) the period during which the Recipient retains ownership or possession of the property.

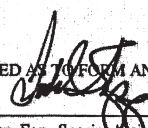
8. The recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the delegated authority, to give a reasonable guarantee that it, other recipients, sub grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the Act, the Regulations and these assurances.
9. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and these assurances.

These assurances are given in consideration of, and for the purpose of, obtaining any and all Federal grants, loans, contracts, property, discounts, and/or other Federal financial assistance extended after the date hereof, to the Recipient by the U.S. Department of Transportation under the Federal-aid Highway Program. The person whose signature appears below is authorized to sign these assurances on behalf of the Recipient.

Signed and approved this 27<sup>th</sup> day of June, 2016

  
Greg Thomas, Secretary  
Kentucky Transportation Cabinet

APPROVED AS TO FORM AND LEGALITY

  
Todd Shipp, Esq., Special Assistant  
Office of Legal Services



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# Forms



# Form FHWA-1273

FHWA-1273 -- Revised May 1, 2012

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. Compliance with Government wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

## ATTACHMENTS

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

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### I. GENERAL

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

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

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

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



2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.
4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

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## II. NONDISCRIMINATION

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

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

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

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

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

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



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

“It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the- job training.”
2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.
3. **Dissemination of Policy:** All members of the contractor’s staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor’s EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
  - a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor’s EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
  - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor’s EEO obligations within thirty days following their reporting for duty with the contractor.
  - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor’s procedures for locating and hiring minorities and women.
  - d. Notices and posters setting forth the contractor’s EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
  - e. The contractor’s EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: “An Equal Opportunity Employer.” All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.
  - a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.



- b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.
- c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

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

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

**6. Training and Promotion:**

- a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.



- 7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:
- 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.
  - The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
  - 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.
  - In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualify able minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.
- 8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.
- 9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.
- The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.
  - The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.
- 10. Assurance Required by 49 CFR 26.13(b):**
- The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT approved DBE program are incorporated by reference.





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

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

- a. The records kept by the contractor shall document the following:
  - (i) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;
  - (ii) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and
  - (iii) 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.

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### III. NON-SEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

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

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

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



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

### **1. Minimum wages**

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

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

- b. **(1)** The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
  - (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - (ii) The classification is utilized in the area by the construction industry; and
  - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.



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

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

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

- c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **2. Withholding**

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



### 3. Payrolls and basic records

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

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

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

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



- (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

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

#### **4. Apprentices and trainees**

- a. Apprentices (programs of the U.S. DOL).

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 sub-contractor'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 U.S. DOL).

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

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

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





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

- c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- d. Apprentices and Trainees (programs of the U.S. DOT).

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

- 5. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- 6. **Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- 7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- 8. **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- 9. **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- 10. **Certification of eligibility.**
  - a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.



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## V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.
3. **Withholding for unpaid wages and liquidated damages.** The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.
4. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

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## VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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





- a. The term “perform work with its own organization” refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:
    - (i) The prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
    - (ii) The prime contractor remains responsible for the quality of the work of the leased employees;
    - (iii) The prime contractor retains all power to accept or exclude individual employees from work on the project; and
    - (iv) The prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.
  - b. “Specialty Items” shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.
2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
  3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.
  4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each sub-contract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.
  5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

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

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



1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

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

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

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

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

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

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

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

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



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

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

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

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

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

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

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.



- e. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “participant,” “person,” “principal,” and “voluntarily excluded,” as used in this clause, are defined in 2 CFR Parts 180 and 1200. “First Tier Covered Transactions” refers to any covered transaction between a grantee or sub-grantee 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 grantee or sub-grantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
  - f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
  - g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions,” provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
  - h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.sam.gov/portal/SAM/#1>), which is compiled by the General Services Administration.
  - i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  - j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
- 2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**
- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
    - (i) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;



- (ii) 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;
  - (iii) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and
  - (iv) Have not within a three-year period preceding this application/ proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### **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)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or sub-grantee 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 grantee or sub-grantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).



- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
  - f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
  - g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.sam.gov/portal/SAM/#1>), which is compiled by the General Services Administration.
  - h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  - i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- 4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**
- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
  - b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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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 20).

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



- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.





## ATTACHMENT A

### Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts

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

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





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<http://transportation.ky.gov>

**Kentucky Transportation Cabinet**

Greg Thomas, Secretary

**Office for Civil Rights and Small Business Development**

Jamir Davis, Executive Director

**For program information call:**

(502) 564-3601

