D.

GUIDE

TO

PROCUREMENT
COMMUNITY SERVICES & DEVELOPMENT BUREAU

CONSOLIDATED PLANNING DIVISION

NEIGHBORHOOD IMPROVEMENT SECTION

GUIDE TO PROCUREMENT
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PROJECT NAME: ____________________________

Bid Prepared by: ____________________________
Name

________________________
Address

________________________
City, State & Zip Code

Date of Issuance: ____________________________

Submitted to: ____________________________
Name

________________________
Address

________________________
City, State & Zip Code

NOTE: This is a federally funded project. Federal and State (Davis-Bacon) wages apply.
NOTICE OF INVITATION TO BID

The (Owner) with federal funding assistance from the City of Los Angeles is seeking qualified licensed contractors to bid on a project involving the design and construction of (project description) approximately ________ square feet located at ________, Los Angeles, California _________.

Scope of work for this project includes, but is not limited to the following:

1. ________
2. ________
3. ________

Sealed bids will be received by (Owner) located at ________________. Bids will be received up to ____________ on ____________. Bid packages will be distributed at the Pre-Bid Conference/Job Walkthrough that is scheduled for ____________ at _____________. Attendance at the Pre-bid Conference / Job Walkthrough is mandatory.

The purpose of the pre-bid conference is to inform prospective bidders of contract requirements and the opportunity to examine the site and physical conditions of the proposed work.

The Owner, with the concurrence of the City, reserves the right to reject any or all such bids and to waive any informality in the bid.

The bid of any party who has been delinquent or unfaithful in the performance of any former contract with the City may be rejected.

Bids are subject to acceptance within ___ days unless otherwise stipulated by the bid.

This project is partially or wholly financed with City, State and/or Federal funds. Contractor must comply with all applicable Federal, State and local regulations regarding equal employment, labor standards and other requirements, including but not limited to:

1. Affirmative Action/Nondiscrimination/Equal Employment Opportunity
2. MBE/WBE/OBE/DBE - Business Inclusion Program, HUD Section 3 Good Faith Efforts
3. Federal and State labor compliance, including payment of federal or State prevailing wages; whichever is higher.
4. 10% bid bond or certified check and 100% performance and payment bonds
5. City-approved Worker’s Compensation, General Liability and Property Insurance

For further information regarding this project bid, contact ____________________________ at (____)_________________________ and/or email at ____________________________.

HCID CPD- Neighborhood Improvement Unit
Guide to Procurement
INSTRUCTION TO BIDDERS

DEFINITIONS
All definitions in the latest General Conditions of the Contract for Construction, AIA Document A-201, apply to the following information for Bidders.

Owner is: ____________________________

Owner Contact: ____________________________

Telephone: ____________________________

Email: ____________________________

Contractor will be the successful lowest responsive and responsible bidder with whom a contract is signed by the Owner.

RESPONSIBILITY
By making a bid, bidders represent that they have read and understand the bidding documents. It is also each bidder's responsibility to visit the project site and become familiar with any local conditions which may affect the work.

GENERAL INFORMATION
The (Owner) will receive at its office located at ____________________________, at or before the hour of _____ (PST), _____(date)__________, sealed proposals for the ________ Project.

Bids and required forms provided in the bid package for the purpose must be submitted in a sealed envelope addressed to (Owner + address), Attn: _______, and marked ________ Project.

The Bid must further conform to the requirements of these instructions. The bid work must be done in strict conformity with the specifications and/or plans.

BID
The bid must be made on the form provided for that purpose. The bidder must state in figures the unit price and specific sums of both, as the case may be, for which the bidder proposes to supply all the materials and perform the work required by the plans and specifications.

Blank spaces in the proposal must be properly filled in, and the phraseology thereof must not be changed. Additions must not be made to the items mentioned therein. Any unauthorized conditions, limitations or provisions attached to the proposal may cause its rejection. Alterations by erasure or interlineation must be explained or noted in the proposal over the signature of the bidder.

No communicated modification of a bid will be considered. No bids received after the time fixed for receiving them will be considered. If the bid is made by an individual, it must be signed with the full name of the bidder and address provided; if it is made by a partnership, it must be signed by one of the general partners, with the name and full address of each partner provided; and if it is made by a corporation, it must be signed by a properly authorized corporate officer with the name and address of the corporation provided.
Bidders are invited to be present at the opening of proposals. The Bidder shall affix to his proposal the number of his license procured under the provision of Article 5, Chapter 9, Division II of the Business and Professional Code of the State of California.

**FEDERAL ACCESSIBILITY STANDARDS**
All work must comply with the 2010 Federal Accessibility Design Standards according to the Americans with Disabilities Act, which requires a Certified Access Specialist (CASp).


**BOND OR CHECK ACCOMPANYING BID**
Each bidder must submit with his proposal either a check certified by a responsible bank in the City of Los Angeles and payable to the order of the (Owner) or a bid bond in the amount as specified elsewhere in these instructions.

**BONDS FOR FAITHFUL PERFORMANCE AND FOR PAYMENT OF LABOR, MATERIAL AND SUPPLIES**
The amount of the bond to be given to secure the faithful performance of the contract for said work shall be 100 percent of the contract price thereof, computed as hereinafter provided. The amount of the bond to be given to secure payment for labor, material, equipment and supplies furnished for the life term of the work to be done under the contract and for any work or labor of any kind done in connection therewith shall be equal to 100 percent of the contract price for the work. The contract price shall be computed from the amounts proposed in your bid.

**FORM OF BONDS**
The form of bonds required for the faithful performance of contract and to secure payment for material, labor and supplies will be such that Owner may proceed against the Contractor and his sureties on the bonds immediately upon any default in the performance of the contract, or in payments for labor, material and supplies, without waiting for the completion of the work and the accumulation of damages. Modify and use proforma City bond form samples at [http://caolcity.org/risk/BondForms.htm](http://caolcity.org/risk/BondForms.htm). The City’s Dual Obligee Rider must be included therewith (see [http://caolcity.org/risk/Bond%20Document%20Execution%20Instructions.pdf](http://caolcity.org/risk/Bond%20Document%20Execution%20Instructions.pdf)).

**AFFIDAVIT OF BIDDER**
Each proposal must have thereon or attached thereto the affidavit of the bidder that such proposal is genuine, and not sham or collusive, or made in the interest or in behalf of any person not therein named, and that the bidder has not directly or indirectly, induced or solicited any other bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the bidder has not in any manner sought by collusion to secure an advantage over any other bidder. Any bid not accompanied by; or which is made without such affidavit, or in violation thereof, will not be considered. If the bidder is a corporation, said affidavit shall be signed by a duly authorized officer of the corporation.
RIGHT TO REJECT BID
(Owner) reserves the right to reject any and all bids and to waive any informality in the bid. Bidder hereby agrees to honor said bid for a period of ___ days after the bid opening. If no contract award is made within ___ days of the bid opening, all bids are deemed rejected.

RIGHT TO APPEAL
(Owner) will notify proposers of the result of the bid evaluations and their right to appeal. Appeals must be in writing and received by the (Owner) no later than _______ business days from the date of notification on the results of the bid evaluations. Written appeals must include the following information:
   a. The name, address and telephone number of the bidder.
   b. The name/title of Bid to which the organization responded.
   c. Detailed statement of the grounds for appeal.
Written appeals may not include new or additional information that was not submitted with the original bid. The _____ will review and decide on the appeal.

CONTRACTS
The bidder to whom the award is made will be required to execute a written AIA contract with (Owner) and to furnish good and approved bonds as specified, within ___ days after notice of said contract is delivered. The following documents are essential parts of the complete contract: Plans for the Work, Bidder's Submitted Proposal, and Agency’s/Owner's contract with the City.

All of the aforementioned documents are on file or in the office of (Owner) and may be obtained at no charge to the bidder.

EXAMINATION OF GROUND
Bidders must examine and judge for themselves the location, physical condition and surroundings of the proposed work, the nature of the excavation to be made, if any, and the work to be done.

The plans for the work will show conditions as they are supposed or believed to exist, but it is not intended to be or inferred that the conditions as shown thereon constitute a representation or warranty, express or implied, that such conditions are actually existent, nor shall the City of Los Angeles or (Owner) be liable for any loss sustained by the Contractor as a result of any variance between conditions as shown on the plans and the actual conditions revealed during the progress of the work, or otherwise.

PROJECT COMPLETION
Project must be completed within _________ calendar days of notice to proceed.

FACILITY OCCUPATION
Contractor should be aware that the premises will be continually occupied by the Owner. Therefore, communication and coordination between the Contractor and Owner is imperative. Accordingly, there will be some degree of coordination required between Owner and Contractor in other areas, including, but not limited to: site security and construction barricades, safety assurance, control of dust and noise, interruption of power and utilities.
INSURANCE
The following insurance coverage will be required of the approved Contractor (and sub-contractors, if required) as evidenced by ACORD certificates: General Comprehensive Liability, including Bodily Injury and Property Damage, combined Single Limit, subject to higher limits as determined by the (Owner). Coverages shall include Premises and Operations, Contractual Liability, Independent Contractors and Products/Completed Operations in the combined amount of $1,000,000. Workers’ Compensation, providing coverage as required by the California Workmen’s Compensation Law; Professional Liability if design is part of the scope; and Builders’ Risk Property Damage at a rate of $1,000,000.

PERMITS
The successful bidder must obtain the necessary permits from the City of Los Angeles (including but not limited to Dept. of Building and Safety) prior to starting any work. Proof of permit must be given to the Owner prior to the start of any work. Additional information can be obtained at http://ladbs.org/LADBSWeb/public-home.jsf.
BID PUBLICATIONS

The following publications have been used by previous bidders and were verified as acceptable sources of outreach. The City of Los Angeles does not recommend nor endorse any publication. This is not an all-inclusive list of acceptable publications.

CONSTRUCTION MARKET DATA
www.cmdgroup.com

DAILY BREEZE
http://dailybreeze.kaango.com/
5215 Torrance Blvd.
Torrance, CA 90509
310-540-5622

DAILY NEWS
Woodland Hills, CA 91365
800-242-9747 818-713-3393
http://dailynews.kaango.com/

DODGE CONSTRUCTION NEWS/GREENSHEET
700 Flower St., Ste. 300
Los Angeles, CA 90017
888-814-0513 866-422-8279

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LOS ANGELES SENTINEL
https://lasentinel.net

LA OPINION
http://laoopinion.com/

LOS ANGELES TIMES
http://www.latimes.com/

LONG BEACG PRESS TELEGRAM
http://presstelegram.kaango.com/
(562) 499-1382

LOS ANGELES BUSINESS JOURNAL
www.labusinessjournal.com/advertise/
(323) 549-5225

MINORITY BIDDERS BULLETIN
www.goodfaitheffort.com
NOTICE TO PROSPECTIVE CONTRACTORS OR SUBCONTRACTORS PERTAINING TO NONDISCRIMINATION IN EMPLOYMENT

Los Angeles Administrative Code, Sec. 10.11.

“A. In contractual proceedings where a notice inviting proposals for the work, services, information or property required to be furnished or supplied to the City or to be sold to the City is published either in accordance with Sections 371 or 372 of the Charter of said City or is otherwise published, such notice shall specify that the provisions of Section 10.8 through 10.8.7 hereof applicable to any such notice will be part of any contract awarded by the City pursuant to such notice.”

“B. In contractual proceedings where a notice is not published as provided in subsection A, the contractor or contractors will be advised at the outset of negotiations that the provisions of subsection 10.8 through 10.8.7 hereof will be a part of any contract entered into by the City as a result of such negotiations.”


Sec. 10.8.2. All Contracts: Non-discrimination Clause.

Notwithstanding any other provision of any ordinance of the City of Los Angeles to the contrary, every contract which is let, awarded or entered into with or on behalf of the City of Los Angeles, shall contain by insertion therein a provision obligating the contractor in the performance of such contract not to discriminate in his or her employment practices against any employee or applicant for employment because of the applicant’s race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition. All contractors who enter into such contracts with the City shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor’s contract with the City.

BUSINESS INCLUSION PROGRAM (BIP)  
BUSINESS ENTERPRISE OUTREACH

In 2001, the Mayor’s Office issued Executive Directive (ED) 14 in regards to the City’s Policy on Business Inclusion Program (BIP) to help all businesses, including small-job creating businesses, have an equal opportunity to do business with the City. ED 14 is viewable at http://bca.lacity.org/site/pdf/cca/ED-14.pdf. The BIP requires a free registration to the Business Assistance Virtual Network (BAVN) http://www.labavn.org.

The City of Los Angeles offers certification of Disadvantaged Business Enterprises (DBE), Minority Business Enterprises (MBE), Women Business Enterprises (WBE) and Small Local Business Enterprises (SLBE). The main purpose of this certification program is to promote opportunities for disadvantaged, minority, women, and small, local business owners who want to participate in City contracting projects. To apply for certification for City Business Enterprise designations by following the instructions at http://labavn.org/misc/docs/BAVN_Certification.pdf. Information on LABAVN-registered companies, including various Business Enterprise-certified ones, is searchable at http://labavn.org. DBE/MBE/WBE directory is also available at http://bca.lacity.org/index.cfm?nxt=ols&nxt_body=otsindex.cfm.


The Mayor’s Office (http://www.lamayor.org/help_for_businesses) and US Department of Commerce are available to help interested MBEs, WBEs and other business enterprises.

Failure of bidder to demonstrate a good faith effort in complying with the outreach requirement may result in the bid or proposal being non-responsive and the contract may not awarded.

For further information regarding the MBE/WBE/OBE Outreach Program or the DBE Program, contact Dept. of Public Works, Bureau of Contract Administration, Office of Contract Compliance, Section Supervisor at (213) 847-2605 or email at bca.biphelp@lacity.org. Additional information is also available at: http://bca.lacity.org/index.cfm?nxt=sd&nxt_body=div_occ_sub_pd.cfm
CITY OF LOS ANGELES
SECTION 3 COMPLIANCE GUIDE

SUMMARY OF CONTRACTOR AND SUBCONTRACTOR REQUIREMENTS UNDER SECTION 3

The following requirements are described at length in this compliance guide:

1. Section 3 clause in contract
2. Good faith effort outreach to Section 3 Businesses in the service area
3. Good faith effort outreach to Section 3 Residents in the service area
4. Reporting via the Section 3 Summary Report

REFERENCES: Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u a.k.a. Section 3); implementing regulations in 24 C.F.R. 135

PURPOSE: To ensure that employment, training, contracting and other economic opportunities generated by certain HUD financial assistance be directed to:

1. Low- and very low-income persons (a.k.a. “Section 3 Residents”);
2. Business concerns that are 51% owned, or whose workforce is represented 30%, by low- and very low-income persons (a.k.a. “Section 3 Businesses”).

APPLICABILITY: Once a grantee like the City of Los Angeles receives over $200,000 combined in HOME, CDBG, ESG, HOPWA, and other applicable HUD funds, Section 3 applies to all covered activities undertaken by the grantee and its sub-recipients. The responsibility of complying with the requirements of Section 3 is shared with sub-recipients and contractors that receive over $100,000 on projects with a total cost exceeding $200,000.

Compliance under this guide applies to City departments, sub-recipients, contractors, and subcontractors working on construction projects awarded over $200,000 combined in HOME, CDBG, ESG, HOPWA, and other applicable HUD funds. Any contractor or subcontractor receiving a contract exceeding $100,000 must comply.

EXAMPLE: The City is planning a $250,000 project for Citywide neighborhood improvements. Various sites will be identified, and different contractors will be selected for the work on each site. One site is identified as needing $150,000 in improvements; 2 sites are identified as needing $50,000 each in improvements. The contractor awarded $150,000 will need to comply with Section 3 procedures outlined in this guide; as will their subcontractors receiving over $100,000. Contractors awarded $50,000 will not need to submit Section 3 paperwork; however, these smaller contracts are figured into the calculation of the City’s overall goals for compliance with Section 3.

EXAMPLE: The City has incorporated a $300,000 project for park improvements into the Consolidated Plan. $200,000 will be allocated for the design of the project; $100,000 for construction. If non-City contracted workforces are utilized for the design, those contractors will need to comply with Section 3 procedures outlined in this guide. If non-City contracted workforces are utilized for the construction, those contractors will not need to comply, since the amounts of their contracts will not exceed $100,000. However, the entire project is figured into the calculation of the City’s overall goals for compliance with Section 3.

GOALS:

Section 3 is not a quota. It does not require minimum percentage participation or promise of such participation in order for a contractor or sub-contractor to be considered a successful bidder. All City departments, sub-recipients, contractors, and sub-contractors must comply with Section 3 policy, in terms of applicability, good faith efforts and reporting the results of those efforts. Some results may be zero or below the City goals. The City does not believe that Section 3 conflicts with any other federal or state regulations that may prohibit quotas or local hire requirements.
The Citywide goal for all construction projects, combined, is as follows:

1. Training and employment goals: 30% of the aggregate number of new hires should be Section 3 Residents.
2. Contracting goals: 10% of all sub-contracts for building trades (a.k.a. construction) work; and 3% of all sub-contracts for all other (a.k.a. non-construction) work should be Section 3 Businesses.

DEFINITIONS:

1. Section 3 Resident: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or Non-metropolitan County in which the Section 3-covered assistance is expended. Low- (80% AMI) or very low- (50% AMI) income amounts are defined by the income levels updated annually at the following HUD Exchange page: [https://www.huduser.gov/portal/datasets/il.html](https://www.huduser.gov/portal/datasets/il.html). Use “Los Angeles-Long Beach, CA HUD Metro FMR Area”.
2. Section 3 Business: Business concerns that are 51% owned, or whose workforce is represented 30%, by low- and very low-income persons. Must be registered in the Section 3 Business Registry at: [https://portalapps.hud.gov/Sec3BusReg/BRegistry/BRegistryHome](https://portalapps.hud.gov/Sec3BusReg/BRegistry/BRegistryHome).
3. Service Area: The geographical area in which persons benefitting from the Section 3-covered project reside. For the purpose of conducting good faith efforts outreach, Service Area should not extend beyond City of Los Angeles boundaries.
4. Section 3 Covered Contract: A contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of section 3 covered assistance, or for work arising in connection with a section 3 covered project. “Section 3 covered contracts” do not include contracts awarded under HUD’s procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). “Section 3 covered contracts” also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by section 3.
REQUIREMENT 1. SECTION 3 CLAUSE

The following clause must be included in all Section 3 Covered Contracts and subcontracts for applicable construction projects—even in non-construction work contracts:

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, any notice advising the labor organization or workers’ representative of the contractor’s commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor’s obligations under 24 CFR part 135.

F. Noncompliance with HUD’s regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

The full text of the above clause must be incorporated into the contract or included as an attachment (see Page 8 of 10).
REQUIREMENT 2. GOOD FAITH EFFORT OUTREACH TO SECTION 3 BUSINESSES

Contractors and sub-contractors receiving over $100,000 for projects funded over $200,000 in HUD funds must conduct a documented good faith effort outreach to all Section 3 Businesses in the Service Area during the procurement process for all Section 3 Covered Contracts and subcontracts. Prior to the preparation of any Subcontractor List, Contractors are required to have conducted the good faith effort outreach for Section 3. Documentation must be made available upon request to the City.

HUD’s Section 3 Business Registry can be found at the following URL: https://portalapps.hud.gov/Sec3BusReg/BRegistry/BRegistryHome.

To search a business in the above registry:

1. Select the location in which you are searching Section 3 Businesses
   a. Select the drop down box to choose the state
   b. Select the drop down for the county. The list will be automatically populated with counties from the state selected previously.
   c. Select the city. The list will be automatically populated with the cities from the county you selected.
   d. Select the zip code.

2. Select the type of Section 3 Businesses that you are seeking: Brick Masonry, Carpentry, Electrical, General Contractor, HVAC, IT, Janitorial, Landscaping, Lead Hazard Control, Maintenance, Painting/Drywall, Plumbing, Security, or Other

3. Click “Search for a Business”

4. Search Results Will Be Generated for the Criteria Entered

5. Search results can be exported to an Excel spreadsheet to allow users to send mass mailings to all Section 3 Businesses in the project Service Area.

Section 3 contracting goals for the City are 10% of all construction sub-contracts and 3% of all non-construction sub-contracts. Contractors must direct efforts to provide, to the greatest extent feasible, contracting opportunities to Section 3 Businesses. Per a HUD FAQ on the subject (https://www.hud.gov/offices/fheo/section3/FAQ08.pdf, Item 35):

“Does preference to a Section 3 business mean that the business should be selected if it meets the technical requirements of the bid, regardless of bid price?

No. As provided in 24 CFR 85.36(b) (8), contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. The determination that a prospective contractor is responsible must include consideration of the firm’s compliance with technical and public policy requirements. Preference to Section 3 business concerns means that a recipient’s or contractor’s procurement procedures include methods to provide preference to Section 3 business concerns. Accordingly, if a Section 3 business concern is a responsible bidder, but their bid price is slightly higher than a non-Section 3 firm, the recipient agency can give preference to the Section 3 business in an effort to meet its numerical goals annually.”

Good-faith outreach efforts for should be provided in the following priority:

1. Section 3 Business concerns that provide economic opportunities for Section 3 Residents in the service area or neighborhood in which the Section 3-covered project is located;
2. Applicants selected to carry out HUD Youthbuild programs;
3. Other Section 3 Business concerns (in other words, those providing economic opportunities to Section 3 Residents outside of the project Service Area).
REQUIREMENT 3. GOOD FAITH EFFORT OUTREACH TO SECTION 3 RESIDENTS

Contractors and sub-contractors receiving over $100,000 for projects funded over $200,000 in HUD funds must conduct documented outreach to Section 3 residents during the hiring process for new hires, on all construction projects related to Section 3 Covered Contracts and sub-contracts. Documentation must be made available upon request to the City.

At a minimum, the following must occur:

1. Contractors must prepare a notice advising of the contractor’s procedural obligations under Section 3, and describing the Section 3 preference (a.k.a. good-faith effort outreach).
   a. The notice must include the minimum number and job titles subject to hire under each Section 3-covered activity, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
   b. Send the notice to each labor organization or representative of workers (if any) with which the contractor has a collective bargaining agreement or other understanding.
   c. Post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice.
   d. Send the notice to all HACLA housing projects in the project Service Area.
      [Link]
   e. Send the notice to the City’s network of WorkSource Centers.
      [Link]

Contractors and subcontractors must document all efforts to outreach to Section 3 Residents, including recipients of the notice, proof of delivery or posting, and notifications sent to HACLA sites and WorkSource centers.

Contractors and subcontractors must direct efforts to provide, to the greatest extent feasible, training and employment opportunities to Section 3 Residents. Good-faith outreach efforts for should be provided in the following priority:

1. Section 3 Residents residing in the Service Area or neighborhood in which the Section 3-covered project is located;
2. Participants in HUD Youthbuild programs;
3. Other Section 3 Residents (in other words, Section 3 residents outside of the project Service Area);
4. If Stewart B. McKinney Homeless Assistance Act funds are used, homeless persons in the project Service Area or neighborhood should be given highest priority.
REQUIREMENT 4. REPORTING VIA SECTION 3 SUMMARY REPORT

City departments, sub-recipients, contractors, and subcontractors must submit Section 3 data before retention funds can be drawn down for any given activity. A SECTION 3 SUMMARY REPORT must be completed for the period in question.

Even though the Section 3 Good Faith Effort Outreach components only apply to contractors and subcontractors receiving over $100,000 for projects funded over $200,000 in HUD funds, HCIDLA expects each City Department or sub-recipient to collect data from every contractor and subcontractor for actual hire and contracting resulting from applicable projects. This is due to the fact that the City is responsible for meeting Section 3 employment and contracting goals against all funded construction projects, and needs actual data to report against those goals.

Note: although good-faith effort outreach should be limited to the project’s Service Area, reporting of actual data must include all Section 3 Residents hired and Section 3 Businesses contracted.

The following provides detailed instructions on how to complete the Section 3 Summary Report, a sample of which is included at the back of this package. An Excel file for the Section 3 Summary Report can be provided upon request.

Part I: New Employee Hires:

Direct recipients must compile data for all of the new employees that were hired as a result of the expenditure of the funding selected during the reporting period.

a. New hires are broken out by the following job categories:
   i. Administrative
   ii. Carpentry
   iii. Case Management
   iv. Clerical
   v. Electrical
   vi. Facilities/Maintenance
   vii. Masonry
   viii. Plumbing
   ix. Professional
   x. Technical (Bookkeeping, IT, etc.)
   xi. Other-Describe – Note, the individual filling out the form must input a description if data is reported under this job category.

b. Report all new hires under each job category

c. Report which of the new hires reported in “B” are Section 3 Residents, for each job category. Section 3 Residents are defined by the income levels updated annually at the following HUD Exchange page: https://www.huduser.gov/portal/datasets/il.html.

d. Number of Section 3 trainees. Apprentices would also be reported here.

Part II: Contracts

Information is sub-divided by Construction Contracting and Non-Construction Contracting. Non-Construction contracts are professional services contracts that are associated with construction projects (examples include: architecture, engineering, site preparation, legal, window).

1. Construction Contracts
   a. Total dollar amount of construction contracts awarded during the reporting period. The total amount should include both HUD and leveraged amounts.
   b. Dollar amount of construction contracts awarded to Section 3 Businesses during the reporting period. The amount entered should reflect both HUD and leveraged amounts. The Section 3 Business Registry can be used for this purpose.
c. Percentage of dollar amounts for construction contracts that were awarded to Section 3 businesses.

d. Number of Section 3 Businesses that received the construction contracts included in the report.

2. Non-Construction Contracting

a. Total dollar amount of non-construction contracts awarded during the reporting period. The total amount should include both HUD and leveraged amounts.

b. Dollar amount of non-construction contracts awarded to Section 3 Businesses during the reporting period. The amount entered should reflect both HUD and leveraged amounts. The Section 3 Business Registry can be used for this purpose.

c. Percentage of dollar amounts for non-construction contracts that were awarded to Section 3 businesses.

d. Number of Section 3 Businesses that received the non-construction contracts included in the report.

Part III: Summary

Check all that apply to good faith outreach efforts made to Section 3 residents and businesses.
SECTION 3 CONTRACT CLAUSE FOR THIS CONTRACTOR

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, a notice advising the labor organization or workers’ representative of the contractor’s commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor’s obligations under 24 CFR part 135.

F. Noncompliance with HUD’s regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
CERTIFICATION

The Contractor, by authorized signature(s) affixed hereto, declares under penalty of perjury that:

1. The City of Los Angeles Section 3 Compliance Guide has been received and the requirements outlined herein acknowledged;
2. The Section 3 Contract Clause for this Contractor (preceding page) has been signed by an authorized signatory;
3. The Section 3 Contract Clause will be included in all future subcontracts executed as a result of this project;
4. Good Faith Effort Outreach to Section 3 Businesses will be carried out and documented as outlined in the Section 3 Compliance Guide;
5. Good Faith Effort Outreach to Section 3 Residents will be carried out and documented as outlined in the Section 3 Compliance Guide;
6. A Section 3 Summary Report (attached and incorporated herein) will be submitted for all hires and contracting that were conducted as a result of this project; retention funds for this activity will not be released until all reporting has been received on the Section 3 Summary Report.

<table>
<thead>
<tr>
<th>PROJECT NAME</th>
<th>PROJECT ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONTRACTOR/COMPANY/AGENCY</td>
<td>SIGNATURE AUTHORIZED REPRESENTATIVE</td>
</tr>
<tr>
<td>NAME OF AUTHORIZED REPRESENTATIVE</td>
<td>DATE</td>
</tr>
<tr>
<td>TITLE OF AUTHORIZED REPRESENTATIVE</td>
<td></td>
</tr>
</tbody>
</table>

Page 9 of 10
## Section 3 Summary Report

Economic Opportunities for Low- and Very Low-Income Persons

<table>
<thead>
<tr>
<th>Project Name</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reporting Period</td>
<td>April 1, ______ through March 31, ______</td>
</tr>
<tr>
<td>Project Address</td>
<td></td>
</tr>
<tr>
<td>Contractor Name (or Non-Profit/City Department completing form)</td>
<td></td>
</tr>
<tr>
<td>Contact Person</td>
<td></td>
</tr>
<tr>
<td>Contact Tel. #</td>
<td></td>
</tr>
<tr>
<td>Contact E-mail</td>
<td></td>
</tr>
<tr>
<td>Project Award/Contract Amount</td>
<td></td>
</tr>
<tr>
<td>Date of this Report</td>
<td></td>
</tr>
</tbody>
</table>

### Part I: New Employee Hires

<table>
<thead>
<tr>
<th>A. Job Category</th>
<th>B. # of New Hires</th>
<th>C. # Sec. 3 New Hires</th>
<th>D. # Sec. 3 Trainees (a.k.a. Apprentices)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carpentry</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Case Management</td>
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<td></td>
<td></td>
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<tr>
<td>Clerical</td>
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<td></td>
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<tr>
<td>Electrical</td>
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<td></td>
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<tr>
<td>Facilities/Maintenance</td>
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<tr>
<td>Masonry</td>
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<tr>
<td>Plumbing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technical (Bookkeeping, IT, etc.)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other - Describe</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Part II: Contracts

1. Please complete items 1.A through 1.D with regards to Construction Contracts
   
   A. Total $ awarded to all contracts
   
   B. Total $ awarded to Sec. 3 business
   
   C. % of dollar amounts awarded to Sec. 3
   
   D. # of Section 3 Businesses awarded

2. Please complete items 2.A through 2.D with regards to Non-Construction Contracts
   
   A. Total $ awarded to all contracts
   
   B. Total $ awarded to Sec. 3 business
   
   C. % of dollar amount awarded to Sec. 3
   
   D. # of Section 3 Businesses awarded

### Part III: Summary

*Check all that apply to outreach efforts made to Section 3 residents and businesses*

- Notice of job opportunities sent to applicable labor organizations, posted at worksites, and sent to HACLA Housing Projects & WorkSource Centers
  
  - Yes

- Searched HUD Section 3 Business Registry & used results to outreach to Section 3 businesses.
  
  - Yes

- Other Efforts (Describe)

Signature of Person Completing Form

---

Page 10 of 10
AFFIRMATION of Section 3 Good Faith Effort Outreach  
(Businesses and Residents)

By checking any applicable boxes below, I affirm my compliance with the Section 3 Good Faith Effort Outreach:

Contracting and Sub-contracting (Good Faith Effort Outreach to Businesses)

☐ No Good Faith Effort Outreach required; no contracts over $100,000 are needed to complete the scope of work or all work to be completed by City forces.

☐ A Good Faith Effort Outreach has been conducted for all contractors and sub-contractors identified on the Subcontractor List.

Hiring (Good Faith Effort Outreach to Residents)

☐ No new hires are needed to complete the scope of work (estimated current number of employees of subrecipient and all contractors and sub-contractors working on this job is ________).  

☐ New hires will be needed to complete the scope of work. A notice of all anticipated job opportunities will be posted as required by the City's Section 3 Guidelines.

☐ A copy of the notice is attached. This notice will be sent to each labor organization with which we have a collective bargaining agreement; posted in conspicuous places at the work sites; sent to all HACLA housing projects in the Service Area; and sent to the City's network of WorkSource Centers.

Project Name: ____________________________________________________________

Non-Profit Name: _________________________________________________________

Managing City Department: _________________________________________________

Signatory Name (Print): ___________________________________________________

Signature: ___________________________________________________________________
1. Go to https://portalapps.hud.gov/Sec3BusReg/Registry/RegistryHome or simply search "Section 3 Business Registry" using any search engine. The first choice that comes up in the search should be the HUD Portal:

2. Once on the HUD Section 3 Business Registry page, click on "Search for a Business":

City of Los Angeles
Section 3: Searching the Section 3 Business Registry

[Image of Google search for "section 3 business registry"
and HUD Portal]

[Image of HUD Section 3 Business Registry page]

K:\\3526-ConPlan\Section 3\NEW 2016 SECTION 3 POLICY\Section 3 Business Registry Instructions.docx
3. Once on the search page, select the drop down box to choose the state:

4. Select the drop down box to choose the county:
5. Select the drop down box to choose the city:

https://portalapps.hud.gov/H32BReg/Region/UpdateBusinessAction

HUD.GOV
U.S. Department of Housing and Urban Development
Secretary Julián Castro
Section 3 Business Registry

Search for a Business

What is the Section 3 Business Registry

Search for Section 3 Self Certified Businesses

Select Your State

Select Your City

Select Your Zip Code

Brick Masonry
Carpentry
Electrical
General Contractor
IT
Janitorial
Landscaping
Land Hazard Control
Painting/Dry Wall
Plumbing
Security
Other

Only Show Businesses That are Hiring:

Search for a Business

Search results for Business

Business Name
Business Address
Business Phone
Business Fax

Disclaimer:

HUD has not verified the information submitted by businesses listed in this registry and does not assume any liability for errors or omissions in the information. Users of this database are strongly encouraged to perform due diligence by verifying the information with the Department. Users of this database are strongly encouraged to perform due diligence by verifying the information with the Department.

6. Select a specific zip code, or, to search all of Los Angeles, keep the menu as “None Selected”:

https://portalapps.hud.gov/H32BReg/Region/UpdateBusinessAction

HUD.GOV
U.S. Department of Housing and Urban Development
Secretary Julián Castro
Section 3 Business Registry

Search for a Business

What is the Section 3 Business Registry

Search for Section 3 Self Certified Businesses

Select Your State

Select Your Country

Select Your City

Select Your Zip Code

Brick Masonry
Carpentry
Electrical
General Contractor
IT
Janitorial
Landscaping
Land Hazard Control
Painting/Dry Wall
Plumbing
Security
Other

Only Show Businesses That are Hiring:

Search for a Business

Search results for Business

Business Name
Business Address
Business Phone
Business Fax

Disclaimer:

HUD has not verified the information submitted by businesses listed in this registry and does not assume any liability for errors or omissions in the information. Users of this database are strongly encouraged to perform due diligence by verifying the information with the Department. Users of this database are strongly encouraged to perform due diligence by verifying the information with the Department.
7. Select the type of Section 3 Business that you are seeking. In this example, “General Contractor is selected. Once you've selected the appropriate business types, click the green “Search For Business” button:

8. Search results will be generated for the criteria entered:

9. If desired, click on “Export results to Excel” to create a spreadsheet for mass-mailings.
Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development
Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development

1.0 Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development (HUD).

1.1 Contract Adjustments. Notwithstanding any other term or condition of this Agreement, any settlement or equitable adjustment due to termination, suspension or delays by the Owner shall be negotiated based on the cost principles stated at 48 CFR Subpart 31.2 and conform to the Contract pricing provisions of 24 CFR 85.36 (f).

1.2 Additional Services. The Owner shall perform a cost or price analysis as required by 24 CFR 85.36 (f) prior to the issuance of a contract modification/amendment for Additional Services. Such Additional Services shall be within the general scope of services covered by this Agreement. The Design Professional shall provide supporting cost information in sufficient detail to permit the Owner to perform the required cost or price analysis.

1.3 Restrictive Drawings and Specifications. In accordance with 24 CFR 85.36(c)(3)(i) and contract agreements between the Owner and HUD, the Design Professional shall not require the use of materials, products, or services that unreasonably restrict competition.

1.4 Design Certification. Where the Owner is required by federal regulations to provide HUD a Design Professional certification regarding the design of the Projects (24 CFR 968.235), the Design Professional shall provide such a certification to the Owner.

1.5 Retention and Inspection of Records. Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the Owner, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific contract for the purpose of making an audit, examination, excerpts, and transcription. All required records shall be retained for three years after the Owner or Design Professional and other subgrantees make final payments and all other pending matters are closed.

1.6 Copyrights and Rights in Data. HUD has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. HUD requirements, Article 45 of the General Conditions to the Contract for Construction (form HUD-5370) requires that contractors pay all royalties and license fees. All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfill the requirements of the construction contract.

1.7 Conflicts of Interest. Based in part on federal regulations (24 CFR 85.36(b)) and Contract agreement between the Owner and HUD, no employee, officer, or agent of the Owner (HUD grantee) shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when:

(i) The employee, officer or agent, 
(ii) Any member of his or her immediate family, 
(iii) His or her partner, or
(iv) An organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee’s or subgrantee’s officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, or parties to sub-agreements. Grantees and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee’s and subgrantee’s officers, employees, or agents or by Contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Neither the Owner nor any of its contractors or their subcontractors shall enter into any Contract, subcontract, or agreement, in connection with any Project or any property included or planned to be included in any Project, in which any member, officer, or employee of the Owner, or any member of the governing body of the locality in which the Project is located, or any member of the governing body of the locality in which the Owner was activated, or in any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his/her tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the Owner, or any such governing body member or such other public official of such locality or localities involuntarily acquires or has acquired prior to the beginning of his/her tenure any such interest, and if such interest is immediately disclosed to the Owner and such disclosure is entered upon the minutes of the Owner, the Owner, with the prior approval of the Government, may waive the prohibition contained in this subsection: provided, That any such present member, officer, employee of the Owner shall not participate in any action by the Owner relating to such contract, subcontract, or arrangement.
No member, officer, or employee of the Owner, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the Owner was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof.

1.8 Disputes. In part because of HUD regulations (24 CFR 85.36(i)(1)), this Design Professional Agreement, unless it is a small purchase contract, has administrative, contractual, or legal remedies for instances where the Design Professional violates or breaches Agreement terms, and provide for such sanctions and penalties as may be appropriate.

1.9 Termination. In part because of HUD regulations (24 CFR 85.36(i)(2)), this Design Professional Agreement, unless it is for an amount of $10,000 or less, has requirements regarding termination by the Owner when for cause or convenience. These include the manner by which the termination will be effected and basis for settlement.

1.10 Interest of Members of Congress. Because of Contract agreement between the Owner and HUD, no member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this Contract or to any benefit to arise from it.

1.11 Limitation of Payments to Influence Certain Federal Transaction. The Limitation of Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions Act, Section 1352 of Title 31 U.S.C., provides in part that no appropriated funds may be expended by recipient of a federal contract, grant, loan, or cooperative agreement to pay any person, including the Design Professional, for influencing or attempting to influence an officer or employee of Congress in connection with any of the following covered Federal actions: 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.


A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the contractor’s commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor’s obligations under 24 CFR part 135.

F. Noncompliance with HUD’s regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. Reserved.

H. Reserved.

1.13 Reserved.

1.14 Clean Air and Water. (Applicable to contracts in excess of $100,000). Because of 24 CFR 85.36(i)(12) and federal law, the Design Professional shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. § 1857h-4 transferred to 42 USC § 7607, section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), on all contracts, subcontracts, and subgrants of amounts in excess of $100,000.
1.15 Energy Efficiency. Pursuant to Federal regulations (24 C.F.R 85.36(j)(13)) and Federal law, except when working on an Indian housing authority Project on an Indian reservation, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-153 codified at 42 U.S.C.A. § 6321 et. seq.).

1.16 Prevailing Wages. In accordance with Section 12 of the U.S. Housing Act of 1937 (42 U.S.C. 1437j) the Design Professional shall pay not less than the wages prevailing in the locality, as determined by or adopted (subsequent to a determination under applicable State or local law) by the Secretary of HUD, to all architects, technical engineers, draftsmen, and technicians.

1.17 Non-applicability of Fair Housing Requirements in Indian Housing Authority Contracts. Pursuant to 24 CFR section 905.115(b) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), which prohibits discrimination on the basis of race, color or national origin in federally assisted programs, and the Fair Housing Act (42 U.S.C. 3601-3620), which prohibits discrimination based on race, color, religion, sex, national origin, handicap, or familial status in the sale or rental of housing do not apply to Indian Housing Authorities established by exercise of a Tribe’s powers of self-government.

1.18 Prohibition Against Liens. The Design professional is prohibited from placing a lien on the Owner’s property. This prohibition shall be placed in all design professional subcontracts.
Executive Order 11246

SOURCE: The following is the text of Executive Order 11246 of September 28, 1965, as it appears at 30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p.339, unless otherwise noted.

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

Part I — Nondiscrimination in Government Employment


Part II - Nondiscrimination in Employment by Government Contractors and Subcontractors

Subpart A - Duties of the Secretary of Labor

SEC. 201. The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.


Subpart B - Contractors' Agreements

SEC. 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

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

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

2. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.” [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 203.

a. Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.
b. Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

c. Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency’s practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

d. The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer’s practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.


SEC. 204

a. The Secretary of Labor may, when the Secretary deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order.

b. The Secretary of Labor may, by rule or regulation, exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve
subcontracts below a specified tier.

c. Section 202 of this Order shall not apply to a Government contractor or subcontractor that is a religious corporation, association, educational institution, or society, with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are not exempted or excused from complying with the other requirements contained in this Order.

d. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor that are in all respects separate and distinct from activities of the contractor related to the performance of the contract; provided, that such an exemption will not interfere with or impede the effectuation of the purposes of this Order; and provided further, that in the absence of such an exemption all facilities shall be covered by the provisions of this Order."

[Sec. 204 amended by EO 13279 of Dec. 16, 2002, 67 FR 77141, 3 CFR, 2002 Comp., p. 77141 - 77144]

Subpart C - Powers and Duties of the Secretary of Labor and the Contracting Agencies

SEC. 205. The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.


SEC. 206.

a. The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.

b. The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.


SEC. 207. The Secretary of Labor shall use his/her best efforts, directly and through interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in
the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.


SEC. 208.

a. The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

b. The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(6) shall be made without affording the contractor an opportunity for a hearing.

Subpart D - Sanctions and Penalties

SEC. 209. In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary may:

1. Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

2. Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

3. Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.

4. Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

5. After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal
employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.

6. Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.


SEC. 210. Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.


SEC. 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.


SEC. 212. When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of noncompliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.


Subpart E - Certificates of Merit

SEC. 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership,
grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SEC. 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

SEC. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

Part III - Nondiscrimination Provisions in Federally Assisted Construction Contracts

SEC. 301. Each executive department and agency, which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.


SEC. 302.

a. "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

b. The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the
contracting agency referred to therein.

c. The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he/she becomes a recipient of such Federal assistance.

SEC. 303.

a. The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.

b. In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings.

c. In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.


SEC. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: Provided, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

Part IV - Miscellaneous

SEC. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.
SEC. 402. The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

SEC. 403.

a. Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Office of Personnel Management and the Secretary of Labor, as appropriate.

b. Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

SEC. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

SEC. 405. This Order shall become effective thirty days after the date of this Order.

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. 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 29 CFR 5.5(a)(1)(iv); 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 contained in 29 CFR 5.5(a)(1)(ii) 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.

(ii) (a) Any class of laborers or mechanics 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. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
2. The classification is utilized in the area by the construction industry; and
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee 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 HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, 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.

(ii) 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.

(iv) 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. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee 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. HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, 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. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (1) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work 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. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. 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/wd/forms/wi347instr.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 HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, 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 subparagraph 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 HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

(i) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete.
(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) 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.

(e) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the Statement of Compliance required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1901 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee 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, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, 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.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman’s hourly rate) specified in the contractor’s or subcontractor’s registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice’s level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits 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 recognizes 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.

(ii) Trainees. 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 the ratio 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 journeymen 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 journeymen 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

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the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the 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.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

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 will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses 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 this paragraph.

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, 8, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility. 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) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of ... influencing in any way the action of such Administration,... makes, utters or publishes any statement knowing the same to be false.... shall be fined not more than $5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds $100,000. 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 permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 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 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, 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 subparagraph (1) of this paragraph, 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 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.
(3) Withholding for unpaid wages and liquidated damages. HUD or its designee 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 contract, 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 subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph 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 subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds $100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.
CAUTION: Users should note that the only WDs applicable to a particular solicitation or contract are those that have been incorporated by the contracting officer in that contract action.

Selecting DBA Wage Decisions

Select DBA WD by number:

CA 33  (Enter WD number in the following format: two letter abbreviation for the state and the number of the WD. For example, VA3, NOT VA030003 or MD150 NOT MD030150.)

Search

OR

By Selection criteria beginning with:

State: CALIFORNIA  
County: Los Angeles  
Construction Type: All Construction Types (Types of Construction Under DBA)

WD Number: CA3  

Search

Back
January 4, 2017

IMPORTANT NOTICE
TO AWARDING BODIES AND INTERESTED PARTIES REGARDING
THE PREVAILING WAGE RATES BELOW THE CALIFORNIA MINIMUM WAGE

In accordance with Labor Code Sections 1770, 1773, and 1773.1, the Director of the Department of Industrial Relations is responsible for determining the prevailing wage rates for each worker employed on public works projects of more than one thousand dollars ($1,000). Under Labor Code Section 1773.9, the prevailing rate is defined as the basic hourly rate being paid to a majority of workers engaged in a particular craft, classification or type of work within the locality and in the nearest labor market.

Effective on January 1, 2017, the Director’s prevailing wage determinations shall not be below the California minimum wage of $10.50 per hour. Each employer is required to pay at least the California minimum wage, $10.50, for the basic hourly rate in all cases where the published prevailing wage rate is below the California minimum wage. Any and all employer payments required by these determinations must also be paid.

If the California minimum wage is increased in the future to an amount above that shown in a prevailing wage determination, the basic hourly rate in that determination automatically increases to the new minimum wage.
Director's General Prevailing Wage Determinations

- 2016-2 General prevailing wage determinations menu (journeyman)
- 2016-2 General prevailing wage apprentice determinations menu
- Superseded prevailing wage determinations
- Residential prevailing wage determinations
- Important notices (index 2006-1 to present)
- Important notice: off-site fabrication decisions on appeal
- Frequently asked questions - Prevailing Wage
- Frequently asked questions - Off-Site Hauling
- Still have questions on prevailing wage?

September 2016
**Apprentices**: Contractors employing apprentices, or trainees, must not only maintain evidence of the registration of the apprentices and trainees under an approved program registered with the U.S. Department of Labor (https://www.dol.gov/ebsa/apprenticeshipplans.html) and State Apprenticeship Program (https://www.dir.ca.gov/apprenticeship.html), but also provide evidence of the ratio and wage rates prescribed by the applicable program.

**Apprenticeship Ratio**: The allowable ratio of apprentices to journeyman on the job site, as well as for each contract (in cases of a contractor working on multiple contracts at one time) shall not be greater than the ratio permitted to the contractor for the entire workforce.

A working foreman, supervisor, or owner may be counted as a journeyman for ratio purposes. The contractor must furnish written evidence of the allowable ratio and apprentice wage rates, as well as a copy of the registrations for any apprentices to be employed.

**Unregistered Apprentices**: Any employee listed on a payroll at an apprentice wage rate who is not a bona fide registered or probationary apprentice shall be paid the wage rate for the classification of work he actually performed. However, the fact that a worker is listed on the payrolls as an apprentice in a particular craft and paid an apprentice wage rate for that craft does not, in itself, mean that he performed only the work of, or used only the tools of, the craft in which he is an unregistered apprentice, and it does not mean that he must be compensated only at the contract rate for that craft classification. He may actually be performing work as a laborer or in another craft classification.

**Employment of Apprentices by More than One Employer**: Employment of a properly registered apprentice by more than one employer does not affect his status. The transfer of apprentices from one employer to another to provide varied work and training is an accepted construction industry practice.

Also read Apprentices on public work projects summary of requirements
https://www.dir.ca.gov/das/DASApprenticesOnPublicWorksSummaryOfRequirements.htm
California Labor Code Section 1777.5
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=1777.5
1. Agreement/Reference All bonds must identify the nature of your business with the City. Clearly show any assigned number of a contract, lease, permit, etc., or give the project name and the job site or street address to ensure that your submission will be properly credited.

2. When to submit Normally, no work may begin until the bond Certificate Approval number ("CA number") has been obtained. Bond documents should be submitted as early as practicable.

3. Acceptable Evidence Bond forms are available directly from the City department requiring the bond, or you may obtain bond forms (interactive) from http://cao.lacity.org/risk/BondForms.htm.

Instructions for executing bond documents for the City are available at: http://cao.lacity.org/risk/BondDocExecutionInstructions.pdf

4. Bond Document Approval Electronic submission is the preferred method of submitting bond documents for approval.

Completed bond documents should be sent electronically to the Office of the City Administrative Officer, Risk Management (CAO.insurance.bonds@lacity.org). Submissions other than via email will delay the approval process, as bond documents will have to be manually processed.

Please note: Certain original bond documents, such as Department of Building and Safety Grading Bonds, must be submitted directly to the Office of the City Administrative Officer, Risk Management Division, 200 North Main Street, Room 1240, Los Angeles, CA 90012, for approval.

Verification of all approved bonds may be obtained by checking Track4LA™, the City’s online insurance and bond compliance system, at http://track4la.lacity.org.
EXECUTION INSTRUCTIONS FOR BOND SUBMITTALS

Note: All signatures (principal and surety) are required to be notarized (preferably on separate acknowledgement form if in California).

Incomplete or incorrect execution will result in delay of processing your documents. For quick reference, the City of Los Angeles has outlined the following instructions on what we are looking for when reviewing your documents. According to the type of entity of the business, please see what signature(s) and paperwork will be required to process your bond.

INDIVIDUALS

Example: (Name of Individual dba (Name of Company)
John Doe dba John Doe Construction

Signature(s) are required to be notarized. (Preferably on separate acknowledgement form if in California).

LLC (Limited Liability Company), TRUST AGREEMENTS, POWER-OF-ATTORNEY’S AND NON-PROFITS

Please provide a copy of the above documents, showing that the person(s) listed on the bond are authorized to sign on behalf of the company or individual. All persons listed and signing bond must have signatures acknowledged by a Notary Public (preferably on separate acknowledgement form if in California).

PARTNERSHIPS/LIMITED PARTNERSHIPS

At least one general partner must sign the bond. All persons listed and signing bond must have signatures acknowledged by a Notary Public (preferably on separate acknowledgement form if in California).

JOINT VENTURES

All persons in the Joint Venture agreement must sign the bond. All persons listed and signing bond must have signatures acknowledged by a Notary Public (preferably on separate acknowledgement form if in California).

CORPORATIONS

Must have signatures from at least two officers listed on bond, or one person may hold more than one office (two offices).
Example of acceptable corporate signatures include: Chairman of the Board, President, Vice President, Secretary or Assistant Secretary, Chief Financial Officer or Assistant Chief Financial Officer, Treasurer or Assistant Treasurer, et al.

An authorized agent may also sign for corporation, provided that a certified copy of the Board Resolution for the company is furnished, authorizing such person to execute the document on behalf of the corporation or sign alone.

Rev. 6/9/2015
ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of November 15, 2016

Title 2 — Subtitle A — Chapter II — Part 200 — Subpart D — Subject Group

Title 2: Grants and Agreements
PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS
Subpart D—Post Federal Award Requirements

PROCUREMENT STANDARDS

§200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow §§200.318 General procurement standards through 200.326 Contract provisions.

§200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity’s procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.213 Suspension and debarment.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.


§200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or Invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic
location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.


§200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local and tribal governments, the invitation for bids must be publicaly advertised;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in
determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate.


§200.321 Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.


§200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency’s right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§200.326 Contract provisions.

The non-Federal entity’s contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.
§200.67 Micro-purchase.

Micro-purchase means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of a non-Federal entity's small purchase procedures. The non-Federal entity uses such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). It is $3,000 except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation.


In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity, including the manner by which it will be effected and the basis for settlement.


(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to mechanics and laborers at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Cope Land "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subcontractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q,) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q,) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235). "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.


GENERAL PROVISIONS GUIDE FOR SELECTED BIDDER'S CONTRACT

Note: You may also use the American Institute of Architects (AIA A101 & 201) General Provisions as a guide.
https://www.aiacontracts.org/

1. DEFINITIONS
The following terms as used in the selected bidder’s contract shall be defined and interpreted as follows:

(a) “Agency”: That non-profit corporation or project site owner named ___[Owner]____ or its authorized representative.
(b) “Contractor”: The person, firm or corporation to whom this Contract is awarded by the Agency and who is a party thereto.
(c) “Subcontractor”: Any person, firm or corporation, other than an employee of the Contractor, supplying for and under agreement with either the Contractor or any subcontractor of the Contractor, labor or materials, or both, with this Contract.
(d) “Project”: The structure or improvement to be constructed in whole or in part through the performance of this contract.
(e) “Plan” or “Plans”: Any and all plans, maps, profiles, drawings, sketches, charts, specifications or schedules furnished by the Agency, and on which are detailed or delineated the location or instructions regarding the work to be done.
(f) “Work”: Labor or materials, or both; or the complete Contract work.

2. NOTICE
Any notice required to be given to the Contractor may be given by delivering said notice, or a copy thereof, to the Contractor in person. If he cannot be found with reasonable diligence, the posting of a copy of said notice in a conspicuous place at the site of the work shall be sufficient.

3. AUTHORITY OF THE AGENCY
The Agency shall decide, within the provision of the Plans, all questions which may arise concerning the quality or acceptability of materials furnished or work provided.

4. ADDENDA AND BULLETINS
Any Addenda or Bulletins issued during the time of bidding shall form a part of the Instructions to Bidders, drawings, or specifications; shall be reflected in the Contractor’s proposal; and shall be part of the Contract.

5. MANDATORY PROVISIONS
Any mention or indication on the plans for this Work or articles, materials, operations, or methods requires that the Contractor provide each item mentioned or indicated, or quality or subject to qualifications noted; perform, according to conditions stated, each operation prescribed; and provide therefore, all necessary labor, equipment and incidentals, even though such mention of articles, materials, operations, methods, quality, qualifications or conditions is not expressed in complete sentences.

6. INTERPRETATION OF PLANS
(a) Every part of the Work, as shown on the drawings and described in the specifications, must be complete and finished. No deviations are to be made from the drawings or specifications without previous written authorization from the Agency.
(b) Any work called for on the drawings and not mentioned in the specifications, or vice versa, shall be performed as though fully set forth in both.
(c) The drawings must be accurately followed as to scale, except where figures are given for
dimensions, which shall in all cases be taken in preference to scale measurements.

(d) In the case of differences between the specifications and the drawings, the specifications shall govern.

7. **ACCURACY OF PLANS**
   (a) Omissions from the plans and specifications shall not relieve the Contractor from the responsibility of furnishing, making or installing all items required by law.
   (b) The plans show conditions as they are supposed or believed by the Agency to exist. It is not intended or to be inferred that the conditions as shown thereon constitute a representation or warranty, expressed or implied, that such conditions are actually existent.

8. **REFERENCE TO TRADE NAMES**
   (a) Whenever in the specifications, any material or process is indicated or specified by patent or proprietary name or by name of manufacturer, such specifications shall be deemed to be used for the purpose of facilitating description of the material or process desired, and shall be deemed to be followed by the words “or equivalent”.
   (b) If the Contractor shall submit for approval a material which, in the opinion of the Agency, is inferior to that specified, it shall be incumbent upon the Contractor to furnish sufficient evidence to support his claim of equality.

9. **FAMILIARITY WITH PLANS AND SPECIFICATIONS**
   (a) It shall be the responsibility of the Contractor to be so thoroughly familiar with all details of the project, including the work of his own forces and of all subcontractors, that the following shall be called to the attention of the Architect or Agency for instructions before an error is made on the job such as:
     1) Errors and omissions in the drawings and specifications.
     2) Work shown on the drawings or in the specifications which, if so constructed, would result in confusion or interference with other work or the work of other trades, including the location of fixtures or equipment.
   (b) Changes in the contract amount will not be approved for the cost of correcting work where such work could have been avoided by proper examination of the drawings and specifications by the Contractor and the work held in abeyance pending instructions from the Agency.

10. **TIME FOR COMMENCING AND COMPLETING WORK**
    (a) The Contractor shall commence the work required by this Contract within ____ calendar days of date specified in notice from the Agency to proceed with the work and shall complete the work within ____ calendar days of said date.
    (b) The Agency may order or permit the Contractor to suspend any work that may be damaged by inclemency of the weather, or other climatic conditions, and time extensions will be made to the Contractor for the time actually lost by him on account of such suspension.
    (c) Should the Contractor be obstructed or delayed in the commencement, prosecution, or completion of the work hereunder by any necessary or unavoidable act or delay of the Agency, or unavoidable acts or delays on the part of railroads in transporting material consigned to said Agency, or by riot, insurrections, war pestilence, acts of public authorities, fire, lightning, earthquake, cyclone, or through any default of other parties under contract with said Agency, and if in the opinion of the Agency the ultimate completion of all work under this Contract shall be extended for a period equivalent to the time said work is delayed.
    (d) Any and all extensions or time granted under the provisions of these specifications shall not release the sureties on the bonds accompanying the Contract for the work required. Said bonds shall remain in full force and effect until completion of the Contract.
11. **LIQUIDATED DAMAGES**
Should the Contractor fail to complete the work within the time specified in Section 10 of these General Provisions, or within a stipulated extended time for completion provided for delays, extra work and damages; the Agency will deduct and retain out of the monies due the Contractor, as liquidated damages but not as a penalty, the sum specified below for every calendar day that the time consumed in the execution of the work exceed the time stipulated for its completion, or until a stipulated extended completion time is reached.

**Project Value - Damages Per Day**
- Below $50,000: $50.00
- $50,000-$100,000 inclusive: $100.00
- $100,000-$200,000 inclusive: $150.00
- Above $200,000: $200.00

12. **PERMITS**
The Contractor shall obtain and pay for all permits, licenses, and fees required by the City of Los Angeles, County of Los Angeles, or State of California. The general building permit will/will not (circle one) be furnished by the Agency.

13. **ALLOTTED WORKING SPACE**
A reasonable amount of space at the site will be assigned to the Contractor. All materials and equipment shall be kept within this area. The Contractor shall be solely responsible for leaving all improvements within the space in as good condition as he found it.

14. **RESPONSIBLE FOR SITE**
The Contractor shall be in full charge of and be responsible for the Construction work of this Contract, subject to the direction of the Agency.

15. **WORKMANSHIP AND MATERIAL**
(a) Unless otherwise specifically provided for in the specifications or in the drawings, all equipment, materials and articles incorporated into the Work are to be of most suitable grade of their respective kinds for the purpose. Equipment, materials, and articles shall be new, best quality, undamaged and not defective.
(b) All materials to be incorporated in the structure shall be protected from damage during delivery, storage and handling and after installation until acceptance of the work.

16. **BUILDING REGULATIONS AND CODES**
(a) The Contractor shall perform the work in accordance with the requirements of the Los Angeles City Building Code and all other regulations, law and ordinances, even though such requirements are not specifically mentioned in the specifications or shown on the drawings, especially federal accessibility standards for disabled persons.
(b) When the work required by the plans and specifications is in conflict with any such law or ordinance the Contractor shall notify the Agency and shall not proceed with the work until the Agency has so ordered.
17. **PROTECTION OF PERSONS AND PROPERTY**
   
   (a) Precaution shall be exercised at all times for the protection of persons and property. The Contractor shall furnish or cause to be furnished and maintained all covers, scaffolds, fences, guards, etc., as required by the Agency and the local rules, ordinances or regulations necessary for the protection of public and private property and the public safety. He shall hold the Agency harmless from any and all damage to persons or property.
   
   (b) Contractor to observe all CAL OSHA regulations.
   
   (c) The Contractor shall protect his work from injury and make good without charge, all damage due to neglect of proper protection.

18. **REMOVAL OF PLANT AND CLEAN-UP**

   Upon completion of the work, the Contractor shall remove all his plant, tools, materials and other articles from the worksite. He shall also clean all walls, sweep all floors broom clean, and remove all rubbish from the worksite.

19. **GUARANTY-WARRANTY**

   The Contractor shall and hereby does warrant and guarantee that all work executed under this Contract will be free from defects of materials and workmanship for a period of one (1) year from the date of final acceptance of the project; except that certain specific items of work may require a guaranty or warranty for a greater period of time where hereinafter specified.

   The Contractor further agrees to repair or replace, at his own expense, all such work which becomes defective during the term of the above-mentioned guaranties or warranties.

20. **PATENTS**

   The Contractor shall hold the Agency harmless from any and all claims which may be made on account of any illegal infringement of any patent or patents of processes, methods and appliances used in construction of the work that are not specifically required by the specifications. Further, the Contractor shall defend any such action prosecuted against the Agency arising out of such claims and shall pay with costs, and reasonable attorney's fees, any judgment so obtained. The Agency shall similarly hold the Contractor harmless from claims made on account of alleged infringement of any patented articles or processed which actually are required by the Plans.

21. **FINAL INSPECTION**

   Upon completion of the work, the Contractor shall notify the Agency of the need for a final inspection of the work. The Agency will make such inspection as soon thereafter as possible. If the work is found to be in compliance with the Plans, the Agency will furnish the contractor with a Letter of Completion to that effect.

22. **DEFECTIVE WORK**

   No work which is defective in its construction or deficient in any of the requirements of the specifications shall be considered as accepted in consequence of the failure of the Agency to point out said defects or deficiency or to order them corrected during construction. The Contractor shall correct any imperfect work whenever discovered, before the final acceptance of the work.

23. **PAYMENTS**

   (a) Once a month, the Contractor may request payment for the work performed prior to such date on forms supplied by the Agency.

   (b) Upon completion of the Work, the Contractor may request full payment for his work (less retention). After acceptance of the Work and upon receipt from the Contractor of any affidavits or guarantees...
required by the Plans, the remainder due the Contractor will be paid by the Agency.
(c) The making of any payment to the Contractor under this Contract will not relieve the Contractor of his obligations hereunder. The Contractor is obligated to complete the Contract in its entirety and to deliver to the Agency such completed Work as may be specified in the Contract. The Contractor shall be obligated to repair, replace, restore or rebuild any fully or partially completed work or structure, or any materials or equipment required to be provided under the Contract which may be deemed, lost, stolen otherwise injured in any way. This particular obligation of the Contractor will terminate upon acceptance by the Agency.

24. EXTRA WORK AND CHARGES
(a) Subject to all City, State, and Federal limitations that apply, including those on competitive bidding, the Agency at any time during the progress of the work may order alterations in addition to, deviations, or omissions from the work contemplated by the original Plans.
(b) No extra work shall be performed or change be made by the Contractor until authorized in a written change order from the Agency and the City of Los Angeles. No claim for an addition to the Contract sum shall be valid unless the extra work or change is so ordered.
(c) If any changes involve an increase or decrease in the Contract amount, the Change Order shall state the amount to be added to or deducted from the Contract amount. It shall also state the additional time, if any, needed for the performance of the work. Any change to the Contract amount shall be in a lump sum mutually agreed to by the Contractor and the Agency. Each lump sum quotation from the Contractor shall be accompanied by sufficient detail estimates to permit verification of the total.

25. SUSPENSION OF CONTRACT
(a) Should the Contractor be adjudged bankrupt; or if he should make a general assignment for the benefit of his creditors; or if a receiver should be appointed on account of insolvency; than in any such case the Agency shall have the power to suspend the Operations of the contract.

(b) The Agency shall have the power to suspend the operations of the Contract in writing under any or all of the following conditions:
1) Contractor’s failure to begin work within the time specified.
2) Contractor’s willful violation of any of the terms of contract.
3) Contractor’s non-execution of the Contract in good faith and/or in the true intend and meaning of its provisions and operations of the Contract.

(c) Upon receiving notice of such suspension, the Contractor shall discontinue the work or such parts of its as the Agency may designate. Upon such suspension, the Agency reserves the right to annul and cancel the Contract and to re-let the work or any part thereof, and the Contractor shall not be entitled to any claim for damages on account of such annulment, nor shall such failure on the part of the Contractor to fulfill the terms of the Contract. In case of such annulment, all monies due the Contractor shall be forfeited to the Agency. Such forfeiture shall not release the Contractor or his sureties from liability for failure to fulfill the Contract; and the Contractor and his sureties shall be credited with the amount of the monies so forfeited toward any greater sum they may become liable for to the Agency on account of the default of the Contractor.

26. ASSIGNMENT
The Contractor shall not assign any portion of this Contract without the written consent of the Agency.

27. SUBLETTING
(a) All subcontractors proposed to perform work on the project shall be approved in writing by the Agency prior to commencement of their work. Such approval shall not entitle subcontractors to
recognition for any direct or contractual relationship with the Agency, nor shall it constitute approval of the use of any materials other than those specified.

(b) The Contractor shall be responsible for all acts of subcontracts and for all Contract work regardless of any subcontractors. All interest of the Agency in work of subcontractors shall be coordinated through the Contractor.

(c) Any substitution of subcontractors must be approved by the City of Los Angeles.

28. **INSURANCE**

(a) The Contractor shall not commence work under this Contract until he has obtained all insurance required under this Section as evidenced on ACORD insurance forms and such insurance has been approved by the Agency and City through the City's online insurance system, http://track4la.lacity.org/. The Contractor shall not allow any subcontractor to commence work until all similar insurance required of the subcontractor has been obtained and approved.

(b) The Contractor shall take out and maintain during the life of this Contract Worker’s Compensation Insurance for all his employees employed at the site of the project. The Contractor shall require all subcontractors similarly to provide Worker’s Compensation Insurance for all of the latter employees, unless such employees are covered by the protection afforded by the Contractor. For any class of employees engaged in hazardous work under this Contract at the site of the project and not protected under the Worker’s Compensation Statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate insurance for the protection of his employees not otherwise protected.

(c) The Contractor shall take out and maintain during the life of this Contract Property Damage Insurance as shall protect the Agency, its officers and employees, and the Contractor from any and all claims for damages for personal injury, including accidental death and claims for property damage which may arise out of or result from his operations under this Contract, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed, either by the Contractor or subcontractor. Certificates of such insurance shall be filed with the Agency and shall be subject to his approval for adequacy of protection.

(d) The Contractor shall take out and maintain during the life of this Contract Fire, Builders Risk, Work in Process, Course of Construction, or such similar type of insurance that will insure the work which is the subject of the Contract. Said coverage shall be in an amount sufficient to provide full coverage on all completed work and materials in storage at the site at any stage of completion up to the date of acceptance of the work by the Agency.

(e) This policy shall provide for payment to the Agency for the benefit of the Agency or Contractor.

(f) A “deductible” clause is permitted provided it does not exceed five (5) percent of the face amount of the policy, and further provided that such deductible clause does not apply with respect to the Agency as an additional insured.

(g) The Agency must be named as an “Additional Insured”, except on Worker’s Compensation policies.

29. **LEGAL REQUIREMENTS**

In the performance of this Contract, Contractor shall abide by and conform to any and all laws of the United States of America, the State of California, and Ordinances, regulations and policies of the City of Los Angeles.

30. **UNINTERRUPTED WORK**

Contractor shall prosecute work regularly, diligently and uninterruptedly once work on the project site has started.
31. **CONSTRUCTION SCHEDULE**
Contractor shall provide updated schedules as changes occur. Any changes in the schedule must be submitted within five (5) working days.

32. **PROGRESS PHOTOGRAPHS**
   (a) Required:
   1. Two (2) views at 30-day intervals during the entire period of contracted work.
   2. First photograph to be taken just before Contractor starts any operations at the site.
   3. Final photographs to be taken when all contract work has been completed regardless of time interval since previous photographs were taken.
   (b) View locations are to show entire construction site.
   (c) The name of job, view location, Contractor's name and date of exposure shall be incorporated in each photo.
   (d) The photographs may be electronic.
   (e) Photos shall be provided to the Agency and CITY.

33. **SCHEDULED WORKING DAYS**
   No work shall be performed on Saturday, Sunday, or the following Legal Holidays unless such days are approved by the Owner.

   **AGENCY LEGAL HOLIDAYS:**
   
   New Year's Day  Labor Day  
   Martin L. King's Day  Columbus Day  
   Presidents' Birthday  Veterans' Day  
   (Lincoln & Washington)  Thanksgiving Day  
   Memorial Day  Christmas Day  
   Independence Day  Other:  

34. **ADDITIONAL REQUIREMENTS**
   All construction work shall be performed in accordance with the federal American Disability Act Access (ADA) regulations, the Uniform Building, Plumbing, and Mechanical Codes, the Los Angeles Zoning and Electrical codes, and Owner requirements. Where applicable, work shall be in accordance with the lead base paint warning regulation and the cost effective energy conservation standards.

   All construction work shall be inspected and approved by the Los Angeles Department of Building and Safety Inspectors and the Owner.

   The awarded or selected General Contractor shall be responsible for completion of each item specified in the contract scope. Any changes shall be authorized only by the initiation and execution by the Owner and Contractor on a formal CHANGE ORDER, which may require City approval.

   The selected General Contractor shall verify on job site, all quantities, measurements or dimensions, conditions, plans and working drawings before submitting this bid. There will be no CHANGE ORDER to price based on mistaken quantity count, measurements or dimensions.

   The Selected General Contractor shall immediately notify (verbally and in writing) the Owner of any discrepancies on the plans, working drawings, Work Write-ups, and the measurements or dimensions. The Selected General Contractor shall be held responsible for all such verifications.
The Selected General Contractor shall provide and install all necessary bracing to support and maintain the existing construction in a safe and undamaged condition throughout all phases of acquisition, demolition, construction and/or renovation.

The Selected General Contractor shall take any and all precautions necessary to ensure that fixture and materials, which are temporarily removed during any phase of construction/renovation, are protected from damages, vandalism and/or theft. Damage to property caused by the Selected General Contractor shall be repaired or replaced by the Selected General Contractor at his own expense.

The Selected General Contractor shall be fully responsible for obtaining all necessary permits and licenses as required by the Department of Building and Safety of the City of Los Angeles.

Color(s), type, model, style, finish and manufacturer of all fixtures, appliances, hardware, and all other products used in the construction work shall be approved and/or selected by the Owner, and shall be standard in nature unless the Owner requests custom items at the time the Selected General Contractor prepares and submits his bid.

All discarded material, debris, and other construction debris shall be removed from the job site daily. The property shall be left in a clean and safe condition at the completion of the job.

All work completed on job site to be per manufacturer’s specification and Standard Trade Practice.

Lead based paint is prohibited.

Special attention shall be given to the incorporation of cost effective energy standards pursuant to Title 24 CFR, part 39 Cost Effective Energy Conservation, May 10, 1979.

The Project or Program to which the work covered by this contract pertains is being assisted by funds secured from the U.S. Department of Housing and Urban Development, therefore, the contracts are required to abide by the requirements of the Davis-Bacon Act and State of California. They will be required to pay wages to laborers and mechanics at a rate not less than the maximum wages specified in the wage determinations made by the Secretary of Labor and the State of California.
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS--PRIMARY COVERED TRANSACTIONS

Instructions For Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

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

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

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. 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 a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, 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.

Check for CORPORATE STATUS, DEBARMENT AND SUSPENSION:

1. City of Los Angeles, Board of Public Works, Bureau of Contract Administration
   http://bca.ci.la.ca.us/APPL/main/home - Search contractor name under lists on SRI drop-down


4. HUD -- print out web page showing agency's status - www.sam.gov/portal/public/SAM/##11

5. Corporation listed in good standing – print out web page showing agency’s status
BID APPEAL/PROTEST PROCEDURES

Per 2CFR200 (protest procedures required) and (d)(2)(ii)(E) (right to reject for sound documented reason), and (g) Awarding agency review are to be followed upon a non-selected bidder's written complaint receipt:

1. Verify that subrecipient's bid package identified criteria for both a bid qualification determination ("responsiveness" and "responsibleness") and an evaluation rating per 85.36(c)(3)(ii).

   At a minimum, responsiveness consists of timely submission of fully-completed, acceptable, key bid package, required documents e.g. licensing evidence.

   At a minimum, responsibleness consists of primarily evidence of "lowballing" due to undervalued cost items shown in the bid's schedule of values as compared to other bids and/or to the project cost estimate required per (g)(2). Other possible "responsibleness" criteria disqualifying a bid include conflicts of interest (b)(3) and poor references (b)(8).

   Evaluation rating criteria must include the base bid price weighted at least 60% or 60 points of the total possible 100% or 100 points for all rating criteria consistent with (d)(2), (d)(2)(ii)(D) and (g)(2)(iv). Other non-restrictive evaluation criteria should be used consistent with (b)(8), (c)(1), and (c)(3)(i).

   If bid package did not identify qualification and evaluation rating criteria, require subrecipient to rebid.

2. Verify that subrecipient's bid process followed 85.36 (d)(2), i.e., verify that (1) each bid was qualified or disqualified using qualification criteria by reviewing related bid documentation, and (2) that the qualified bids were properly rated on a rating scale of up to a possible 100% or 100 points per bid by reviewing the related bid documentation.

   The evaluation rating should use a bid evaluation matrix listing the bid package's evaluation rating criteria that have weighted scores totaling 100% or 100 points when added together.

   If the lowest bid was qualified and selected, reject the appeal in writing based on use of proper bid and qualification processes and lowest bid selection per 85.36(d)(2).

   If a non-low-bid was selected and the proper bid process and evaluation matrix were properly used, reject the appeal in writing based on proper qualification and evaluation processes properly used and total scores from the matrix criteria rating(s) per (d)(2)(i)(C) and (d)(2)(ii).

   Otherwise, if the qualification and/or evaluation process was improper or not properly followed, accept appeal in writing and require subrecipient to rebid.