

PLANS, SPECIFICATIONS AND ESTIMATES

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1. Overview

The preparation of the Plans, Specifications, and Estimates (PS&E) for Local Assistance projects is the responsibility of the local agency. Local agency sponsors will certify that their PS&E package complies with all applicable federal and state regulations and procedures. The certification form (See Exhibit E) will identify those items which require local agency compliance. Caltrans will review the local agency documents (with the exception of structure designs) only when a local agency specifically requests a cursory review.

The procedural instructions in this LPP reflect current federal requirements. They do not cover State laws and local regulations. Local agencies must comply with those in addition to meeting federal mandates.

2. Method of Construction

References:

23 U.S.C. 112(a)
23 U.S.C. 112(b)
23 CFR 635.104
23 CFR 635 Subpart B

Applicability:

Applies to all federal-aid highway construction projects

Guidance:

Construction contracts are to be awarded competitively to the lowest responsible bidder.

Exceptions:

Noncompetitive construction contracting may be approved under one of the following conditions:

- An emergency exists of such magnitude that work cannot be delayed.
- Only one organization is qualified to do the work.
- Competition is deemed inadequate after bidding solicitation.

Selection on a non-competitive basis must be thoroughly justified in writing and documented in the project files to be retained for future investigations. If force account/day labor is to be used, it must be carefully incorporated into the PS&E package (see Section 9).

3. Metrication

By 1995, the full conversion of the American Association of State Highway and Transportation Officials' (AASHTO's) *A Policy of Geometric Design for Highways and Streets* (Green Book) and *the Highway Capacity Manual* is expected. In addition, full conversion of data collection and reporting systems such as the Highway Performance Monitoring System (HPMS) and the National Bridge Inventory System (NBIS) is expected by 1995. After September 30, 1996, all PS&E's for construction projects must be metric. All standards currently in use will be converted.

Two ways to convert from English units to metric units are:

- "Soft " conversion—a direct mathematical conversion to an exact or nearly exact metric equivalent. A 12 foot lane would be 3.658 meters.
- "Hard" conversion—a rounded, rationalized, metric number that is convenient to work with and easy to remember. The hard conversion of a 12-foot lane is 3.6 meters.

The Federal Highway Administration (FHWA) offers training by way of the National Highway Institute (NHI) course called "Metric Training for Highway Agencies" for Caltrans and local agencies. AASHTO has developed *the Guide to Metric Conversion*. Caltrans also has a booklet, *Getting into Metrics* (December 1993), for more information.

4. Plans

4.1 General

References:

23 U.S.C. 106(b)(2)

Guidance:

Plans shall describe the location, design features, and construction requirements in sufficient detail to facilitate the construction, contract control and estimation of construction costs of the project.

The local agency may use the current edition of Caltrans' *Standard Plans* or their own standard plans, signed (with registration number) by the local agency's responsible person in charge who must be a California registered civil engineer. If the local agency wishes structures-review assistance from Caltrans, then Caltrans Standard Plans must be used.

The local agency may also use the Department's *Drafting and Plans Manual* as a guide to the preparation of contract plans. This manual is available from Caltrans' Central Publications and Distribution Unit, 1900 Royal Oaks Drive, Sacramento, California 95815, telephone 916/445-3520.

The title sheet must be signed (with registration number) by a responsible authority who is licensed as a professional civil engineer in the State of California. Additional local agency signatures are optional. Plans for projects advertised, awarded and administered by the local agency will not contain the State Engineer 's signature, except as required for a state encroachment permit. Bridge or major structure plans shall be signed as specified in Section 14 "Bridge Review." The title sheet must show the federal-aid project number.

Other plan sheets (including typical section sheets) are to be signed by the person under whose direction the sheets were prepared. Signature of the sheets may be delegated to a California registered civil engineer employed or retained by the local agency to prepare the plans. The signer's signature, registration number and registration classification, e.g., "Registered Civil Engineer," must appear on all plan sheets.

The plans must reflect an intent to minimize soil erosion and water pollution resulting from construction operations as required by the Code of Federal Regulations (23 CFR 635.309i).

4.2 Traffic Control Plans

References:

23 U.S.C. 630.1010(a)(2)

Guidance:

A "traffic control plan" is a plan or procedure for handling traffic through or around a specific highway or street work zone, or project, to provide safety for the motorist and workers. A traffic control plan shall be developed for each project and shall be included in the PS&E. The degree of detail in the traffic control plan will depend on the complexity of the project and the degree to which traffic interferes with construction activity.

A traffic control plan must developed specifically for each construction project and must be consistent with the *Standard Plans* and the *Manual of Traffic Controls for Construction and Maintenance Work Zones* published by Caltrans, or the *Work Area Traffic Control Handbook* published by Building News, Inc., of Los Angeles.

Caltrans uses the following guidelines to establish the scopes of traffic control plans for State highway projects:

- For expressway work requiring lane closures or shifting of traffic, drawings are required. (A standard plan sheet has been developed for such lane closures).
- For conventional multi-lane highways, where widening or reconstruction requires lane closures or shifting traffic for stage work, drawings are preferred. The state's "Standard Plan Sheet" shows a typical lane closure.
- For resurfacing and minor repair or reconstruction work on two-lane highways requiring one-way traffic control, a reference to standard plans or a manual is adequate for most projects. Where special problems are apparent, additional special provisions may be written (e.g., restricting hours of lane closures, etc.) and a plan showing the placement of signs, positioning of flagmen, etc., may be added provided the plan does not reduce the established standards.

The scope of the traffic control plan should be determined during the preliminary design phase of the project.

Provisions may permit contractors to develop their own traffic control plans and use them if the local agency finds that these plans are better than those provided in the PS&E.

Any changes to the traffic control plans contained in the approved PS&E must be reviewed and approved by the local Agency's resident engineer, if registered, or at a higher level as required to satisfy the need for registration.

The PS&E should include the method of payment for providing, installing, moving, replacing, maintaining, and cleaning traffic control devices required by the Traffic Control Plan. Suitable force account procedures may be utilized for traffic control items. Lump-sum method of payment should be used only on very small projects, projects of short duration, contingency and general items. Payment for traffic

control items incidental to other items of work should be discouraged.

All persons responsible for the development, design, implementation and inspection of traffic control shall be adequately trained. Local agency engineers should contact Caltrans Local Assistance for information concerning the availability of state-conducted training.

5. Required Contract Provisions (Form FHWA-1273--See Exhibit A)

5.1 General

References:

23 U.S.C. 114
23 U.S.C. 315
23 CFR 633
49 CFR 1.48

Guidance:

Exhibit A, referred to as FHWA Form 1273, is a package of all required provisions that must be included as provisions on federal-aid projects. They apply to all contracts and subcontracts and must be physically incorporated into each subcontract and subsequent lower-tier subcontracts. They may not be incorporated by reference. Failure to comply with this requirement represents a grounds for contract termination or withdrawal of federal funds. In addition, failure to incorporate the form into subcontracts may cause debarment.

The FHWA Form 1273 package is not required for projects on roads functionally classified as *local roads or rural minor collectors*.

Payment of predetermined prevailing wage and payroll submittals are required by the U. S. Department of Labor programs. Disputes shall be resolved using local agency, U. S. Department of Labor procedures.

5.2 Use of Local Hiring Preferences

References:

23 CFR 635.117(b)

Guidance:

This provision requires that the contractor shall not discriminate against labor from any other state. The local agency may not include provisions for preferences to hire locally on any federal-aid contract.

5.3 Use of Convict Labor

References:

23 U.S.C. 114(b)

Guidance:

Construction work shall not be performed by convict labor within the site boundaries of any federal-aid highway construction project. An exception is "labor performed by convicts who are on parole, supervised release, or probation." The use of convict labor restricts competition because the labor rates are below market costs or force account rates. A person on a daily-release program could be eligible to work on a federal-aid project if that person was employed by the contractor and was being paid at least minimum prevailing wage.

5.4 Nondiscrimination

References:

23 USC 140, 23 USC 324, 23 CFR 200, 23 CFR 230 A&D,
28 CFR 35, 29 CFR 1630, 41 CFR 60, 49 CFR 21, 49 CFR 23,
The Civil Rights Act of 1964
The American Disabilities Act 1990

Applicability:

Applies to all federal-aid construction contracts and to all related subcontracts of \$10,000 or more.

Guidance:

Nondiscrimination provisions prohibit discrimination because of race, color, religion, sex, national origin, age or disability. This applies to the contractor's employment, solicitations, selection of subcontractors and procurement of materials. Contractors are required to have an Equal Employment Opportunity (EEO) policy that provides affirmative action in employment; a designated EEO officer to administer the EEO program; and posted notices or posters containing EEO information. The contractor should not discriminate in recruitment and is required to review the project sites, wages and personnel action for compliance with EEO policy. The contractor is required to notify employees regarding available training and provide opportunities for the improvement of skills of minorities and women. The contractor should cooperate with the union to incorporate EEO clauses.

Non-compliance with the EEO specifications may be a breach of contract. Payment may be withheld or the contract canceled. The local agency must have a staff to conduct reviews and make noncompliance determinations.

5.5 Nonsegregated Facilities

References:

23 CFR 633A

Applicability:

Applies to all federal-aid construction contracts and to all related subcontracts of \$10,000 or more.

Guidance:

Under the contract, the organizations and firms, subcontractors and suppliers shall certify that they maintain nonsegregated facilities to conform to requirements of 41 CFR 60.1.8. The only exception to the nonsegregated facilities provision is access for the disabled.

5.6 Payment of Predetermined Minimum Wages

References:

23 USC 113, 40 USC 276 (a) Davis Bacon & (c) Copeland Act
23 CFR 633 Subpart A
23 CFR 635.124
23 CFR 635.309
29 CFR 1,3,5

Applicability:

Applies to all federal-aid construction contracts exceeding \$2,000 and all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempted (in such cases, Section IV on FHWA Form 1273 should be crossed out, removed, or it should be specified elsewhere in the contract that they do not apply.).

Guidance:

Davis-Bacon Act of 1931 was enacted to prevent contractors from importing cheap labor from outside the area. The Department of Labor enforces these statutes and determines the prevailing wage rates. The rates are determined by a review of payroll or a survey based on wage data from active projects. Notice of wage-rate decisions are published in *the Federal Register* and mailed to subscribers through a user-fee supported service. The contractor and subcontractors should pay employees at least the minimum wage and fringe benefits specified for the classification of work performed. The local agency is responsible for including the wage rate in the federal-aid contract.

All employees are to be classified with a wage-rate determination set by the Department of Labor. There are provisions for fringe benefits and requirements for paying less than the full wage rate for apprenticeships and trainee programs. Apprenticeship and trainee programs are subject to other Department of Labor requirements.

The State has the authority to withhold funds from the progress payment to the prime contractor in order to pay employees and the subcontractor full wages. The contractor is required to pay overtime at one and one half times the employee's basic pay rate for hours worked in excess of 8 per day. Liquidated damages may be held for days which the contractor did not pay overtime. The State can enforce the withholding of \$10 per day against the contractor or subcontractor for each underpaid employee. Other actions such as termination of the contract or legal action may be enforced if there are any serious violations of the contract.

5.7 Statements and Payrolls

References:

23 CFR

Applicability:

Applies to all federal-aid construction contracts exceeding \$2,000 and all related subcontracts, except for projects located on roadways functionally classified as local roads or rural minor collectors, which are exempted (in such cases, Section IV on FHWA Form 1273 should be crossed out, removed, or it should be specified elsewhere in the contract that they do not apply).

Guidance:

Under the Copeland Act, workers are protected from paybacks to employers. Form FHWA 1273 addresses the Copeland Act. The contractor and subcontractors must furnish weekly certified payroll statements so that the Davis Bacon requirements can be verified.

5.8 Record of Materials, Supplies, and Labor

References:

23 CFR 635.126

Applicability:

This section does not apply to projects off the National Highway System (NHS) in which case Section VI on Form FHWA-1273 should be crossed out, removed or it should be stated elsewhere in the contract that it does not apply.

5.9 Subletting or Assigning the Contract (Subcontracting)

References:

23 CFR 126

Applicability:

This federal requirement does not apply to projects off the NHS in which case Section VII should be crossed out, removed or it should be stated elsewhere in the contract that it does not apply. Conformance with state public contract law regarding subcontracting shall be provided elsewhere in the contract provisions.

5.10 Safety: Accident Prevention (Compliance with OSHA Regulations)

References:

40 USC 333, 23 CFR 635.108, and 29 CFR 1926

Applicability:

Applies to all federal-aid construction contracts.

Guidance:

Safety concerns and responsibilities are presented in the *An Informational Guide on Occupational Safety* (AASHTO, 1972). The contractor must comply with all federal, state, and local laws governing health, safety, and sanitation. The contractor must protect the life and health of employees and safety of the public and property. Laborers and mechanics should not be allowed to work under unsanitary or hazardous conditions as determined by safety standards. The Department of Labor has right of entry to any site of a contract for inspection or investigation of safety standards. The local agency must enforce the state safety standards, report violations, and provide cooperation.

**5.11 False Statements Concerning Highway Projects
(Poster Form FHWA-1022)**

Applicability:

Applies to all federal-aid construction contracts.

Guidance:

The use of false statements is a felony. False claims for the purpose of obtaining payments against federal funds is subject to a \$2,000 fine per each violation. Willful distortion, or misrepresentation of any facts related to the project violates federal law and requires that the "false statements" poster, Form FHWA-1022 be posted on the project site. Copies of the poster may be obtained through Caltrans or FHWA Offices.

5.12 Implementation of the Clean Air Act and Federal Water Pollution Control Act

References:

23 CFR 633A

Applicability:

Applies to all federal-aid construction contracts and to all related subcontracts of \$100,000 or more.

Guidance:

Concrete or asphalt plants used in construction are required to meet air or water quality standards of the Clean Air Act or Federal Water Pollution Control Act. A "List of violating Facilities" is in the *Federal Register*. Changes to this list is published weekly in the *EPA Environmental News*.

The "List of Violating Facilities" consists of the following sublists:

1. Violating facilities of the Clean Air Act (mandatorily listed), and
2. Facilities that are or have been in recurring noncompliance with clean air or water standards and have one or more of the following:
 - A conviction under the Clean Air Act under Section 113(c)(2).

- Any injunction or judgment including consent decrees or other forms of civil ruling by a federal, state, or local court issued because of noncompliance with clean air and water standards.
- A criminal conviction by a state or local court based on noncompliance of the clean air or water standards.
- Violation of an administrative order issued under Sections 113(a),(d), 167, or 303 of the Clean Air Act or Section 309(b) of the Clean Water Act due to noncompliance.
- A Notice of Noncompliance issued by EPA under Section 120 of the Clean Air Act.
- An enforcement action filed by EPA in federal court under Sections 113(b), 167,205, or 211 of the Clean Air Act or Section 309(b) of the Clean Water Act due to noncompliance with standards.

Form FHWA 1273 (See Exhibit A) implements EPA regulations which prohibit the use of violating facilities on contracts. Under this provision, the contractor certifies that the facilities are not under consideration for inclusion on the EPA list. The contractor is required to inform the local agency of any notification from EPA showing that the facility may soon be on the list.

5.13 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (See Exhibit B)

References:

49 CFR 29

Applicability:

Applies to all federal-aid construction contracts and to all related subcontracts of \$25,000 or more.

Guidance:

The contractor and participants must certify they are in compliance with the above provision. Subcontractors, material supplier, and vendors are included. Each participant in the contract must certify "that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal agency and they have not been convicted or had civil judgment rendered within the past 3 years for certain types of offenses." A list of suspended and debarred parties excluded from all federal contracts is provided by the State to ensure that federal-aid highway projects are not awarded to those parties.

5.14 Certification Regarding the Use of Contract Funds for Lobbying (See Exhibit C)

References:

23 CFR 635.112(g)

49 CFR 20

Applicability:

Applies to all federal-aid construction contracts and to all related subcontracts of \$100,000 or more.

Guidance:

Federal funds may not be used to provide financial gain to a member of Congress or a federal agency. Awarding a federal-aid contract to a constituent would be an example of financial gain. This applies to contractors as well as subcontractors. A certification that the contractor has not or will not make any payments for lobbying must be included in the provisions. Payments of non-federal funds to any lobbyist must be disclosed.

6. Other Required Contract Provisions

6.1 Buy America (Specification)

References:

23 CFR 635.410
STAA Section 165
ISTEA Section 1041(a)
ISTEA Section 1048(a)

Applicability:

Applies to all federal-aid highway construction projects.

Guidance:

The current regulations require that steel and iron used in federal-aid projects be made in the United States. All foreign steel and iron materials are covered by the "Buy America" provision regardless of the percentage of steel in the manufactured product. All manufacturing processes involved in steel or iron products must occur within the US. These processes include rolling, extruding, machining, bending, grinding, drilling, coating and smelting. Domestically-produced steel billets or iron ingots shipped overseas for any process and returned to the US do not conform to this requirement. Buy America does not apply to:

- Minimal use of foreign material in which the delivery cost to the project site is less than \$2500 or 0.1 percent of the contract amount, whichever is greater;
- Raw materials; scrap temporary steel items such as sheet pilings, bridges, steel scaffolding and falsework; or
- Materials that remain in place at the contractor's convenience such as sheet pilings and forms.
- Pig iron manufactured outside the United States

A local agency shall not list an ineligible iron or steel product as "nonparticipating" in order to circumvent the Buy America requirements

Waiver:

A waiver of the Buy America requirements by the Regional Federal Highway

Administrator is permitted for specific projects, specific products, specific geographical areas, or combinations if the following occur:

- Buy America is inconsistent with the public interest, or
- There are not sufficient supplies of domestic materials of satisfactory quality available.

Waiver requests covering more than one region should be submitted to Caltrans for transmittal to the FHWA Division Administrator. A minimum of six months lead time should be provided to permit adequate FHWA review. Approval authority for waiver of Buy America requirements has not been delegated from FHWA to Caltrans and therefore is not delegated to the local agencies..

6.2 DBE (Specification)

References:

49 CFR 23
49 CFR 21
23 USC 140(b)
23 CFR 200 & 230

Applicability:

Applies to all federal-aid highway construction projects.

Guidance:

Since the passage of Title VI of the 1964 Civil Rights Act, all federal-aid projects are subject to the legislative and regulatory Disadvantaged Business Enterprise (DBE) requirements. The main objective is to ensure that DBE firms can participate in federally-funded projects. Additional information regarding DBE contract goals can be found in Attachment 4, Disadvantage Business Enterprise and Attachment 8 Contract Administration.

Contracts which do not contain specific goals shall contain special provisions stating that it is the local agency's policy to comply with Part 23 of Title 49, Code of Federal Regulations (CFR), and specifying the contractor's obligation under these regulations.

6.3 Noncollusion Certification – (See Exhibit D)

References:

23 USC 112
CFR 635.112(f)

Applicability:

Applies to all federal-aid highway construction projects.

Guidance:

The noncollusion certification protects the integrity of the federal-aid highway program and serves as a tool in prosecuting construction-contract bid rigging cases. A noncollusion certification (Exhibit D) is required from all bidders as part of the bid

proposal package. Failure to submit the certification will render the bid ineligible for award.

6.4 On-the-Job Training (See Exhibit A— Form FHWA 1273)

References:

23 CFR 230.111

Applicability:

Applies to selected federal-aid, highway construction projects.

Guidance:

The objectives of the On-the-Job (OJT) Program are to:

- Provide training for women and minorities which will upgrade their job skills—increasing their access to higher-paying trade jobs and journeyman-level positions, and
- Ensure that a diverse work force will meet future labor needs in the construction industry.

A majority of training positions on each project must be for women and minorities.

If a contractor cannot meet the OJT objectives, direct recruitment efforts must be documented to show an effort at OJT compliance.

The major components of the OJT program are:

- The local agency should include the federal-requirement, training special provisions in the PS&E package if the project size and duration warrant an OJT program. (See Exhibit A)
- The local agency should select contracts that contribute to the "Contract Training Goals." These contracts must show the number of trainees, the number of trainees upgraded to journeyman, and the level of skills.
- The local agency will review the training programs proposed by contractors. Approval or rejection will be based on the legitimacy of the job-skill classifications proposed and the number of training hours specified.
- Caltrans must determine if statewide OJT is effective.
- The contractor is responsible for recruitment and selection of trainees.
- The contractor must evaluate training based on an approved training program.
- The contractor must report the number of trainees and jobs using Form 1391.
- Caltrans submits Form HCR - 10 to the Office of Civil Rights.

OJT provision costs are reimbursed by FHWA out of Intermodal Surface Transportation Act (ISTEA) funds. Training special provisions may be funded at

\$0.80/hour, or the training program can be a bid item with the same reimbursement ratio as the construction project. The OJT support services include recruiting, counseling, remedial training, and OJT program administration by others.

Sanctions:

If the contractor does not show a good faith effort to provide acceptable training to the number of trainees specified, a sanction may be applied. Sanctions may include withholding progress payments if effective on-the-job training is not provided.

7. Restricted Contract Provisions

7.1 Indian Preference On Federal-aid Projects

References:

23 USC 140
23 CFR 635.117

Applicability:

Applies to all federal-aid highway construction projects.

Guidance:

Local agencies may not use local hiring practices. However, the passage of ISTEA permits an Indian employment preference provision for federal-aid projects on or near Indian reservations or Indian lands. Roads near an Indian reservation are those within a reasonable commute to and from the reservation. Indian preference shall be applied without regard to tribal affiliation or place of enrollment.

In setting employment goals, consideration should be given to the potential employment requirements of the contractor and core-crew. A contractor shall not layoff or terminate a core-crew employee to meet a preference goal. Any sanctions for failure to meet employment goals should be included as part of the contract.

Many tribes have a Tribal Employment Rights Office (TERO) tax which applies to contracts performed within the reservation boundaries. FHWA will reimburse any local tax as long as it does not single out federal-aid highway construction contracts. TERO's can bill contractors for services rendered during recruitment and related support services. These fees are not eligible for federal participation. If part of a project is not within the reservation boundaries, the TERO tax shall not apply that portion. "On" and "off" reservation portions of the project should be clearly indicated in order to avoid over-payment.

7.2 Price Adjustment Clauses

Applicability:

Applies to all federal-aid highway construction projects.

Guidance:

Price adjustment clauses may be implemented under the following conditions:

- Material costs are extremely volatile;
- Suppliers are unable to provide a price quote for the full term of the contract;
- Price quotes are subject to delivery or market conditions; or
- Shortages are expected.

These clauses should be limited to materials whose price volatility which may effect the contract prices. The standard should be quantifiable and set out in the contract specifications. This standard should represent a price or base index such as the consumer price index. Published price data may be found in the Bureau of Labor Statistics: *Producer Price Indexes*, *Engineering News Record*(weekly), or any number of oil-related publications.

Some concepts for developing price adjustment clauses are:

- The price adjustment doesn't need to be a standard specification unless shown in the bid proposal.
- Both upward and downward adjustments should be calculated.
- A significant change in the index should trigger a price adjustment.
- The basis of payment should cover price adjustment clauses.
- The contractor should not have an option to accept or reject a price adjustment compensation and the compensation should be automatically incorporated in progress- and partial-payment computations.
- The compensation should not be based on actual invoiced receipts
- Upward price adjustments should not be allowed after the contract time has expired.

When a local condition warrants it, price adjustment clauses should be:

- Considered for projects which will exceed nine months duration from bid opening to completion
- provided for all price volatile materials which affect the unit costs of the major items of work on single season contracts, and
- provided for all price volatile materials and supplies for multiple season contracts.

When fuel prices are volatile a price adjustment clause may be needed. This may occur on projects that are fuel intensive such as excavation, embankment, aggregate hauling and paving.

7.3 Bonding and Prequalification

References:

23 CFR 635.110

Applicability:

Applies to all federal-aid highway construction projects, except for the following requirements which are not applicable to exempt non-NHS projects:

Guidance:

Bonding is grouped into three classifications which are:

- Bid bonds—consisting of a bond, certified check or negotiable instrument submitted with the bid as assurance that the bidder will execute the contract within a specified time;
- Performance bonds—executed with the contract to assure the contractor's obligations under the contract; and
- Payment bonds—executed in connection with a contract to assure payment, as required by law, to all persons supplying labor and material in the contract.

Prequalification is defined "as a means of predetermining job experience and work capacity and is used to identify those who may accept a bid."

The FHWA does not require implementation of procedures or requirements for prequalification, bonding, or licensing on federal-aid projects. However, if the local agency has such procedures or requirements they must conform to the FHWA's competitive bidding policy as follows:

- No procedure or requirement for bonding, insurance, prequalification, qualification, or licensing of contractors shall be used which may operate to restrict competition, to prevent submission of a bid by, or to prohibit consideration of a bid submitted by any responsible contractor, whether resident or nonresident of the state wherein the work is to be performed.
- No contractor shall be required to obtain a license before the submission of a bid or before the bid may be considered for award of a contract.

8. Materials & Equipment

8.1 Publicly-Owned Equipment

References:

23 CFR 635.106

Applicability:

Applies to all federal-aid highway construction projects.

Guidance:

Publicly-owned equipment should not normally compete with privately-owned equipment on a project going out for bid. Publicly-owned equipment may be justified by an exception and be a participating item for federal funds if:

- The PS&E submittal provides for the proposed use, and
- The specifications indicate the equipment available, the rates and delivery point, and
- The specifications include the provision that the contractor shall have the option of renting all or part of the necessary equipment or provide the equipment.

Public agencies shall not benefit from the rental of its own equipment and rental rates must be competitive. In force account work the rates may be an agreed unit price or actual cost. The equipment may not need to be included in the estimate. The estimate should include a schedule of rates charged for use of publicly owned equipment.

8.2 Contractor-Purchases for Local Ownership

Applicability:

Applies to all federal-aid highway construction projects.

Guidance:

Equipment purchased by the local agency or by a contractor with ownership transferred to the local agency for construction engineering (CE) is not a participating item for federal-aid. Only the portion of the amortized cost attributable to the time the equipment is used on a federal-aid project will be accounted for as CE and participating.

8.3 Convict Produced Materials

References:

23 USC 114(b)(2)
23 CFR 635.417

Applicability:

Applies to all federal-aid highway construction projects.

Guidance:

Materials produced by convict labor after July 1, 1991 may be used on federal-aid projects if:

- materials have been produced by convicts on parole, supervised release, or probation from prison;
- material has been produced in a qualified prison facility and the amount produced during any 12-month period does not exceed the amount produced during the 12-month period ending July 1, 1987.

These materials will not be given preferential treatment and are subject to the same requirements as materials from other sources. The contractor furnishes all materials through the contracting procedures and selects either public or private sources of materials. Prison Industries may not bid directly on projects but may serve as a material supplier to contractors.

8.4 Local Preferences

References:

23 CFR 635.409
23 U.S.C. 112

Applicability:

Applies to all federal-aid highway construction projects.

Guidance:

This policy applies to local preference actions against materials of foreign origin unless permitted by federal law. Materials produced within a state or local area shall not be favored over comparable materials produced outside of the state or local area. Also, in-state material sources cannot be given preference over foreign materials. State preference provisions are not allowed on federal-aid project contracts.

9. Force Account-Day Labor

References:

23 CFR 635.104(a & b)

Applicability:

Applies to all federal-aid highway construction projects.

Guidance:

Title 23 Part 635 of the Code of Federal Regulations (CFR) states, "Actual construction work shall be performed by contract awarded by competitive bidding..." This requirement applies whenever an agency's project is financed fully or in-part with Federal-aid funds.

The CFR defines force account as the direct performance of construction work by a local agency, a railroad, or a public utility, using labor, equipment, materials and supplies furnished by them and used under their direct control. Payment is based on the actual cost of labor, equipment, and materials furnished with consideration for overhead and profit. Performance of work by force account should be considered an exception to the normal contract method of competitive bidding. Each local agency must, when considering performance of work by force account, look to its Charter and applicable State Code(s).

The following circumstances may justify the use of force account:

- When the rights or responsibilities of the community are so affected as to require a special course of action, including situations where there is a lack of competition or unreasonable bids and it is found to be cost effective.
- When the inherent nature of the operation, deems it cost-effective to do so for minor adjustments of railroad and utility facilities. Major work still must be accomplished by competitive bidding. The use of force account in these circumstances must have been predetermined to be cost-effective.
- When a major element or segment of the highway system has failed and the situation is such that competitive bidding is not possible or is impractical because immediate action is necessary to minimize the extent of the damage, to protect remaining facilities, or to restore essential travel.

Certification

When a local agency plans to incorporate force account into the PS&E for a federally-financed project, it must document the justification in writing and it must be approved by the City/County Public Works Director. If the Director of Public Works is not registered as a California Civil Engineer, the approval can be delegated to the City/County Engineer or the highest level registered engineer in the agency who is.

The justification must include the following:

- Identification and description of the project and the kinds of work to be performed.
- Comparison of detailed cost estimates of work by force account versus contract.
- Estimate of Federal funds to be provided based on the reimbursement ratio of the qualifying costs.
- Reason(s) why the use of Force Account is considered to be cost effective or an emergency.
- Certification as noted above

Documentation

Precise documentation of actual force account work is essential. The information listed below must be included;:

Personnel

- Time sheets.
- Salaries and payrolls.
- Foreman's reports.

Materials

- Invoices for materials and supplies, and for any special services.
- Cost of producing materials supplied by the local agency.

Equipment

- Time and cost for using equipment owned by the local agency.

Time and rates for using rented equipment.

Cost records and documentation must be kept for at least three years after the Federal government completes final vouchering of the project.

10. Liquidated Damages

References:

23 CFR 630.305

Applicability:

Applies to all federal-aid highway construction projects.

Guidance:

Federal law requires the provision for liquidated damages on all federal-aid projects.

Liquidated damages are based on the estimated cost of field construction engineering. In special cases, liquidated damages greater than the estimated field construction engineering cost may be specified, provided that detailed reasons are given to support the greater amount. In all cases, calculations should that support the recommended rate. Liquidated damages are not to be used as disincentives or incentives to encourage timely completion.

Local agencies should use the following formula to avoid excessive liquidated damages:

$$\frac{\text{L\% (See Table Below)} \times \text{Total Estimate}}{\text{Working Days}} = \text{Liquidated Damages}$$

LIQUIDATED DAMAGES FACTOR (L%)

Project Estimate	Project Type		
	Resurfacing*	New Align Highway	Others
Over \$5 million	3%	3%	3%
\$500,000 - \$5 million	3%	5%	5%
\$200,000 - \$500,000	3%	9%	7%
Less Than \$200,000	5%	9%	7%

*Resurfacing projects include Asphalt Concrete(AC) Surfacing, seal coats, slurry seals, etc.

Except when the minimum liquidated damages apply as provided herein, the calculated liquidated damages should be rounded up as follows:

Calculated Liquid Damages	Round Up
<\$500	\$25 increments
\$500-\$1000	\$50 increments
>\$1000	\$100 increments

If the local agency uses an alternate method to determine liquidated damages for locally funded projects, it may be used on federal-aid projects as long as it avoids excessive charges. The local agency should have a liquidated damage calculation in the project files.

11. Experimental Work

Although such happenings are infrequent, a local agency may wish to include an experimental feature in their project or may be required to do so in order to receive federal funds. An experimental feature is a material, process, method, equipment item, traffic operational device or other feature that has not been sufficiently tested under actual service conditions to merit acceptance without reservation in normal highway construction.

Caltrans and the FHWA should be notified if experimental work is contemplated. An application package for "Construction-Evaluated" (C-E) projects is available from the Office of Project Planning and Design, Value Engineering Resource Conservation Branch (VE/RC) at Caltrans Headquarters. The application package includes specific guidelines and a sample work plan. The local agency must prepare a work plan that includes a description of the experimental and/or evaluation feature objectives, measurements to be made, time frames, reporting methods, cost estimates, post construction inspections and evaluations, and final recommendations. The work plan should also include the name and phone number of the principal investigator to be contacted should there be any questions regarding the experimental work.

The normal procedure is to include the work plan when the local agency requests Authorization to Proceed with Construction. Upon receipt of the workplan, Headquarters VE/RC Branch will complete the FHWA Form-1461 and submit the package to the FHWA for approval.

It should be emphasized that an evaluation of the constructability and performance of the experimental work is critical. These evaluations shall be conducted by a qualified person from either the local agency or outside over a period of several years (generally a minimum of three years). When it becomes apparent that additional information or experimental value is unlikely to be gained, the local agency shall prepare and forward a Final Report to Caltrans. The construction, performance, and final reports are then submitted to the VE/RC Branch. The VE/RC Branch then completes a Form FHWA 1461 and submits it with the report to the FHWA and to any interested Caltrans units.

Experimental features, if minor in nature and scope, may also be included in ongoing projects by submitting the work plan with a contract change order. Ample time should be allowed for the work plan to be processed through the VE/RC to the FHWA for approval.

12. Use of Standard Specifications

References:

23 U.S.C. 106(b)(2)

Guidance:

The local agency may use the current edition of Caltrans' *Standard Specifications*, the current, approved *Standard Specifications for Public Works Construction* (commonly referred to as "the Green Book") or their own standard specifications. The use of any of these standard specifications is subject to the condition that in the event any conflict arises between the standard specifications and the provisions or requirements of applicable Federal statutes, the regulations for the administration of Federal-aid for Highways, or the policies and procedures promulgated by the Federal Highway Administration for carrying out the provisions and purposes of the Federal laws and regulations, the latter shall apply.

13. Preliminary Estimates (See Exhibit F)

A "Preliminary Estimate" must be prepared for all federal-aid projects and is based on the engineer's estimate. Contract quantities are segregated by major construction categories (Exhibit 10-F). Further, any items of work in each category which are ineligible for federal participation must be segregated from other items of work in that category. This estimate must be prepared by the local agency prior to advertisement of the project for bids (see Attachment 1, Project Authorization)

13.1 Nonparticipating Work

Work which is not within the limits of the federal-aid project must be segregated under a category called "Not Part of Federal Project" for purposes of the preliminary and detail estimates (work funded by others is most generally nonparticipating).

Work within the federal-aid project limits, but ineligible for federal funding, is referred to as "nonparticipating work." Items considered "nonparticipating work" include but are not limited to the following:

- Experimental work without an approved work plan.
- Betterment work such as capital outlay, safety improvements, or operational improvements that goes beyond restoring a site to its original condition (for emergency relief work).

- Right-of way obligations when right-of-way is nonparticipating.
- Maintenance related activities.
- Spare parts not incorporated in the work.

The above work must also be identified and segregated for the purposes of the preliminary and detail estimates.

Quantities for each structure shall be shown separately with an appropriate structure code. Miscellaneous work, such as utility adjustments by a utility company, shall also be separate. Nonparticipating work outside the limits of the federal-aid project must be segregated.

13.2 Contract Items

In order to determine which contract items should be included in the preliminary estimate, the work is broken down into the basic types of construction, such as excavation, concrete and steel. Each type and each classification of a type of construction comprises one bid item. Each contract item must be measured accurately. After October 1996, metric units must be used for all items of work.

When practical, work that may be performed by a different subcontractor should also be segregated into separate contract items.

The list of contract items should be analyzed to be sure that all phases of the work are included in the estimate. Care should also be taken to ensure that there is no overlap of contract items, which could result in a duplication of payments.

The "Coded Contract Item List," published by Caltrans, may be used by the local agency with or without the item code number. The contract item list should be used if the local agency is using Caltrans' *Standard Specifications*, as the items are matched with the specifications (see authorization to proceed in Attachment 1).

13.3 Local Agency Furnished Materials

Local agency furnished materials are a part of the total cost of the project and should be subtotaled and included in the total project cost.

To be eligible for Federal participation in its cost, any material other than local natural materials, to be purchased by the local agency and furnished to the contractor for mandatory use in the project, must have been acquired on the basis of competitive bidding, except when there is a finding of public interest justifying the use of another method of acquisition. The unit cost eligible for Federal participation will be limited to the unit cost of such material to the local agency.

13.4 Supplemental Work

"Supplemental work" is work that is anticipated and required but cannot be described and quantified for delivery on a unit-price or lump-sum basis.

Such work must be included in the project estimates and should follow the "Subtotal Contract Items." Supplemental work should include extra work, additional work, right-of-way obligations, traffic control (if required) or other work to be performed by the contractor and charged to the contract work order. Supplemental work can be listed and

included in the total project cost, or included in the contingencies section of the estimate.

For additional information on the use of supplemental work as an item of work, refer to Caltrans' *PS&E Guide*, available from the Caltrans Publications Distribution Unit.

13.5 Contingencies

Estimates may include an amount up to five percent of the total estimate for contingencies. The maximum contingency limit for Highway Bridge Replacement and Rehabilitation (HBRR) projects is determined annually by the HBRR Steering Committee. Contingency amounts should be adjusted to give the total contract a round number.

13.6 Federal Trainee Program (also see Section 6.4)

Preliminary estimates for federal-aid projects may include an estimated amount for the Federal Trainee Program. It is up to the local agency to establish the number of trainees on each project. As a general guideline, allow \$800 for each trainee. The project must be a major construction project, with funding greater than \$500,000 and an estimated contract time of at least 100 working days.

13.7 Estimates for Force Account/Day Labor

If force account/day labor is to be included in the project, it must be listed in the estimate as a separate item. Such work must be justified and documented as described in Section 9.

14. Bridge Review

When a bridge or major structure is involved in a local agency project, the local agency may request a cursory review of the structural designs by Caltrans' Division of Structures, Local Assistance. Caltrans' review and comments will be advisory only. If requested, Caltrans' decision to review structural plans will be based on:

- Experience of local agency staff;
- Complexity of project, type of structure;
- Availability of Caltrans staff.

If the local agency requests a cursory review, they must submit checked plans to Caltrans' Division of Structures. The checker's signature or initials must appear on each sheet of the structure plans. Unsigned plans will be returned to the local agency. The project special provisions and engineering reports must have the engineer's signature and registration number on the title sheet.

When transmitting the project documents to the Division of Structures for review, the District must identify the following:

- Agency advertising the project;
- Estimated advertising date;
- Type of funding; and
- Expenditure authorization number on State-advertised projects.

The following schedule should be followed when submitting the structure design documents for review by the Division of Structures. The figures shown below represent the minimum number of copies required.

<u>Document Submitted</u>	<u>Number Required</u>
Plans (reduced or full size prints)	3
Special provisions (for bridge portion)	3
Hydraulic report	2
Foundation report	2

15. Projects Without Traditional PS&E

Some ISTEA projects such as Congestion Mitigation and Air Quality (CMAQ) and Transportation Enhancement Activities (TEA) may consist of studies. Examples include: Traffic Demand Management (TDM) studies relating to regional air quality, ride sharing, commuter incentives and commuter computer centers.

These projects will not have a set of plans or PS&E, but may only consist of a consultant contract agreement. The local agency shall submit the following to DLAE (See Exhibit G):

- Workplan.
- Budget, with schedule.
- Consultant agreement.
- Request for Authorization form prior to consultant approval.

Unlike the traditional PS&E, these studies are submitted for preliminary engineering, only. The project workplan, budget, and consultant agreement are submitted in lieu of PS&E and a detailed estimate. If the project is part of a regional study done by a Metropolitan Planning Organization (MPO), then the local federal-aid portion of the workplan must be segregated to show the project costs associated with each local agency.

16. Local Agency Certification

The local agency must submit a PS&E certification letter (See Exhibit E), along with a "Request for Authorization" (which is the notice to proceed with construction) as part of the PS&E package which is sent to the DLAE. The certification letter must be signed by the local agency engineer in charge of the project. This person must be a professional civil engineer registered to practice in California, and either a public employee or a consultant on retainer as the City/County Engineer.

In the letter, the local agency certifies that the PS&E has been prepared in accordance with *the Local Programs Manual* and that any necessary design exceptions have been approved by the Public Works Director or his/her designee. The certification must also acknowledge that review of PS&E will not be performed by Caltrans. By this certification, the local agency accepts responsibility for compliance with applicable design standards, Title 23 of the United States Code, and other applicable federal requirements (DBE, EEO, federal/state wage rates, license requirements, etc.). Failure to comply with any of these requirements may cause withdrawal of funds.

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

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Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

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

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

ATTACHMENTS

- A. Employment Preference for Appalachian Contracts
(included in Appalachian contracts only)

II. NONDISCRIMINATION

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

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

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

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

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

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

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Form 1273, Page 1

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

- a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

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

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment,

upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."

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

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

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

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

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

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

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

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

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group

applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

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

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

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

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

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

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

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

6. **Training and Promotion:**

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

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

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

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

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

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

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

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

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

group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

8. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

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

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

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

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

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

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

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

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

(4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

III. NONSEGREGATED FACILITIES

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

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

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

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

IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

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

1. General:

a. All mechanics and laborers employed or working upon the site of the work will be paid

unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

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

2. Classification:

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

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

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

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

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

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

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

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

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

3. Payment of Fringe Benefits:

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

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other

third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

a. Apprentices:

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

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

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

applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees:

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

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

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

c. Helpers:

Helpers will be permitted to work on a

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

5. Apprentices and Trainees (Programs of the U.S. DOT):

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

6. Withholding:

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

7. Overtime Requirements:

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

8. Violation:

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

9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

V. STATEMENTS AND PAYROLLS

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

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

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

2. Payrolls and Payroll Records:

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

b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe

benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

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

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

(3) that each laborer or mechanic has

been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

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

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

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

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single

report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

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

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

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

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

VIII. SAFETY: ACCIDENT PREVENTION

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

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

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

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the charac-

ter, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

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

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

Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."

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

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

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

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*, as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*, as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of

this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

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

1. Instructions for Certification - Primary Covered Transactions:

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

- a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
- d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared

ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

- g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
 - h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.
 - i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions**
- 1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or

commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

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

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

2. Instructions for Certification - Lower Tier Covered Transactions:

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

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

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

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

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

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

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

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

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

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

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

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

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

XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

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

a. No Federal appropriated funds have been

paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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

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

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

**ATTACHMENT A - EMPLOYMENT
PREFERENCE FOR
APPALACHIAN CONTRACTS**
(Applicable to Appalachian contracts only.)

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

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

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

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

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

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

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

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

**TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29
DEBARMENT AND SUSPENSION CERTIFICATION**

The bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years;

does not have a proposed debarment pending; and

has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions.

The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this certification.

Certification for Federal Aid Contracts

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL*, "Disclosure of Lobbying Activities," in accordance with its instructions.

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

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

* Standard Form LLL may be obtained from Caltrans or FHWA offices

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

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

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

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

To the State of California, Department of Transportation

NONCOLLUSION AFFIDAVIT
(Title 23 United States Code Section 112 and
Public Contract Code Section 7106)

In accordance with Title 23 United States Code Section 112 and Public Contract Code 7106 the bidder declares that the bid is not made in the interest of or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Note: The above Noncollusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of the Noncollusion Affidavit.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

PS&E CERTIFICATION (Federal Project Off the NHS)

Local Agency Letterhead

To: (District Local Assistance Engineer's name)
District Local Assistance Engineer
Caltrans, Office of Local Assistance
(District Address)

Dear (District Local Assistance Engineer's name):

Design Certification (Federal Number and Description)

With submission of the enclosed Plans, Specifications and Estimates (PS&E) for the subject project, I hereby certify that the project was designed and prepared for advertisement in accordance with the "Local Programs Procedures" or the "Local Programs Manual" (whichever is most recent) produced by the California Department of Transportation (Caltrans). For those elements which do not meet the Design Standards therein, Design Exceptions have been approved.

I understand Caltrans will not be performing a review of this PS&E at this time but that all documents relating to this project are subject to review by the Federal Highway Administration (FHWA) and/or Caltrans in order to verify this PS&E certification. I also understand if deficiencies are found in subsequent review the following actions will be considered:

- (1) Where minor deficiencies are found, PS&E certification for future projects may be conditioned or not accepted until the deficiencies are corrected.
- (2) Where deficiencies are of such magnitude as to create doubt that the policies and objectives of Title 23 of the United States Code (or other applicable Federal and State laws) will not be accomplished by the project, federal funding may be withdrawn.

Geometric Design Standards (check appropriate box)

- 1990 AASHTO Standards
- 3R Projects - Minimum Standards for Geometric Design of Federal-Aid Resurfacing, Restoration, and Rehabilitation Projects on Local Streets and Roads, Local Programs Manual, State of California Department of Transportation

Functional Classification (For AASHTO Standards only)

This project was designed in accordance with the criteria set forth in the most recent version of "A Policy on Geometric Design of Highways and Streets" under the provisions of the following functional classification:

- | | |
|---|--|
| <input type="checkbox"/> Urban Collector | <input type="checkbox"/> Rural Collector |
| <input type="checkbox"/> Local Urban Street | <input type="checkbox"/> Local Rural Roads |

Controlling Criteria Checklist (For AASHTO Standards only)

Check the appropriate box for each line even if it does not apply to this project.

Criteria Met	Design Criteria Not Met	Design Exception Approval Date	Controlling Criteria
<input type="checkbox"/>	<input type="checkbox"/>	_____	Design Speed
<input type="checkbox"/>	<input type="checkbox"/>	_____	Lane Width
<input type="checkbox"/>	<input type="checkbox"/>	_____	Shoulder Width
<input type="checkbox"/>	<input type="checkbox"/>	_____	Bridge Width
<input type="checkbox"/>	<input type="checkbox"/>	_____	Structural Capacity
<input type="checkbox"/>	<input type="checkbox"/>	_____	Horizontal Alignment
<input type="checkbox"/>	<input type="checkbox"/>	_____	Vertical Alignment
<input type="checkbox"/>	<input type="checkbox"/>	_____	Grades
<input type="checkbox"/>	<input type="checkbox"/>	_____	Stopping Sight Distance
<input type="checkbox"/>	<input type="checkbox"/>	_____	Cross Slopes
<input type="checkbox"/>	<input type="checkbox"/>	_____	Superelevation
<input type="checkbox"/>	<input type="checkbox"/>	_____	Horizontal Clearance
<input type="checkbox"/>	<input type="checkbox"/>	_____	Vertical Clearance

Bridge Design Standards

Check the appropriate box for each line.

Standards Met	Design Standards Not Met	Exception Approval Date	Controlling Criteria
<input type="checkbox"/>	<input type="checkbox"/>	_____	Caltrans Bridge Design
<input type="checkbox"/>	<input type="checkbox"/>	_____	Barrier Railing
<input type="checkbox"/>	<input type="checkbox"/>	_____	Approach Guard Railing
<input type="checkbox"/>	<input type="checkbox"/>	_____	Hydrology & Hydraulic
<input type="checkbox"/>	<input type="checkbox"/>	_____	Foundation Invest. Study

Standard Plans (check appropriate box):

Caltrans

Locally Approved Standard Plans

_____ Date signed on behalf of the local agency by a person in responsible charge who is a registered professional engineer licensed to practice civil engineering in the State of California.

Plans (Check box if requirement met.)

Plans signed on behalf of the local agency by person in responsible charge who is a registered professional engineer licensed to practice civil engineering in the State of California.

Traffic Control Plans Included

Standard Specifications (Check Standards used)

Caltrans

Greenbook, "Standard Specifications for Public Works Construction"

Locally Approved

Specifications Checklist (Check if included)

- Required Contract Provisions Form FHWA-1273
- Buy America Specification
- DBE Contract Provisions
DBE Goal _____ (annual goal approved by Caltrans - see Attachment 4)
- Noncollusion Certification Specification
- On the Job Training Specification
- Required Contractor Licenses
- Notice to Contractors
- Bidder Conditions
- Railroad Regulations
- Description of Work

Environmental Analysis

As specified in Section 4.2 of Attachment 2, Environmental Procedures of this LPP, the preparation of PS&E must reflect findings of the environmental analysis performed for the project.

By checking the box below, the agency certifies that the necessary actions called for by the environmental documents have been responded to in the PS&E.

- Environmental Mitigation

Restricted Contract Provisions Checklist (Check appropriate box)

The use of contract provisions pertaining to the following items is restricted and may not be federally reimbursed unless supporting justification is provided with this certification.

- | <u>Included</u> | <u>Not
Included</u> | |
|--------------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Indian Preferences |
| <input type="checkbox"/> | <input type="checkbox"/> | Indian Reservation _____ |

Restricted Contract Provisions Checklist (continued)

- | <u>Included</u> | <u>Not
Included</u> | |
|--------------------------|--------------------------|------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Price Adjustment Clauses |
| <input type="checkbox"/> | <input type="checkbox"/> | Bonding and Prequalification |

Experimental Work

- Plan Included Workplan Code _____ Approval Date _____

Liquidated Damages

- Per formula in Local Programs Manual
 Other

Amount: \$ _____

Materials & Equipment

The use of the items listed below is restricted and their costs will not be reimbursed with federal-aid funds unless proper justification is included in the project files. Check the appropriate box to indicate whether or not provisions for their use have been included in the PS&E.

- | <u>Included</u> | <u>Not
Included</u> | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Publicly Owned Equipment (for use of Contractor) |
| <input type="checkbox"/> | <input type="checkbox"/> | Contractor-purchased Equipment (which becomes the property of the agency) |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract-Produced Materials (as purchased by Contractor for use on the project) |
| <input type="checkbox"/> | <input type="checkbox"/> | State/Locally Owned/Furnished/Designated Materials (refer to Section 13.3) |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Agencies in Competition with the Private Sector (refer to Sections 2, 8, and 9) |

(Signature, Title)
(Local Agency)

Professional Engineer's
Registration Number: _____

Expiration Date: _____

SCOPE OF WORK CMAQ/TSM/TEA Projects

BASIC ELEMENTS

The scope of work should be one page long and include:

- project description
- major objectives
- project locations
- project components
- project milestones
- special conditions
- target populations

PROJECT MILESTONES

Provide all completion dates and deliverables including:

- quarterly progress reports
- final report
- marketing plans
- Request for Proposals(RFP)
- notice of completion
- equipment procurement & purchase
- beginning of operation

PROPOSED BUDGET

Provide a budget and workplan with costs that include:

- capital costs
- non-capital costs
- donations
- all private & public \$
- line items for marketing, training, and data collection
- administrative costs
- workplan costs by task

SAMPLE WORK PLAN FOR A TRAFFIC DEMAND CENTER (shows all tasks and associated costs)

<u>TASK DESCRIPTION</u>	<u>COST</u>	<u>SCHEDULE</u>	
		<u>Start Date</u>	<u>Completion Date</u>
A Building Space	\$45,000		
B Telephones	\$75,000		
C Cabling and Wiring	\$12,000		
D Communications	\$30,000		
E Security	\$16,000		
F Furniture	\$60,000		
G Hardware	\$17,000		
H Software	\$85,000		
I Teleconferencing	\$90,000		
J Marketing	\$32,000		
K Administration	\$30,000		
L Project operations	\$60,000		
M Evaluations	\$10,000		
TOTAL	\$562,000		

SAMPLE BUDGET FOR A TRAFFIC DEMAND CENTER (shows all fund sources and private contributions)

<u>CAPITAL COSTS</u>	<u>Local</u>	<u>Private</u>	<u>MPO</u>	<u>Measure</u>	<u>Total</u>
Equipment	\$177,000	\$70,000	\$42,000	\$40,000	\$329,000
Lease		\$45,000			\$ 45,000
Construction				\$28,000	<u>\$ 28,000</u>
Subtotal					\$402,000
NON-CAPITAL COSTS					
Construction Engineering				\$30,000	\$30,000
Design	\$10,000				\$10,000
Administration			\$30,000		\$30,000
K Operations		\$60,000			\$60,000
L Project Implementation	\$30,000				<u>\$30,000</u>
TOTAL COSTS	\$217,000	\$175,000	\$72,000	\$98,000	\$562,000