

**FOR INFORMATIONAL PURPOSES ONLY-DO NOT USE FOR BIDDING**

MINIMUM BID PRICE ITEMS

CERTAIN PAY ITEMS IN THE ITEMIZED PROPOSAL REQUIRE BIDS AT OR ABOVE THE PUBLISHED MINIMUM PRICE. THESE ITEMS AND RESPECTIVE MINIMUM BID PRICES ALLOWED ARE SHOWN BELOW. IF A BID IS ENTERED BELOW THE PUBLISHED MINIMUM PRICE SHOWN, THE AMOUNT BID FOR SUCH ITEM WILL BE RAISED BY THE DEPARTMENT TO THE PUBLISHED MINIMUM PRICE.

ITEM NUMBER	DESCRIPTION	UNIT	MINIMUM UNIT BID PRICE
639.2X00NC	CPM (CRITICAL PATH METHOD) SCHEDULE WITH MONTHLY UPDATE	LS	\$ 100,000.00

**Department of Public Works  
Nassau County, New York  
Bid Sheets for Contract H63029-16G**

Item No	Engineers Estimate	Item Description			
201.06	1.00 LS	CLEARING AND GRUBBING	For:		
202.2202	36,836.00 SF	REMOVAL OF STEEL SUPPORTED STRUCTURAL SLAB (WITH SHEAR CONNECTORS) TYPE B	For:		
203.02	1,045.00 CY	UNCLASSIFIED EXCAVATION AND DISPOSAL	For:		
210.3312	165.00 SF	REMOVAL AND DISPOSAL OF BOND BREAKER/FILLER ACM (BV14)	For:		
210.481101	1,500.00 LF	REMOVAL AND DISPOSAL OF MISCELLANEOUS ACM (BV14)	For:		
210.481102	3,700.00 LF	REMOVAL AND DISPOSAL OF MISCELLANEOUS ACM (BV14)	For:		
210.481201	9.00 SF	REMOVAL AND DISPOSAL OF MISCELLANEOUS ACM (BV14)	For:		
210.481202	6,657.00 SF	REMOVAL AND DISPOSAL OF MISCELLANEOUS ACM (BV14)	For:		
304.10109917	490.00 CY	SUBBASE COURSE, TYPE 1011-2	For:		
404.018901	210.00 TON	TRUING & LEVELING F9, WMA, 80 SERIES COMPACTION	For:		
404.096101	685.00 TON	9.5 F1 TOP COURSE WMA, 60 SERIES COMPACTION	For:		
404.128101	100.00 TON	12.5 F1 TOP COURSE WMA, 80 SERIES COMPACTION	For:		

**Department of Public Works  
Nassau County, New York  
Bid Sheets for Contract H63029-16G**

Item No	Engineers Estimate	Item Description			
404.256901	135.00 TON	25 F9 BINDER COURSE WMA, 60 SERIES COMPACTION	For:		
404.258901	230.00 TON	25 F9 BINDER COURSE WMA, 80 SERIES COMPACTION	For:		
404.376901	330.00 TON	37.5 F9 BASE COURSE WMA, 60 SERIES COMPACTION	For:		
407.0102	1,090.00 GAL	DILUTED TACK COAT	For:		
490.10	5,700.00 SY	PRODUCTION COLD- MILLING OF BITUMINOUS CONCRETE	For:		
520.09000010	320.00 LF	SAW CUTTING ASPHALT CONCRETE	For:		
555.0105	70.00 CY	ABUTMENT - CONCRETE FOR STRUCTURES, CLASS A	For:		
555.80020001	140.00 LF	CRACK REPAIR BY EPOXY INJECTION (RESTORATION)	For:		
556.0202	14,700.00 LB	EPOXY COATED BAR REINFORCEMENT FOR STRUCTURES	For:		
556.03	12,753.00 EA	STUD SHEAR CONNECTORS FOR BRIDGES	For:		
557.0101	4,092.88 SY	SUPERSTRUCTURE SLAB WITH INTEGRAL WEARING SURFACE, BOTTOM FORMWORK REQUIRED- TYPE I FRICTION	For:		

**Department of Public Works  
Nassau County, New York  
Bid Sheets for Contract H63029-16G**

Item No	Engineers Estimate	Item Description			
557.2001	530.00 SY	STRUCTURAL APPROACH SLAB WITH INTEGRAL WEARING SURFACE - TYPE 1 FRICTION	For:		
557.29	5,170.00 SY	WINTER SURFACE TREATMENT - SUPERSTRUCTURE SLABS AND STRUCTURAL APPROACH SLABS	For:		
557.30	1,357.00 SY	SIDEWALKS AND SAFETY WALKS	For:		
558.02	4,321.99 SY	LONGITUDINAL SAWCUT GROOVING OF STRUCTURAL SLAB SURFACE	For:		
559.01	41,601.80 SF	PROTECTIVE SEALING OF STRUCTURAL CONCRETE ON NEW BRIDGE, DECKS AND BRIDGE DECK OVERLAYS	For:		
559.04	1,400.00 SF	PROTECTIVE SEALING OF CONCRETE WITH COATING TYPE PROTECTIVE SEALER	For:		
560.0401	15.00 SF	STONE MASONRY	For:		
564.510001	25,714.05 LB	STRUCTURAL STEEL	For:		
565.2025	13.00 EA	TYPE E.B. FIXED BEARING (OVER 225 KIPS)	For:		
565.2035	39.00 EA	TYPE E.B EXPANSION BEARING (OVER 225 KIPS)	For:		
566.02	120.00 LF	MODULAR EXPANSION JOINT SYSTEM - TWO CELL	For:		

**Department of Public Works  
Nassau County, New York  
Bid Sheets for Contract H63029-16G**

Item No	Engineers Estimate	Item Description			
567.60	120.00 LF	ARMORLESS BRIDGE JOINT SYSTEM	For:		
568.51	759.00 LF	STEEL BRIDGE RAILING (FOUR-RAIL)	For:		
572.020001	1.00 LS	STRUCTURAL STEEL PAINTING SHOP APPLIED	For:		
576.01	3.00 EA	SCUPPERS (TYPE A)	For:		
580.01	48.00 CY	REMOVAL OF STRUCTURAL CONCRETE	For:		
582.05	2.00 CY	REMOVAL OF STRUCTURAL CONCRETE REPLACEMENT WITH CLASS A CONCRETE	For:		
582.06	24.00 SF	REMOVAL OF STRUCTURAL CONCRETE REPLACEMENT WITH CLASS D CONCRETE	For:		
582.07	24.00 SF	REMOVAL OF STRUCTURAL CONCRETE -REPLACEMENT WITH VERTICAL AND OVERHEAD PATCHING MATERIAL	For:		
585.01	26.00 EACH	STRUCTURAL LIFTING OPERATIONS - TYPE A	For:		
585.02	26.00 EA	STRUCTURAL LIFTING OPERATIONS - TYPE B	For:		
586.0201	1,212.00 EACH	DRILLING AND GROUTING BOLTS OR REINFORCEMENT BARS	For:		

**Department of Public Works  
Nassau County, New York  
Bid Sheets for Contract H63029-16G**

Item No	Engineers Estimate	Item Description			
586.10	108.00 EACH	FIELD DRILL HOLES IN EXISTING STRUCTURAL STEEL	For:		
587.01	759.00 LF	BRIDGE RAILING REMOVAL AND DISPOSAL	For:		
589.010001	8,646.00 LB	REMOVAL OF EXISTING STEEL	For:		
589.520001	52.00 EA	REMOVAL OF EXISTING STEEL	For:		
604.07200110	4.00 EA	SETTING NEW DRAINAGE FRAMES ON EXISTING DRAINAGE STRUCTURES	For:		
604.07210110	6.00 EA	RESETTING EXISTING DRAINAGE FRAMES ON EXISTING DRAINAGE STRUCTURES	For:		
607.0513	350.00 LF	VINYL COATED STEEL CHAIN-LINK FENCE ON PLASTIC COATED FRAME WITH TOP RAIL 8 FEET HIGH	For:		
607.96000008	350.00 LF	REMOVE AND DISPOSE OF EXISTING FENCE	For:		
607.98010111	410.00 LF	TEMPORARY CHAIN-LINK FENCE	For:		
608.0101	80.00 CY	CONCRETE SIDEWALKS AND DRIVEWAYS	For:		
608.01050109	2.00 EA	CURB RAMP CONFIGURATION TYPE 1	For:		

**Department of Public Works  
Nassau County, New York  
Bid Sheets for Contract H63029-16G**

Item No	Engineers Estimate	Item Description			
608.01050209	1.00 EA	CURB RAMP CONFIGURATION TYPE 2	For:		
609.04010510	1,650.00 LF	CAST-IN-PLACE CONCRETE CURB (GRADING INCLUDED) TYPE VF-150	For:		
609.26520011	1,540.00 LF	STEEL FACING FOR CURB ON STRUCTURE (NYC), TYPE D	For:		
610.1402	105.00 CY	TOPSOIL ROADSIDE	For:		
610.1601	930.00 SY	TURF ESTABLISHMENT - ROADSIDE	For:		
619.01	1.00 LS	BASIC WORK ZONE TRAFFIC CONTROL	For:		
619.04	6.00 EACH	TYPE III CONSTRUCTION BARRICADE	For:		
619.100101	14,646.00 LF	INTERIM PAVEMENT MARKINGS, STRIPES (TRAFFIC PAINT)	For:		
619.100201	19.00 EACH	INTERIM PAVEMENT MARKINGS, SYMBOLS (TRAFFIC PAINT)	For:		
619.100301	76.00 EA	INTERIM PAVEMENT MARKINGS, LETTERS (TRAFFIC PAINT)	For:		
619.1711	1,410.00 LF	TEMPORARY POSITIVE BARRIER - CATEGORY 1 (PINNING PROHIBITED)	For:		

**Department of Public Works  
Nassau County, New York  
Bid Sheets for Contract H63029-16G**

Item No	Engineers Estimate	Item Description			
619.21	1.00 EA	TEMPORARY SAND BARREL MODULE	For:		
619.24	1.00 LS	NIGHTTIME OPERATIONS	For:		
619.70040011	19,965.00 SF	PROTECTIVE SAFETY SHIELDING OVER HIGHWAY	For:		
621.03	40.00 LF	CLEANING CLOSED DRAINAGE SYSTEMS	For:		
621.04	1.00 EACH	CLEANING DRAINAGE STRUCTURES	For:		
625.01	1.00 LS	SURVEY OPERATIONS	For:		
637.11	24.00 MNTH	ENGINEER'S FIELD OFFICE- TYPE 1	For:		
639.2X00NC	1.00 LS	CPM (CRITICAL PATH METHOD) SCHEDULE WITH MONTHLY UPDATE (min per unit is \$100,000.00 )	For:		
645.5101	26.75 SF	GROUND-MOUNTED SIGN PANELS WITHOUT Z-BARS	For:		
645.81	3.00 EACH	TYPE A SIGN POST	For:		
655.07030010	4.00 EACH	CAST FRAME F3, WITHOUT CURB BOX AND WITH RETICULINE GRATE G3	For:		
655.0706	4.00 EACH	CAST FRAME F3, UNMOUNTABLE CURB BOX CU3 AND RETICULINE GRATE G3	For:		
670.02030004	8.00 EA	LED HIGHWAY LUMINAIRE (TYPE 03)	For:		



**Department of Public Works  
Nassau County, New York  
Bid Sheets for Contract H63029-16G**

Item No	Engineers Estimate	Item Description			
670.15114510	8.00 EA	TYPE S ALUMINUM LIGHT STANDARD 29 1/2 LF -36 LF POLE,14 3/4 LF SINGLE DAVIT ARM	For:		
670.81	8.00 EA	REMOVE AND DISPOSE OF LAMPPOST ASSEMBLY	For:		
680.54	230.00 LF	INDUCTANCE LOOP INSTALLATION	For:		
680.72	440.00 LF	INDUCTANCE LOOP WIRE	For:		
685.07200110	3,567.50 LF	WHITE EPOXY REFLECTORIZED PAVEMENT STRIPES - 20 MILS (WET NIGHT VISIBILITY SPHERES)	For:		
685.07200310	5.00 EACH	WHITE EPOXY REFLECTORIZED PAVEMENT SYMBOLS - 20 MILS (WET NIGHT VISIBILITY SPHERES)	For:		
685.07200610	2,080.00 LF	YELLOW EPOXY REFLECTORIZED PAVEMENT STRIPES - 20 MILS (WET NIGHT VISIBILITY SPHERES)	For:		
691.04000020	110,000.00 DC	TRAINING REQUIREMENTS	For:	\$1.00	
697.03	500,000.00 DC	FIELD CHANGE PAYMENT	For:	\$1.00	
698.04	9,500.00 DC	ASPHALT PRICE ADJUSTMENT	For:	\$1.00	
698.05	1,500.00 DC	FUEL PRICE ADJUSTMENT	For:	\$1.00	
698.06	100.00 DC	STEEL / IRON PRICE ADJUSTMENT	For:	\$1.00	

**Department of Public Works  
Nassau County, New York  
Bid Sheets for Contract H63029-16G**

Item No	Engineers Estimate	Item Description			
699.040001	1.00 LS	MOBILIZATION	For:		

**REHABILITATION OF GLENN CURTISS BLVD BRIDGE OVER  
MEADOWBROOK STATE PARKWAY**

**BIN 3-36055-9**

**NASSAU COUNTY, NEW YORK**

**CONTRACT NO.: H63029-16G**

**PIN 0761.47**

**GENERAL CONSTRUCTION PAYMENT ITEMS AND ITEM SPECIFICATIONS:**

The General Construction Payment Items and Specifications as per New York State Department of transportation. Office of Engineering Standard Specification- Construction and materials (English units) as amended by the current additions and modifications there to.

The following items are designated as "Specialty Items" for this contract, as defined in Subsection 108-05 of the Specifications:

<b>ITEM No.</b>	<b>DESCRIPTION</b>
<b>ITEM 304.10119917</b>	SUBBASE COURSE, TYPE 1011-2
<b>ITEM 520.09000010</b>	SAW CUTTING ASPHALT CONCRETE
<b>ITEM 555.80020001</b>	CRACK REPAIR BY EPOXY INJECTION (RESTORATION)
<b>ITEM 604.07200110</b>	SETTING NEW DRAINAGE FRAMES ON EXISTING DRAINAGE STRUCTURES
<b>ITEM 604.07210110</b>	RESETTING EXISTING DRAINAGE FRAMES ON EXISTING DRAINAGE STRUCTURES
<b>ITEM 607.96000008</b>	REMOVE AND DISPOSE OF EXISTING FENCE
<b>ITEM 607.98010111</b>	TEMPORARY CHAIN LINK FENCE
<b>ITEM 608.01050109</b>	CURB RAMP CONFIGURATION TYPE 1
<b>ITEM 608.01050209</b>	CURB RAMP CONFIGURATION TYPE 2
<b>ITEM 609.04010510</b>	CAST-IN-PLACE CONCRETE CURB (GRADING INCLUDED) TYPE VF-150
<b>ITEM 609.26520011</b>	STEEL FACING FOR CURB ON STRUCTURE (NYC), TYPE D
<b>ITEM 619.70040011</b>	PROTECTIVE SAFETY SHIELDING OVER HIGHWAY
<b>ITEM 639.2X00NC</b>	CPM (CRITICAL PATH METHOD) SCHEDULE WITH MONTHLY UPDATE
<b>ITEM 655.07030010</b>	CAST FRAME F3, WITHOUT CURB BOX AND WITH RETICULINE GRATE G3
<b>ITEM 670.02030004</b>	LED HIGHWAY LUMINAIRE (TYPE 03)
<b>ITEM 670.15114510</b>	TYPE S ALUMINUM LIGHT STANDARD 29 ½ FT-36 FT POLE 14¾ FT SINGLE DAVIT ARM
<b>ITEM 685.07200110</b>	WHITE EPOXY REFLECTORIZED PAVEMENT STRIPES – 20 MILS (WET NIGHT VISIBILITY SPHERES)

**NO TEXT ON THIS PAGE**

**ITEM 304.10119917 - SUBBASE COURSE, TYPE 1011-2**

All of the requirements of Section 304 *Subbase Course* shall apply except as herein modified:

**MATERIALS**

Material shall conform to the requirements of §733-04 *Subbase Course* with the addition of the following requirement:

**Natural Material.** Natural material obtained from sources located in Richmond, Kings, Queens, Nassau and Suffolk Counties shall conform to the following gradation:

Sieve Size Designation	Percentage Passing by Weight
2 in.	100
1 in.	80-100
¾ in.	50-85
No. 10	30-70
No. 40	15-40
No. 200	6-12

Natural material obtained from sources other than those listed above shall conform to the gradation requirements of Table 733-04A *Subbase Gradation* in §733-04B. *Gradation*.

**BASIS OF PAYMENT**

*Payment will be made under:*

Item No.	Item	Pay Unit
304.10119917	Subbase Course, Type 1011-2	Cubic Yard

## **ITEM 520.09000010 - SAW CUTTING ASPHALT CONCRETE**

**DESCRIPTION.** This work shall consist of saw cutting existing asphalt concrete pavement or sidewalk at the locations indicated on the plans or where directed by the Engineer.

**MATERIALS.** All equipment proposed for this work shall be approved by the Engineer prior to actual use.

**CONSTRUCTION DETAILS.** Saw cutting shall be along a neat line as indicated on the plans or where directed by the Engineer. Saw cuts shall be made to the depth(s) indicated on the plans.

Any damage to material not indicated for removal, caused by the Contractor's operations shall be repaired by the Contractor. All repair shall be done in a manner satisfactory to the Engineer.

**METHOD OF MEASUREMENT.** This work will be measured by the number of linear feet of saw cutting done. No allowances will be made for saw cuts of different depths.

No saw cutting will be measured for payment under this item which the Contractor may choose to do for his own convenience.

**BASIS OF PAYMENT.** The unit price bid per linear foot of saw cutting shall include the cost of all labor, materials, and equipment necessary to complete the work.

Any repairs made necessary by the Contractor's operations shall be done to the satisfaction of the Engineer at no additional cost to the State.

**ITEM 555.80010001 - CRACK SEALING BY EPOXY INJECTION (PREVENTION)**  
**ITEM 555.80020001 - CRACK REPAIR BY EPOXY INJECTION (RESTORATION)**

**DESCRIPTION:** Install injection ports, seal the crack opening, inject the crack with epoxy (full depth for restoration work, or as deep as conditions allow for prevention work), and restore the sealed surface to a flush condition in areas visible to the public. Perform the work at locations indicated on the contract plans or where directed by the Engineer.

PREVENTION - use in contaminated, cracked concrete areas to prevent movement and protect reinforcing.

RESTORATION - use in uncontaminated cracked concrete areas to restore structural integrity. Take verification cores for payment. Have an experienced epoxy manufacturer representative present until the work is acceptable to the Engineer.

**MATERIAL REQUIREMENTS:**

1. Crack Sealant - epoxy paste that completely cures in 4 hours or less and retains the injected epoxy. Any other type of crack sealant is subject to a project demonstration and approval by the Engineer.
2. Low Viscosity Injection Epoxy - Manufacturer certified to meet ASTM C881, Type I or IV, Grade 1, Class B or C (as temperature conditions require.)
3. Vertical & Overhead Patching Material (Approved List) - (for ITEM 555.80020001) §701-08

**INJECTION EQUIPMENT:** Use equipment in good working order, as approved by the Engineer, with the following features:

- Separate feed lines to the mixing chamber
- Automatic mixing and metering pump
- Ability to thoroughly mix the epoxy components in the mixing chamber
- Operator control of the epoxy flow from the mixing chamber
- Clean, legible, accurate pressure gauges easily viewable by the operator
- Ability to provide an uninterrupted pressure head to continually force epoxy into the cracks
- Injection pressure from 0 to at least 200 PSI
- Capable of metering each epoxy component to within 3.0% of the epoxy manufacturer's mix ratio

Un-reacted epoxy components may be stored overnight in separate reservoirs and feed lines.

Before starting the work, demonstrate to the Engineer the ability of the equipment to meter and mix epoxy components to the required mix ratio. Ratio accuracy may be determined by simultaneously metering each component into separate, clean, accurately graduated, volumetric containers, or another procedure approved by the Engineer. Also, activate the automatic mixing and metering pump, mix a small amount of injection epoxy, and waste it into a disposable container. The Engineer will observe this trial operation and be satisfied the equipment is working properly, and the epoxy is mixed with no streaks.

**CONSTRUCTION DETAILS:**

**ITEM 555.80010001 - CRACK SEALING BY EPOXY INJECTION (PREVENTION)**  
**ITEM 555.80020001 - CRACK REPAIR BY EPOXY INJECTION (RESTORATION)**

1. Crack and Surface Preparation. Remove all debris or contaminants accessible within the cracks by using hand tools, water blasting or oil-free high pressure air blasting, vacuuming, or other methods suitable to the Engineer. Epoxy resin will not penetrate: compacted, water or oil soaked debris. Allow free moisture within the crack to be absorbed before injecting epoxy. Remove all materials, including moisture, from the surface adjacent to the crack which might interfere with bonding of the crack sealant.
2. Injection Port Installation. Attach injection ports to the prepared surface by placing them onto (surface adapters) or into the cracks (socket ports) and affixing with crack sealant. Larger cracks may be ported by inserting an anchored tube into the crack.

Use positive connection port designs to connect injection equipment to the ports. Other injection port designs and attachment methods, where worker fatigue would not be a problem, require approval by the Engineer.

Use the following general guidelines for spacing injection ports when cracks are uniform in width through the structure. For cracks that get tighter with depth, double this spacing. Intermediate ports may be placed for observation. To permit maximum flow into the void, position ports on the wider crack sections and at intersections, rather than at an exact spacing.

If these guidelines cannot be followed, use port locations approved by the Engineer. Port spacing may be modified by the Engineer as experience is gained, or when cores are taken to determine penetration.

**FOR CRACKS COMPLETELY THROUGH A MEMBER**

- A. Cracks accessible from one side - space the ports not less than the thickness of the member.
- B. Cracks accessible from both sides - space the ports not less than twice the thickness of the member and stagger them relative to the ports on the opposite side. Make the stagger between ports (on opposite sides of the member) at least the thickness of the member.

Place the endmost ports at the ends of the crack so as to insure complete filling of the crack.

**FOR MULTIPLE CRACKS ALL OVER A MEMBER.**

Space the ports as far apart as practical, but not less than 8" from one another. An 8" spacing presumes a 4" penetration in each direction, if the adjacent ports are not plugged when epoxy reaches them. For fine cracks that taper to an end, place the endmost ports about 4" from the end.

3. Crack Seal. After port installation, seal the crack opening with crack sealant, being careful not to plug the injection ports. Allow the crack sealant to cure completely before injecting epoxy.

Apply crack sealant only when surface and ambient temperatures are above 50° F.



**ITEM 555.80010001 - CRACK SEALING BY EPOXY INJECTION (PREVENTION)**

**ITEM 555.80020001 - CRACK REPAIR BY EPOXY INJECTION (RESTORATION)**

4. Port Flushing. Prior to any epoxy injection, flush critical ports with oil-free compressed air to verify that air exits from all the installed ports, dry the cracks, and check for leaks.
5. Epoxy Injection. Perform epoxy injection only when the surface and ambient temperatures are above 45° F and are not expected to fall below 45° F during the next 24 hours.

UNIFORM WIDTH CRACKS - start toward the middle of a horizontal crack and work outward, or the lowest point of a sloping or vertical crack and work upward.

VARIABLE WIDTH CRACKS - start at the widest points of all types of cracks and work outward. Secure the feed line to the first port. Initiate and continue flow until epoxy exits from the adjacent port. (Plug observation ports and continue through the same port to achieve maximum penetration.) Temporarily stop the injection process, remove the feed line, and seal the port. Attach the feed line to the adjacent port and repeat this procedure along the crack until the last port is sealed.

Generally, use higher pressures when injecting narrow deep cracks, medium to low for wider cracks, and lowest pressures when injecting a delaminated area or an area susceptible to lifting. Low pressure applied for a longer duration is often more effective than high pressure applied for a shorter duration.

Replenish the epoxy supply in the mixing equipment before it is exhausted. Thoroughly stir each epoxy component both before and after adding it to its respective component in the mixing equipment. Exercise care to assure a continuous injection operation.

Allow the epoxy to fully cure prior to performing subsequent work in the repaired area.

In the event of leakage from a crack, stop the injection process until the leak is sealed. When any work stoppage exceeds 15 minutes, clean the mixing chamber and flush the line that carries mixed epoxy. Flush with a suitable solvent, followed by air.

6. For ITEM 555.80020001 CRACK REPAIR BY EPOXY INJECTION (RESTORATION), take cores ranging in diameter from 1 to 4", as approved by the Engineer, to verify full penetration by epoxy and its cure. Take a representative core from each structural element, or one from every 100 feet of crack repaired, whichever is greater, at locations approved by the Engineer. The Engineer will retain the cores and determine if they are acceptable for payment. Patch the holes with Vertical & Overhead Patching Material.

More than one core may be necessary to obtain an acceptable sample from cracks that diverge below the surface. (To avoid cutting reinforcing, the core drill may be angled to intercept a crack behind the reinforcing.)

7. Clean Up. In all areas visible to the public, as determined by the Engineer, remove spillage, the ports and crack sealant until flush with the adjacent surface. Remove stains and repair any damage to the satisfaction of the Engineer at no additional cost.

**ITEM 555.80010001 - CRACK SEALING BY EPOXY INJECTION (PREVENTION)**  
**ITEM 555.80020001 - CRACK REPAIR BY EPOXY INJECTION (RESTORATION)**

**METHOD OF MEASUREMENT:** The Engineer will measure the work as the number of linear feet of crack sealed or repaired, as specified.

**BASIS OF PAYMENT:** Include the cost of all labor, materials, and equipment necessary to complete the work in the unit price bid per linear foot. For ITEM 555.80020001 CRACK REPAIR BY EPOXY INJECTION (RESTORATION), also include the cost of coring and repairing the core holes.

For ITEM 555.80010001 CRACK SEALING BY EPOXY INJECTION (PREVENTION), the Engineer will authorize payment after the measured length of crack has been sealed and the surface cleaned.

For ITEM 555.80020001 CRACK REPAIR BY EPOXY INJECTION (RESTORATION), the Engineer will authorize payment after the measured length of crack has been repaired as verified by cores, the core holes patched and the surface cleaned.

## **DESCRIPTION**

This work shall consist of setting new drainage frames, complete with grates or covers, to grade on existing drainage structures and shall include removing, storing, and/or disposing of the existing frames, grates, covers, and appurtenances.

This item shall also include the setting of new drainage frames on existing drainage structures modified under the item, "Rebuilding Top of Existing Drainage Structures."

## **MATERIALS**

The new drainage frames, grates, and covers will be furnished under separate items.

Materials shall meet the requirements of the following subsections of Section 700:

Concrete Repair Material	701-04
Concrete Grouting Material	701-05
Precast Concrete Pavers	704-13

Concrete shall be Class A meeting the requirements of Section 501.

## **CONSTRUCTION DETAILS.**

The existing frames, grates, covers, and appurtenances shall be removed and, as indicated in the plans or directed by the Engineer, stored for pick up by others, used elsewhere on the contract, or disposed of off the work site.

The existing masonry adjustment collar, or a portion of it, shall be removed where necessary for setting of the new frame. The new frames shall be set to the line and grade as indicated in the plans or as directed by the Engineer, using precast concrete pavers and concrete grouting material and/or Class A concrete. The frames shall be set in a concrete grouting bed on the existing structure.

Any asphalt pavement and shoulder courses, subcourses, curbs, sidewalks, lawns and other top surfaces removed or damaged during the work of removing the existing frames and setting the new frames, shall be replaced in kind, unless otherwise directed by the Engineer. This shall include all sawcutting necessary for this removal.

Existing concrete/composite pavement shall be removed and restored as per the details given in the plans.

## **METHOD OF MEASUREMENT**

This work will be measured by the number of new drainage frames complete with grates or covers, set to grade on existing drainage structures or on existing drainage structures modified under the item, "Rebuilding Top of Existing Drainage Structures."

### **BASIS OF PAYMENT**

The unit price bid for setting each drainage frame shall include the cost of all labor, materials, and equipment necessary to complete the work including any necessary sawcutting, removal and replacement of pavement and shoulder courses, subcourses, curbs, sidewalks, lawns and other top surfaces, unless otherwise indicated in the plans or proposal. Removal and restoration of concrete/composite pavement will be paid for separately.

New drainage frames, grates, and covers will be paid for under the appropriate items. Any frames, grates, covers or appurtenances broken thru carelessness on the part of the Contractor shall be replaced at the Contractor's expense.

## **ITEM 604.07210110 - RESETTING EXISTING DRAINAGE FRAMES ON EXISTING DRAINAGE STRUCTURES**

### **DESCRIPTION**

This work shall consist of removing, storing, and resetting existing drainage frames, complete with grates, covers, and appurtenances, to grade on existing structures or on existing drainage structures modified under the item, "Rebuilding Top of Existing Drainage Structures."

### **MATERIALS**

Materials shall meet the requirements of the following subsections of Section 700:

Concrete Repair Material	701-04
Concrete Grouting Material	701-05
Precast Concrete Pavers	704-13

Concrete shall be Class A meeting the requirements of Section 501.

### **CONSTRUCTION DETAILS**

The existing frames, grates, covers and appurtenances shall be removed, stored if necessary, cleaned and reset to the line and grade indicated in the Plans or as directed by the Engineer.

The existing masonry adjustment collar, or a portion of it, shall be removed where necessary for resetting of the existing frame. The existing frames shall be set to grade using precast concrete pavers and concrete grouting material and/or Class A concrete. The frames shall be set in a concrete grouting bed on the existing structure. If an adjustment frame or ring was removed from the structure, the collar shall be set at such grade that no adjustment frame or ring is needed.

Any asphalt pavement and shoulder courses, subcourses, curbs, sidewalks, lawns and other top surfaces removed or damaged during the work of removing the existing frames and setting the new frames, shall be replaced in kind, unless otherwise directed by the Engineer. This shall include all sawcutting necessary for this removal.

Existing concrete/composite pavement shall be removed and restored as per the details given in the plans.

### **METHOD OF MEASUREMENT**

This work shall be measured by the number of existing drainage frames, complete with grates or covers, reset to grade on existing drainage structures or on existing drainage structures modified under the item, "Rebuilding Top of Existing Drainage Structures."

### **BASIS OF PAYMENT**

The unit price bid for resetting each drainage frame shall include the cost of all labor, materials and equipment necessary to complete the work including any necessary sawcutting, removal and replacement of pavement and shoulder courses, subcourses, curbs, sidewalks, lawns and other top surfaces, unless otherwise indicated in the plans or proposal. Removal and restoration of concrete/composite pavement will be paid for separately.

Any frames, grates and covers broken through carelessness on the part of the Contractor shall be replaced at the Contractor's expense.

## **ITEM 607.96000008 - REMOVE AND DISPOSE OF EXISTING FENCE**

### **DESCRIPTION:**

The contractor shall remove existing fence in accordance with the plans, specifications and directions of the Engineer. All references to "fencing" shall include existing gates, if any to be removed.

### **MATERIALS:**

Materials needed for modifying end sections shall conform to the requirements of Section 710 of the Standard Specifications or shall conform to the material requirements of the existing fence, as directed by the Engineer.

Concrete for footings shall conform to Section 607-2.01 of the Standard Specifications.

### **CONSTRUCTION DETAILS:**

The contractor shall remove and dispose of the existing fence to a point shown on the plans or where directed by the Engineer. If a portion of the existing fence is to remain, the remaining end section shall be modified to adequately secure the fencing. This modified section shall include all hardware necessary to secure the fencing in a manner similar to the existing end section or as directed by the Engineer. Parts salvaged from the removed portion, acceptable to the Engineer, may be reused in the end section.

All work shall be done in a workmanlike manner with care taken not to disturb the surrounding area or existing fence to remain. Any damage to the area or existing fence to remain caused by the contractor's operations shall be repaired to the original condition at no expense to the state. Any concrete post footings shall be either broken up and removed or removed in one piece as determined by the contractor and approved by the Engineer. All post holes shall be filled to meet existing grade. All excavation and backfill shall conform to Section 203 "Excavation and Embankment".

### **METHOD OF MEASUREMENT:**

This work will be measured as the number of feet of fence removed in accordance with the plans or as directed by the Engineer. An additional 10 foot allowance will be paid for each end section modified to secure the remaining fence.

### **BASIS OF PAYMENT:**

The unit price bid shall include the cost of all labor, equipment and materials necessary to complete the work, including the cost of any fill required to fill the post holes.

## **DESCRIPTION**

This work shall consist of furnishing, erecting, moving and removing chain link fencing and metal gates of the size and type as shown on the contract document and as directed by the Engineer.

The types of the fences to be used may be one of the following:

- Galvanized Steel Chain-Link Fencing on Steel Frame
- Vinyl Coated Steel Chain-Link Fencing on Steel Frame
- Vinyl Coated Steel Chain-Link Fencing on Plastic Coated Frame Fence Gates

Temporary chain link fences shall be installed on top of temporary concrete barriers and in sidewalk and roadway areas. Refer to the contract documents for location and installation method.

## **MATERIALS**

Materials shall conform to the requirements specified in the following subsections of Section 700-Materials:

Fences

607-2

### **Fences:**

Fences shall be as specified in §710-02, §710-03, §710-10, and §710-12.

### **Fence Gates:**

Gate frames shall be composed of tubing braced with rods, bars or angles and filled with wire mesh, meeting the specification requirements for the type of fencing with which the gate is to be used, all as detailed on the contract documents or Standard Sheets.

### **Portland Cement Concrete for Basis:**

Portland cement concrete used for basis shall be Class A or C, conforming to the requirements of §501-2, except that requirements for automated batching shall not apply.

## **CONSTRUCTION DETAILS**

The following sections of the standard specifications shall apply:

Fences

607-3

### **General**

**Concrete Barrier:** The Contractor shall install fence posts on the concrete barrier in 1 ½ inch diameter, 12 inch deep drilled or formed holes near each end of each section of barrier. In addition, if the concrete barrier is furnished in lengths exceeding 10 feet, it will be necessary for the Contractor to provide an additional hole at the center of the section to permit the installation of an intermediate post.

On Grade: Line posts and corner and end posts on grade shall be installed in accordance with Standard Sheet 607-04 and 607-05 and gate posts shall be installed in accordance with Standard Sheet 607-06.

**METHOD OF MEASUREMENT**

This work will be measured as the number of linear feet - as measured along the top of fencing, including gates, center to center of end posts - of the chain-link fencing installed.

**BASIS OF PAYMENT**

The unit price bid per linear feet of temporary chain-link fencing furnished and installed shall include the cost of all labor, materials, tools and equipment necessary to satisfactorily complete the work.

Upon completion of construction, all materials installed under this item shall become the property of the Contractor and shall be removed by the Contractor from the site of work.

Progress Payment: Progress payments will be made at the unit price bid for for ninety (90) percent of the quantity of chain-link fencing and gates installed. The remaining ten (10) percent will be paid upon removal.



## **DESCRIPTION**

The work shall consist of constructing curb ramps, turning spaces, and associated curbing in accordance with the applicable Standard Sheets and Specifications, and in accordance with the Contract Documents.

The fifth and sixth number to the right of the decimal place (NN), in the item number, is a serialized number to match the different types of curb ramp configurations depicted in the US Customary Standard Sheets 608-01.

The work shall include demolition, saw cutting, disposal, fill, compaction, construction of the new curb ramps, turning spaces and associated curbing. Also included are detectable warning units (supplied and installed where required), repairs to affected asphalt and concrete (as necessary), topsoil, establishing turf (on disturbed areas), and finish work. All material and labor required to perform these tasks is included. Any required adjustments to utilities shall be performed under the specifications for that work.

## **MATERIAL**

Materials required for this work shall comply with, but are not limited to, the following Sections: 402-2, 502-2, 503-2, 608-2, 609-2, and 610-2.

## **CONSTRUCTION DETAILS**

The work shall be in conformance with the US Customary Standard Sheets 608-01 and 608-03. The work performed shall comply with, but is not limited to, the following Sections of the Standard Specifications: 401-3, 402-3, 502-3, 503-3, 608-3, 609-3, and 610-3.

Any existing utility facilities not indicated to be removed that are damaged by the Contractor's operations performing this work, shall be repaired by the Contractor, to the satisfaction of the Engineer, at no additional cost.

## **Survey Requirements**

The contractor shall be responsible for field verifying all elevations, slopes, and dimensions to ensure that the final layout of sidewalks and curb ramps meet ADA requirements prior to pouring concrete or placing asphalt or pavers. A Contract Control Plan is not necessary for work limited to sidewalks and curb ramps.

## **METHOD OF MEASUREMENT**

Payment will be made at the unit price bid for each type of curb ramp (as shown in the US Customary Standard Sheets 608-01), satisfactorily installed, in accordance with the Contract Documents.

## **BASIS OF PAYMENT**

The unit price bid shall include the cost of furnishing all labor, material, and equipment necessary to satisfactorily complete the work, to the satisfaction of the Engineer. Excavation and disposal under curb ramps and subbase course under curb ramps will be paid for separately. Sidewalk

beyond the upper grade break or turning space, as shown in the US Customary Standard Sheets 608-01, will be paid for separately. Any required Survey shall be paid for separately under the lump sum price bid for survey operations. Any incidental asphalt and concrete materials shall be included in work and not paid separately.

*Payment will be made under:*

<u><i>Item Number</i></u>	<u><i>Description</i></u>	<u><i>Pay unit</i></u>
608.01050009	Curb Ramp as shown in project details	Each
608.01050109	Curb Ramp Configuration Type 1	Each
608.01050209	Curb Ramp Configuration Type 2	Each
608.01050309	Curb Ramp Configuration Type 3	Each
608.01050409	Curb Ramp Configuration Type 4	Each
608.01050509	Curb Ramp Configuration Type 5	Each
608.01050609	Curb Ramp Configuration Type 6	Each
608.01050709	Curb Ramp Configuration Type 7	Each
608.01050809	Curb Ramp Configuration Type 8	Each
608.01050909	Curb Ramp Configuration Type 9	Each
608.01051009	Curb Ramp Configuration Type 10	Each
608.01051109	Curb Ramp Configuration Type 11	Each
608.01051209	Curb Ramp Configuration Type 12	Each
608.01051309	Curb Ramp Configuration Type 13	Each
608.01051409	Curb Ramp Configuration Type 14	Each

**ITEM 609.04010510 - CAST-IN-PLACE CONCRETE CURB (GRADING INCLUDED) TYPE VF150**  
**ITEM 609.04020510 - CAST-IN-PLACE CONCRETE CURB (GRADING INCLUDED) TYPE VF150A**  
**ITEM 609.04030510 - CAST-IN-PLACE CONCRETE CURB (GRADING INCLUDED) TYPE M150**  
**ITEM 609.04040510 - CAST-IN-PLACE CONCRETE CURB (GRADING INCLUDED) TYPE M150A**  
**ITEM 609.04050510 - CAST-IN-PLACE CONCRETE CURB (GRADING INCLUDED) TYPE M100**  
**ITEM 609.04060510 - CAST-IN-PLACE CONCRETE CURB (GRADING INCLUDED) TYPE M100A**  
**ITEM 609.04070510 - CAST-IN-PLACE CONCRETE CURB (GRADING INCLUDED) TYPE T100**  
**ITEM 609.05010510 - CAST-IN-PLACE CONCRETE CURB AND GUTTER (GRADING INCLUDED)**  
**TYPE VF150G**  
**ITEM 609.05020510 - CAST-IN-PLACE CONCRETE CURB AND GUTTER (GRADING INCLUDED)**  
**TYPE M100G**

## **DESCRIPTION**

The work shall consist of the construction of concrete curb or curb and gutter and necessary grading as shown on the plans or as specified by the Engineer.

## **MATERIALS**

The requirements of Subsection 609-2 shall apply. The curb or curb and gutter shall conform to the dimensions shown on the standard sheets, except that the depth of the curb shall be as shown on the plans.

## **CONSTRUCTION DETAILS**

The requirements of Subsections 609-3.01 and 609-3.04 shall apply.

The location of the concrete curb or curb and gutter shall be properly graded to conform to the curb line and grade. The graded area shall be firm and dry before placing concrete and all organic or unstable materials, existing curbs, sidewalks, and driveways shall be removed.

## **METHOD OF MEASUREMENT**

Concrete curb or curb and gutter placed under these specifications will be measured by the number of linear feet, measured to the nearest foot. The measurement will be taken along the top front arris line of the curb or curb and gutter.

## **BASIS OF PAYMENT**

The unit price bid per foot shall include all excavation, embankment, preparation of subgrade, curb anchors, and all other materials, equipment and labor necessary to complete the work as called for on the plans or as specified by the Engineer. The unit price bid shall also include: replacement of curb and curb and gutter that was produced out of tolerance; cleaning of curb, or curb and gutter found to be dirty prior to final acceptance; and repair or replacement of curb and curb and gutter damaged by the Contractor's operations.

No separate payment will be made for excavation or embankment above, below, or within the volume of curb placed

## **ITEM 609.26520011 - STEEL FACING FOR CURB ON STRUCTURE (NYC), TYPE D**

### **DESCRIPTION**

Under this item, the contractor shall supply and install steel facing for curb on structure at the locations indicated on the plans.

### **MATERIALS**

- A. Structural Steel shall conform to the requirements of ASTM Designation A283M, Grade A, and shall meet the requirements of the New York State Steel Construction Manual.
- B. Epoxy primer, Epoxy Intermediate Coat and Polyurethane Topcoat shall meet the requirements of Item 572.01 Structural Steel Paint systems: Shop Applied, except shop inspection for painting is not required. The Polyurethane topcoat shall be light gray in color such that a prepared chip shall be a reasonable visual match to Munsell Book Notation 10B 6/1. Viewing shall be done under North Standard Daylight.
- C. Concrete grouting material shall meet the requirements of subsection 701-05.

### **CONSTRUCTION DETAILS**

Fabrication details shall comply with the details and note on the New York city Department of Highways Standard Drawing H-1043 ASteel Faced Curb For Structures® and with the following:

- A. Fabrication of the steel facing shall conform to the requirements of the New York State Steel Construction Manual. All surfaces of completed steel facing, including anchors, fastenings, etc., shall be thoroughly cleaned of all rust, oil, grease, scale, or foreign matter in accordance with the requirements of SSPC-SP6 prior to painting.
- B. All surfaces of steel facing, which remain exposed after installation shall be painted with three coats of paint as described in Paragraph B, Materials, above. Finish coat color shall be light gray, conforming to Munsell Book Notation 10B 6/1. Viewing shall be done under North Standard Daylight.
- C. Concrete Grouting Material, if required shall be placed adjacent to the steel facing in locations shown on the Plans.

**ITEM 609.26520011 - STEEL FACING FOR CURB ON STRUCTURE (NYC), TYPE D**

**METHOD OF MEASUREMENT**

The quantity to be paid will be the number of feet of steel facing actually installed.

**BASIS OF PAYMENT**

The unit price bid per foot shall include the cost of all the materials and labor necessary to install the steel facing and concrete grouting material. The cost of furnishing and placing concrete and forming of the recess, if required, are included in the appropriate concrete items.

**ITEM 619.70030011 - PROTECTIVE SAFETY SHIELDING OVER RAILROAD**  
**ITEM 619.70040011 - PROTECTIVE SAFETY SHIELDING OVER HIGHWAY**

**DESCRIPTION**

This work shall consist of furnishing protective safety shields at the locations specified in the plan.

**MATERIALS**

**Structural:**

- 1) Structural steel shall conform to the requirements of Section 564 *Structural Steel*.

**Timber and Lumber:**

- 1) Timber and Lumber shall confirm to the requirements of Section 594 *Timber and Lumber*
- 2) Stress graded timber and lumber shall confirm to the requirements of §712-14 *Stress Graded Timber and Lumber*.

**CONSTRUCTION DETAILS**

The Contractor shall be responsible for the shield design. Calculations, drawings, details and installation procedure of the shield shall be prepared by a licensed Professional Engineer. A minimum of 90 work days prior to installation, the contractor shall submit design details to the participating railroad and the Engineer for approval.

The Contractor shall construct shields to the limits shown on the plans, in accordance with the horizontal and vertical clearance and design loads specified in the railroad or highway notes on the plans or in the contract documents.

The Contractor shall remove the protective safety shielding once the shielding is no longer needed.

**METHOD OF MEASUREMENT**

The quantity of safety shields to be measured for payment will be in square feet measured to the nearest whole square foot, from the limits shown on the plans.

**BASIS OF PAYMENT:**

The unit price bid per square foot shall include the cost of furnishing all labor, equipment and materials necessary to complete the work. Progress payments will be made as follows: 90% of the unit price bid for initial installation during construction and 10% of the unit price bid for final removal, at each location or construction stage.

## **DESCRIPTION**

This work shall consist of preparing, maintaining and submitting a Progress Schedule using the Critical Path Method on Oracle-Primavera P6 software which demonstrates complete fulfillment of all work shown in the contract documents. All work to prepare and maintain the CPM Progress Schedule shall be performed using the scheduling software application. The Contractor shall regularly revise and update the Progress Schedule, and use it in planning, coordinating and performing all work. Schedule activities shall accurately depict the entire scope of work to be performed to complete the project including, but not limited to, all work to be performed by the Contractor, subcontractors, fabricators, suppliers, consultants, the Department, and others, contributing to the project. In preparing and maintaining the Progress Schedule, the Contractor shall take into account submittal requirements and proper submittal review times, coordination of submittals by subcontractors for fabricating and delivering materials and equipment, availability and abilities of workers, availability of construction equipment, weather conditions and site specific restrictions in operations.

## **DEFINITIONS**

**Activity** - A discrete, identifiable task or event that usually has an expected duration, has a definable Start Date and/or Finish Date, and can be used to plan, schedule, and monitor a project.

**Activity, Controlling** - The first incomplete activity on the critical path.

**Activity, Critical** - An activity on the critical path.

**Actual Start date**- At the activity level, the Actual Start date represents the point in time that meaningful work actually started on an activity.

**Actual Finish date** - At the activity level, the Actual Finish date represents the point in time that work actually ended on an activity (Note: in some applications areas, the activity is considered “finished” when work is “substantially complete.”)

**Backward Pass** – Calculation of the late start and late finish dates for each activity, based on the start or finish dates of successor activities as well as the duration of the activity itself. It is also known as the second pass.

**Baseline Progress Schedule** - The Progress Schedule submitted by the Contractor and accepted by the Department that shows the plan to complete the construction contract work. The Baseline Progress Schedule represents the Contractor’s plan at the time of Contract Award or Notice to Proceed for completing the project.

**Bid Date** – The date the contract is let and there is an announcement by the Department of an apparent low bidder.

**Completion Date, Contract** - The date specified in the Notice To Proceed (NTP) letter for completion of the project or a revised date resulting from properly executed time extensions.

**Anticipated Completion Date** - The date forecasted by the Progress Schedule for the completion of the contract work.

**Constraint** - A schedule restriction imposed on the Start or Finish date(s) of an activity that modifies or overrides an activity's relationships.

**Contemporaneous Period Analysis Method** – A technique for evaluating schedule delays or time savings. The analysis period for the purpose of these provisions shall be the period covered in each regular progress update to the schedule, as they coincide with contract payments to the Contractor.

**Contractor's First Day of Work** - The day of the Contractor's first day of work which is Notice To Proceed (NTP)

**Contractor's Last Day of Work** - The Contractor's last day of work which is Contract Completion date.

**Contractor Work Day** - A calendar day scheduled for active prosecution of the work.

**County Work days** – Monday through Friday, with the exception of Holidays listed below. Days scheduled for the active prosecution of work activities by NC staff or NC's representatives.

**Critical Path** – In the Progress Schedule the critical activities shall be those activities being on the longest path. In a project network diagram, it is the series of activities which determines the earliest completion of the project.

**Critical Delay** - An event, action, or other factor that delays the critical path of the Progress Schedule and extends the time needed for completion of the construction project.

**Critical Path Method (CPM)** – A network analysis technique used to predict project duration by analyzing which sequence of activities (which path) has the least amount of scheduling flexibility (the least amount of float). A scheduling technique utilizing activities, durations, and interrelationships/dependencies (logic), such that all activities are interrelated with logic ties from the beginning of the project to the completion of the project. Early dates are calculated by means of a forward pass using a specified start date. Late dates are calculated by means of a backward pass starting from a specified completion date (usually the forward pass's calculated project early finish date).

**Data Date** – The date entered in the Project Details, in the Dates tab, which is used as the starting point to calculate the schedule. Everything occurring earlier than the data date is "as-built" and everything on or after the data date is "planned."

**Deliverable** – Any measurable, tangible, verifiable outcome, result, or item that must be produced to complete a project or part of a project. Often used more narrowly in reference to an external deliverable, which is a deliverable that is subject to approval by the Department.

**Draft Baseline Progress Schedule** – An optional schedule submission that reflects an outline of the schedule format and content proposed by the Contractor's Project Scheduler to comply with the schedule provisions in the contract to solicit early comments by the Engineer, prior to the submittal of complete Baseline Progress Schedule.

**Duration, Original** - The original estimated number of working days (not including holidays or other nonworking periods) in which the work task associated with the activity is expected to be performed. (The



number of calendar days may be different based on the calendar assigned to the activity.) For certain activities such as concrete curing, or others approved by the Engineer, the calendar shall reflect no non-working days.

**Duration, Remaining** - The estimated time, expressed in working days (not including holidays or other nonworking periods), needed to complete an activity that has started but has not finished.

**Early Completion Schedule** - A progress schedule will be considered an early completion schedule when the schedule submitted by the Contractor indicates a completion date that is earlier than the specified contract completion date, or the Finish date of any interim Milestone work activity is earlier than the date specified in the contract. This includes, but is not limited to, B-Clock activities, activities subject to Incentive/Disincentive provisions, and/or specific Liquidated Damages provisions, and Lane Rental activities.

**Final Baseline Progress Schedule** - The original plan against which the Contractor's progress is measured. The Final Baseline Progress Schedule represents the original plan at the award of the contract, of what is expected to happen. Once the Final Baseline Progress Schedule is accepted by the Engineer it is saved and used as a basis to compare against Progress Schedules Updates.

**Float Suppression** - Utilization of zero free float constraints which allows an activity to start as late as possible by using all of its' available free float. This technique allows activities to appear more critical than if the activity's total float was based on early dates. Assigning zero free float prevents true sharing of total float between Department and the Contractor. Utilization of overly generous activity durations and overly restrictive calendar non-working periods are also considered to cause float suppression.

**Float, Free** - The amount an activity can slip without delaying the immediate successor activities. Free Float is the property of an activity and not the network path.

**Float, Total** - The amount of time an activity (or chain of activities) can be delayed from its early start without delaying the contract completion date. Float is a mathematical calculation and can change as the project progresses and changes are made to the project plan. Total Float is calculated and reported for each activity in a network, however, Total Float is an attribute of a network path and not associated with any one specific activity along that path.

**Fragnet** – A subdivision of a project network diagram usually representing some portion of the project.

**Global data** – Data classified by Oracle-Primavera software as Global, including Project Codes, Global Activity Codes, Global Calendars, Resource Calendars, Global Filters, Resources, Global Reports, User Defined Fields and Unit of Measure.

**Key Plans** - Key Plans are graphic representations made by the Contractor's Project Scheduler on paper copies of the appropriate contract plan sheets that reflect the Contractor's planned breakdown of the project for scheduling purposes to efficiently communicate the Contractor's activity coding scheme to County scheduling staff. The key plans prepared by the Contractor shall clearly define the boundaries of the work for each designated Area, the operations contained in various Stages of work, and work in the Work Zone Traffic Control (WZTC) Phases. The alphanumeric codes on the key plans shall match the code values for the activity code "Area", "Stage", and "WZTC Phase" in the Progress Schedule.

**Longest Path** - The sequence of activities through the Progress Schedule network that establishes the Scheduled Completion Date

**Look-Ahead Schedule** – A three week time segment generated from the accepted Progress Schedule that shows the actual work progressed during the previous one week and forecasts the work planned for next two week

period following the Data Date, and includes any major materials to be delivered and any lane closings or anticipated shifts in WZTC.

**Milestone** – An activity with zero duration that typically represents a significant event, usually the beginning and end of the project, milestones set forth in the contract proposal, construction stages, a major work package, or the contract interim time-related clauses.

**Monthly Status Report** – The report generated monthly from the updated Progress Schedule in an electronic Adobe Acrobat PDF format that reflects a Data Date for that Progress Schedule Update period. The report shall be formatted to fit ANSI Size D paper (610 mm x 914 mm) (24 inch x 36 inch), listing all work activities from the data date to contract completion, using the NYSDOT Status Report Layout or as ordered by the Engineer, sorted by Early Start Date, Total Float in increasing order, showing the Activity ID, Activity Description, Original Duration, Remaining Duration, Total Float, Early Start date, Early Finish date, Start date, Finish date and Calendar ID.

**Narrative Report** - A descriptive report submitted with each Progress Schedule. The required contents of this report are set forth in this specification.

**Open End** - The condition that exists when an activity has either no predecessor or no successor, or when an activity's only predecessor relationship is a finish-to-finish relationship or only successor relationship is a start-to-start relationship.

**Predecessor** - An activity that is defined by Schedule logic to precede another activity. A predecessor may control the Start Date or Finish Date of its successor.

**Progress Schedule** – A general Oracle-Primavera P6 Schedule as defined by this Specification.

**Progress Schedule Update** – Changes to the Progress Schedule that reflect the status of activities that have commenced or have been completed, including the following items: (a) Actual Start date and or Actual Finish date as appropriate; (b) Remaining Duration for activities commenced and not complete; and (c) Suspend or Resume dates for activities commenced and not complete.

**Progress Schedule Revision** – Revisions to the Progress Schedule ensure it accurately reflects the current means and methods of how the project is anticipated to progress, including modifications made to any of the following items: (a) changes in logic connections between activities; (b) changes in constraints; (c) changes to activity descriptions; (d) activity additions or deletions; (e) changes in activity code assignments; (f) changes in activity Productivity Rates; and (g) changes in calendar assignments.

**Project Scheduler** – The person that is responsible for developing and maintaining the Progress Schedule.

**Projects Planned Start Date** – The date entered in the Project Details, in the Dates tab, that reflects the Contractor's planned start of work (based on contract requirements, and reasonable expectation for a Notice to Proceed) at the time the bid was submitted to the Department.

**Projects Must Finish By Date** – A date constraint entered in the Project Details, in the Dates tab, that reflects the Contract Completion Date set in the Contract Documents or through a formal contract extension of time.

**Recovery Schedule** – A schedule depicting the plan for recovery of significant time lost on the project. This separate CPM schedule submission shall provide the resolution and include appropriate changes in network logic, calendar adjustments, or resource assignments.

**Relationships** - The interdependence among activities. Relationships link an activity to its predecessors and successors. Relationships are defined as:

**Finish to Start** - The successor activity can start only when the current activity finishes.

**Finish to Finish** – The finish of the successor activity depends on the finish of the current activity.

**Start to Start** – The start of the successor activity depends on the start of the current activity.

**Start to Finish** – The successor activity cannot finish until the current activity starts.

**Resources, Contract Pay Item** – Contract Pay Item resources shall be identified as a Material resource type. When required, Contract Pay Item resources are developed for each Pay Item in the contract, with the Resource ID matching the contract Pay Item and the Resource Name matching the description of the contract Pay Item.

**Resources, Equipment** – Equipment resources shall be identified as a Nonlabor resource type. A unique identifier shall be used in the Resource Name or Resource Notes to distinguish this piece of equipment from a similar make and model of equipment used on the project.

**Resources, Labor** – Labor resources shall be identified as a Labor resource type. Labor Resources shall identify resources that encompass direct labor at the Crew level.

**Scheduling/Leveling Report** – The report generated by the software application when a user “Schedules” the project. It documents the settings used when scheduling the project, along with project statistics, errors/warnings, scheduling/leveling results, exceptions, etc.

**Substantial Completion** - the day, determined by the Engineer, when all of the following have occurred:

1. The public (including vehicles and pedestrians) has full and unrestricted use and benefit of the facilities both from the operational and safety standpoint, and
2. All safety features are installed and fully functional, including, but not limited to, illumination, signing, striping, barrier, guard rail, impact attenuators, delineators, and all other safety appurtenances, and
3. Only minor incidental work, replacement of temporary substitute facilities or correction or repair remains for the Physical Completion of the Contract, and
4. The Contractor and Engineer mutually agree that all work remaining will be performed with short term lane closures to minimize delays, disruption, or impediment to the traveling public. No overnight lanes closures will be allowed.

**Successor** - An activity that is defined by Schedule logic to succeed another activity. The Start Date or Finish Date of a successor may be controlled by its predecessor.

**Time Impact Analysis** - A technique to demonstrate the comparison of a time impact of a Progress Schedule revision prior to a change in the Contract work, against the current accepted Progress Schedule. It is also known as a “What-If” analysis.

**Work Breakdown Structure (WBS)** - A deliverable-oriented grouping of project elements, which organizes and defines the total scope of the project. Each descending level represents an increasingly detailed definition of project components or work packages.

**Work Days** – A calendar day (Monday through Friday) on which NC offices are open to the public for business NC recognized public holidays are not workdays. Days scheduled for the active prosecution of work activities by NC staff or the NC’s representatives. (NC Workday calendar)

Nassau County Holidays	
New Year’s Day	January 1
Martin Luther King Day	3 <sup>rd</sup> Monday in January
Lincoln’s Birthday	February 12th
President’s Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May

<b>Independence Day</b>	<b>July 4th</b>
<b>Labor Day</b>	<b>1<sup>st</sup> Monday in September</b>
<b>Columbus Day</b>	<b>2<sup>nd</sup> Monday in October</b>
<b>Election Day</b>	<b>1<sup>st</sup> Tuesday in November</b>
<b>Veteran's Day</b>	<b>November 11th</b>
<b>Thanksgiving Day</b>	<b>4<sup>th</sup> Thursday in November &amp; Following Friday</b>
<b>Christmas Day</b>	<b>December 25th</b>

If the holiday occurs on a Saturday, it may be observed the Friday before. If the holiday occurs on a Sunday, it may be observed the Monday after.

**Work Package** - A deliverable at the lowest level of the work breakdown structure. A work package contains activities.

## **MATERIALS**

Oracle-Primavera P6 software (as accepted by the Engineer)

## **CONSTRUCTION DETAILS**

**A. General.** In addition to the attributes of the Progress Schedule provisions as set forth in NYSDOT Specification §108-01, the Contractor shall prepare, furnish, and maintain a computer-generated Progress Schedule using the Critical Path Method (CPM) utilizing Oracle-Primavera scheduling software. The CPM Progress Schedule shall be prepared based on the principles defined by the latest issue of the Construction Planning & Scheduling Manual published by the Associated General Contractors of America, except where superseded by the contract documents such as the CPM Special Notes and this specification.

The Contractor and the Department shall use the Progress Schedule to manage the work, including but not limited to the activities of subcontractors, fabricators, the Department, other involved agencies and authorities, other entities such as utilities and municipalities, and all other relevant parties involved with the project.

No work other than installation of the Engineer's Field Office, mobilization, procurement and administrative activities, installation of construction signs, installation of erosion and pollution protection, clearing and grubbing, field measurements, and survey and stakeout will be permitted to start until the Baseline Progress Schedule has been submitted to the Engineer, and the Engineer determines there are no deficiencies consistent with those identified in paragraph I.1 *Immediate Rejection of Progress Schedule Submissions*.

The purpose of the Progress Schedule, and scheduling provisions in the contract, shall be to:

- a) Ensure that the Contractor and the Department have a detailed plan and resources to complete the project in accordance with contract time requirements;
- b) Provide a means of monitoring the progress of work;
- c) Aid in communication and coordination of activities among all affected parties;
- d) Analyze the effect of changed conditions on any milestone dates or on the contract completion date;
- e) Analyze the effect of change orders for extra work or deductions, and unanticipated delays, on the contract completion date;
- f) Establish a standard methodology for time adjustment analysis based on the principles of the Critical Path Method of scheduling, to analyze delays and resolve construction disputes concerning time;
- g) Determine appropriate extensions or reductions of Contract Time.

In scheduling and executing the work, the Contractor shall:

- a) Sequence the work commensurate with the Contractor's abilities, resources and the contract documents. The scheduling of activities is the responsibility of the Contractor.

- b) Ensure that Progress Schedules prepared by the Project Scheduler for submission to the Department are in compliance with the Contract. The intent should be that Schedule submissions and accompanying Narratives are timely, complete, accurate, and in compliance with the Contract.
- c) Communicate all Contract changes, and decisions or actions taken by the Contractor and all subcontractors, fabricators, etc., that effect the Progress Schedule to the Project Scheduler in a timely manner to allow appropriate development, maintenance, and update of the Progress Schedule.
- d) Include all work contained in the Contract and all work directed in writing by the Engineer. Work activities directed by the Engineer to be added to the Contract shall be included in the next Monthly Progress Schedule submission.
- e) Assure that Progress Schedule Updates reflect the actual dates that work activities started and completed in the field.
- f) Break a schedule activity into multiple activities to reflect a discontinuity in the work if a work activity is suspended in the field and restarted at a later date, and the break between when the work was suspended to when it was resumed is significant compared to the original activity duration.
- g) Ensure the Progress Schedule contains all work constraints and Milestones defined in the Contract.
- h) Schedule the work using such procedures and staging or phasing as required by the Contract. Work designated as part of separate stages may be performed concurrently with other stages where allowed by the Contract or where approved by the Department.

Failure by the Contractor to include any element of work required by the Contract in the accepted progress schedule does not relieve the Contractor from its responsibility to perform such work.

Should the Contractor choose to show activities in the schedule that reflects their plan of work prior to the contract award, the Department does not incur any liability and such work being performed between the letting date and the contract award date shall be considered at risk work.

Errors or omissions on schedules shall not relieve the Contractor from finishing all work within the time limit specified for completion of the contract.

**B. Project Scheduler.** The Contractor shall designate an individual, entitled the Project Scheduler, who will develop and maintain the construction progress schedule. The Project Scheduler shall be present at the Preconstruction Schedule Meeting, prepared to discuss, in detail, the proposed sequence of work and methods of operation, and how that information will be communicated through the Progress Schedule. The Project Scheduler shall attend all meetings, keep notes which may affect the CPM schedule, including but not limited to those between the Contractor and their Subcontractors and between the Contractor and the Department. The Project Scheduler shall be knowledgeable of the status of all aspects of the work throughout the length of the Contract, including but not limited to original contract work, additional work, new work, and changed conditions of work.

**C. Scheduling Software.** Oracle-Primavera P6 software and computer system shall be used by the Contractor. The Contractor shall develop, update, and revise the Progress Schedules using Oracle-Primavera P6 software application-

In general, schedules are developed from the Contractor's knowledge of the project, and the means and methods represented in those schedules are based on the Contractor's understanding of the contract documents, and the Contractor's past experience, which are unique to the Contractor. Schedule activity data are therefore the intellectual property of the Contractor and will not be made available to other Contractors. However, all project schedule data are the sole property of the Department.

## **D. Meetings.**

**D.1. Preconstruction Schedule Meeting.** The Contractor shall contact the Construction Engineer after notification they are the apparent low bidder, but no later than two (2) Work Days following Notification to Proceed (NTP) to schedule a Preconstruction Schedule Meeting. The purpose of this meeting will be to discuss essential matters pertaining to the satisfactory scheduling of project activities, and to resolve any known questions regarding interpretation of the contract requirements for this work.

The Project Scheduler shall be prepared to discuss the following:

- a) The proposed hierarchical Work Breakdown Structure (WBS) for the Progress Schedules. The Project Scheduler shall provide a paper copy at the meeting.
- b) The proposed project calendars.
- c) The proposed project activity codes and various code values for each activity code. The Project Scheduler shall provide a paper copy at the meeting.
- d) The specifics of any contract Time-Related Clauses (A+B Bidding, Incentive/Disincentive, Liquidated Damages, Lane Rental, etc.);
- e) The Contractor's schedule methodology to be employed, proposed work sequence and any proposed deviations from the contract plans with respect to Staging or Work Zone Traffic Control phasing.
- f) The Key Plans shall be provided at the meeting.
- g) The factors that the Contractor determines to control the completion of the project and any milestone activity completion dates contained therein.
- h) The Project Scheduler shall provide an outline for the content of the Narrative report for future Progress Schedule submissions.
- i) Schedule submission protocol for Progress Schedule submissions.

The Contractor shall submit to the Resident Engineer (RE) for review, a minimum of five (5) Work Days prior to the Preconstruction Schedule Meeting, the following: a copy of the Key Plans, a print out of the proposed Work Breakdown Structure, a print out of each of the proposed project Calendars showing the Work Days versus non-work days and hours per day, and a list of the Code Values for each Project Activity Code proposed to be used in the schedules.

The Resident Engineer (RE) will be available to answer questions regarding scheduling, including: the availability of Department supplied electronic file(s) containing sample project schedule information, sample progress schedule narratives, Special Notes for CPM Scheduling, and required standard format for CPM Progress Schedules for contract work.

The Contractor shall schedule meetings as necessary with the Engineer to discuss schedule development and resolve schedule issues, until the Final Baseline Progress Schedule is accepted by the Engineer.

**D.2. Progress Meetings.** One topic of the regular progress meetings held by the Engineer and attended by the Contractor shall be a review of the monthly Status Report generated from the Progress Schedule. The Contractor shall be represented by the Field Superintendent and Project Scheduler. The Project Scheduler shall bring a copy of the printed plot of the current Status Report to the progress meeting, the report shall show the current anticipated schedule for all remaining work with the critical path activities highlighted.

- a) The review of the Status Report serves as the forum to discuss project progress and delays, suggested remedies, necessary Progress Schedule revisions, coordination requirements, change orders, potential Contractor time extension requests, and other relevant issues. If contract work is falling behind the Progress Schedule, the responsible party (i.e. Contractor) shall be ready to discuss what measures it will take in the next thirty (30) days to put the work back on schedule so as to meet the contract Completion Date specified in the contract.
- b) Items of discussion will include, but are not limited to: project progress; schedule progress; near term and long-term schedule issues, including RFIs, Shop Drawing submittals, permit

work, utility relocations, mitigation work; project issues and risks; proposed solutions; and any relevant technical issues that are schedule related.

- c) At the meeting the Project Scheduler shall compile an action item list that describes who is responsible for existing or pending issues and the date by which the issue needs to be resolved to avoid delays. The Contractor shall forward a copy of the action item list to the Engineer within 2 business days following the meeting.

## **E. Progress Schedule Submissions:**

**E.1. Draft Baseline Schedule.** The Contractor is encouraged, but not required, to submit a Draft Baseline Progress Schedule that demonstrates a sample of how the Project Scheduler's proposed alphanumeric coding structure and the activity identification system for labeling work activities in the CPM progress schedule will conform to the detailed requirements of this specification.

This submittal may be made anytime following notice to the Contractor that they are the apparent low bidder on the contract.

Critical items for this review should include but are not limited to: the proposed WBS for subsequent progress schedules; the proposed project Calendars; project Planned Start date; project Must Finish By date; major milestone activities (e.g. - Award, Notice to Proceed, Contractor's First Day of Work, Contractor's Last day of Work, Anticipated Completion Date); and between fifty to one hundred summary activities for the major work deliverables of the contract (e.g. - pave EB from STA x to STA y, construct roundabout 1, construct bridge xyz, etc.) that have assigned Activity Ids, Activity Descriptions, Activity Durations, Predecessors, Successors, and Activity Relationships. These summary activities will be broken down into, or supplemented with, individual work activities for the baseline submission.

If any Crew resources are included, the composition of the staffing (the number and titles of the various staff) shall be listed in the Notes tab of the Crew resource, and the composition of the crews shall be included in the narrative. To the extent practicable, the Draft Baseline Progress Schedule should include administrative and procurement activities to be accomplished during the contract; planned submittal, review, and approval dates for shop drawings, working drawings, fabrication drawings, and contractor supplied plans, procedures, and specifications.

Any submission of a Draft Baseline Progress Schedule should be accompanied by a written Narrative that provides details of the Calendar assignments of Working Days versus non-work days, outlines the sequence of planned operations to complete the project work, and provides the proposed Activity Codes and Code values to be assigned to activities in future submissions of project progress schedules.

The review and comment by the Engineer of the sample schedule should assist the Project Scheduler in assuring the first submittal of the Baseline Progress Schedule will be in general conformance with the requirements of the specification and other contract requirements, and that major rework of the Baseline Progress Schedule will not be required. The Engineer will review the logic diagram, coding structure, activity identification system, and Narrative; and provide comments for required changes by the Project Scheduler for implementation in the submission of the Baseline Progress Schedule. The Engineer will provide written comments on major deficiencies within five (5) Workdays of receipt. The Department reviews Draft Baseline Progress Schedules solely for format and will not consider any submission of a Draft Baseline Progress Schedule for approval as an Early Completion Schedule.

**E.2. Baseline Progress Schedule–** Within ten (10) Work Days of receipt of the contract NTP, the Contractor shall prepare and submit a Baseline Progress Schedule that meets the following requirements:

- a) The schedule shall accurately reflect the proposed approach to accomplish the work outlined in the Contract documents and conforms to all requirements of this specification.
- b) The schedule shall define a complete logical plan that can realistically be accomplished, to execute the work defined in the Contract.
- c) The schedule shall comply with the work constraints and milestones defined in the Contract as well as all other contractual terms and conditions. The schedule shall be consistent in all respects with the

specific interim Time-Related Contract Provisions, and any order of work requirements of the contract documents. The schedule shall meet all interim milestone dates and the contractor's Anticipated Completion Date shall not extend beyond the contract completion date. This submission shall reflect the Contractor's plan at the time of contract award, and prior to the start of any work.

- d) **Float.** No negative float is allowed in the Baseline Progress Schedule submission.
- e) **Data Date.** The contract Award Date shall be entered as the Data Date. If the Contractor submits a Baseline Progress Schedule @ Bid submission, the Data date shall be the date of the schedule submission to the Engineer and not prior to the bid date. Time shall be the end of the work day.
- f) **Activity Codes.** The Progress Schedule shall have assigned, to the maximum extent practicable, the Global Activity Codes Including, but not limited to Responsible Party, Stage and Type of Work. The Contractor shall also use a Project Level activity code named "Subcontractor" with code values identifying each of the approved subcontractors working on relevant activities.
- g) **Project Level Layouts & Filters.** Any "Layouts", "Filters" and "Report" formats that the Contractor develops for the various Progress Schedules submissions to the Engineer shall be saved and made available to all other users of the project schedule with a name that includes the contract D#. The Contractor shall assign appropriate Activity Codes and provide custom Layouts, Filters, and/or report formats necessary to allow the Engineer to generate a report from the each Progress Schedule submission of all submittals required under the contract (i.e., shop drawings, required permits, erection/demolition plans, etc.). The list shall show scheduled submission date, review date, and acceptance date for each submittal and identify the earliest activity affected by each of these submittals. This list shall be generated from each Progress Schedule submission until all such activities are completed.

**h) Schedule Submission**

- i) Within the timeframe indicated in Table 1 column 1, the Contractor shall send an email to the Engineer and Construction Supervisor, notifying them the schedule is ready for review. **In the following table, the Construction supervisor may change the time.**

<b>TABLE 1 (in Work Days)</b>		
<b>Timeframe from receipt of Notice to Proceed to Submission of complete Baseline Schedule. (Column 1)</b>	<b>Timeframe for Engineer's Review (Column 2)</b>	<b>Timeframe from Notice to Proceed to acceptance by the Engineer not to exceed (Column 3)</b>
10	10	40

- ii) The Engineer will review the schedule and return it, accept it with comments, or reject it within the timeframes indicated in Table 1 column 2, following the date of receipt of the Contractor's submission.
- iii) If the schedule is returned with comments, the Contractor shall address all comments and revise the schedule as necessary. The Contractor shall complete the Final Baseline Progress Schedule and obtain the acceptance of the Engineer within the timeframe required in Table 1 column 3.
- iv) If the schedule is accepted without any comments by the Engineer, the Contractor shall copy the schedule and rename it for submission as the Final Baseline Progress Schedule
- v) **In no way does the Baseline Progress Schedule modify the contract documents.**

**E.3. Final Baseline Progress Schedule**

- a) If the Baseline Progress Schedule is returned to the Contractor with comments, the Contractor shall make a copy of the schedule and rename it as the Final Baseline Progress Schedule with comments addressed and revisions made as necessary. The Contractor shall complete the Final Baseline Progress Schedule and obtain acceptance of the Engineer within the timeframe required in column 3 of Table1,



or within one week of the Contractor's receipt of the final comments by the Engineer, whichever is sooner.

- b) The Engineer shall review the schedule and return it, accepted or with comments, within 5 Work Days following the date of receipt of the Contractor's submission.
- c) The Final Baseline Progress Schedule must be "accepted" or "accepted as noted" by the Engineer prior to the Department evaluating any Contractor disputes associated with time impacts. This does not preclude the Contractor from submitting a dispute while the schedule is being reviewed for acceptance.

#### **E.4. Progress Schedule Updates and Monthly Status Reports:**

- a) The Contractor shall perform a Progress Schedule Update, on a minimum, at the end of each month.
- b) The Contractor shall generate a Monthly Status Report at the end each month after performing the Progress Schedule Update and Scheduling the project with a Data Date of day the schedule was updated and submit it to the Engineer by the beginning of business each Monday. The Status Report shall be generated using the activity Layout named Monthly Status Report, with activities grouped by the WBS, sorted by Finish Date. The Gantt Chart shall clearly indicate the project critical (longest) path. Graphical representations shall be shown at a suitable scale to be legible and readable.
- c) **During any time periods within the contract that special time-related contract provisions are in effect, including Incentive/Disincentive Periods, the Engineer may require more frequent Progress Schedule Updates and/or Progress Schedule Status Reports.**

#### **E.5. Monthly-Progress Schedule Submissions.**

- a) **First Progress Schedule Submission** – Within three Work Days following acceptance of the Final Baseline Progress Schedule the Contractor shall perform a Progress Schedule Update to reflect the status of all activities where work was performed in the time period between the start of work and acceptance of the Final Baseline Progress Schedule. This shall include actual dates entered in the Actual Start and Actual Finish columns, and percentage of work complete for uncompleted activities, in addition the Contractor shall incorporate any Progress Schedule Revisions that reflect any changes in how future work activities are to be completed.
- b) **Subsequent Progress Schedule Submissions** – The Contractor shall prepare and submit subsequent Progress Schedule submissions on a regular basis based on the **Monthly Progress Schedules Schedule Updates and Revisions**  
The Contractor shall submit a copy of the current Progress Schedule that includes all Progress Schedule Revisions and Progress Schedule Updates to reflect the actual and planned prosecution and progress of the contract work. Progress Schedule Updates shall reflect the status of activities that have commenced or have been completed, including the following items: (a) actual dates in activity Actual Start and Actual Finish columns as appropriate; (b) actual Remaining Duration for activities commenced and not complete; and (c) actual activity Suspend or Resume dates for activities commenced and not complete. Progress Schedule Revisions reflect modifications made to activities in the current project baseline schedule in any of the following items: (a) activity Original Duration; (b) changes in logic connections between activities; (c) changes in Constraints; (d) changes to Activity Descriptions; (e) activity additions or deletions; (f) changes in Activity Code assignments; (g) changes in Calendar assignments, and Work Days; (h) Productivity Rates; (i) a list of Notebook Topic additions and changes . All "Out of Sequence" activities noted in the scheduling log shall be corrected to reflect the current construction operations.
- c) As ordered by the Engineer, for any contract time extension requests the Contractor shall include: a Time Impact Analysis (TIA) for any changes to the schedule for future work for such issues as Added Work, VECP, or Changed Conditions; and a Delay Analysis that documents all delays from the Contract Award to the current date that is based on critical path delays that occurred when comparing

subsequent Monthly Progress Schedule submissions and the supporting delay documentation in the Progress Schedule Narratives.

**E.6. As-Built Progress Schedule.** As ordered by the Engineer, the Contractor shall submit the As-Built Progress Schedule with Actual Start and Actual Finish dates for all activities, within ten (10) Work Days following final acceptance of work by the Commissioner.

**E.7. Look-Ahead Schedule.** Except during winter shutdown periods the Contractor shall prepare a Look-ahead Schedule as either a plotted report from the current progress schedule, or as a narrative report, and provide it to the EIC on a weekly basis, or if approved by the Engineer on a mutually agreed upon interval. The Look-ahead schedule shall include all work activities planned for the next two week period, and include all work activities progressed in the previous one week period, and should also show: anticipated lane closures, road closures and detours, environmental issues, and utility issues. The Engineer will provide the Project Scheduler with guidelines for determining the begin dates and end dates for the one or two week reporting periods, along with the how the plotted schedule report or narrative report shall be formatted.

The Department generally uses this Look-ahead schedule to facilitate communication with other Federal or State agencies, local municipalities, utility companies, railroads, emergency service providers, public news media and other affected parties.

## F. Detailed Progress Schedule Requirements.

**F.1. Baseline Progress Schedule.** As a minimum, the Contractor shall address the following:

- a) Defining Project details and defaults – Within the Dates tab, the “Planned Start” shall be the Letting Date, the “Data Date” shall be the date of Contract Award, the “Must Finish By” date shall be the contract Completion Date. Within the Settings tab, define the Critical Activities as the “Longest Path”.
- b) Sufficient activities shall be included to assure that there is adequate planning for the entire project. The appropriate number of activities will be largely dependent upon the nature, size, and complexity of the project. In addition to all site construction activities, network activities shall include: activities necessary to depict the procurement/submittal process including shop drawings and sample submittals; the fabrication and delivery of key and long-lead procurement elements; testing of materials, plants, and equipment; settlement or surcharge periods activities; sampling and testing period activities; cure periods; activities related to temporary structures or systems; activities assigned to subcontractors, fabricators, or suppliers; erection and removal of falsework and shoring; major traffic stage switches; activities assigned to the Department and other involved State agencies and authorities, including final inspection; activities to perform punch list work; and activities assigned to other entities such as utilities, municipalities, County government/agencies, and other adjacent contractors. The schedule shall indicate intended submittal dates and depict the review and approval periods as defined in the Contract Documents for Department review.
- c) The following Activity ID’s and Activity Descriptions as shown in Table 2, **subject to changes as approved by the Engineer**, shall be incorporated into all Progress Schedules:

TABLE 2					
Activity ID	Activity Description	Duration (Min)	Predecessor	Logic Tie	Responsible Party
C00005	Preconstruction Schedule Meeting	1 Work Day	M00001	SS	NC
C00011	Prepare & Submit DMWBE Goals	Minimum 1 Contractor Work Day	M00001	SS	Contractor

C00015	DMWBE Utilization Approved	15 Work Days	C000011	FS	NYSDOT/NC
C00030	Submit Proof of Insurance	1 Contractor Work Day	M00001	SS	Contractor
M00025	Contract Award Date	0 - Finish Milestone	00020, C00015	FF	NYSDOT/NC
C00010	Preconstruction Meeting	1 Work Day	M00001	SS	NYSDOT/NC
C00035	Notification to Proceed	5 Work Days	M00025, C00030	FS	NYSDOT/NC
C00040	Prepare/Submit Safety & Health Plan	Minimum 1 Work Day	M00001	SS	Contractor
C00045	Approve Safety & Health Plan	20 Work Days	C00040	FS	NYSDOT/NC
M00050	Contractor's First Day of Work	0 - Start Milestone	C00035, C00045	FS	Contractor
C00055	Set Up Engineer's Field Office	20 Contractor Work Days	C00035	FS	Contractor
C00060	Prepare & Submit Baseline Progress Schedule	10 Work Days from NTP	C00005	FS	Contractor
C00065	Review Baseline Progress Schedule	10 Work Days	C00060, M00025	FS	NYSDOT/NC
C00070	Accept Baseline Progress Schedule	1 County Business Days	C00065	FS	NYSDOT/NC
C00075	Mobilization	20 Contractor Work Days	M00050	SS	Contractor

**TABLE 2**

<b>Activity ID</b>	<b>Activity Description</b>	<b>Duration (Min)</b>	<b>Predecessor</b>	<b>Logic Tie</b>	<b>Responsible Party</b>
M00100	Field Work Begins	0 - Start Milestone	M00050, C00055, C00060		Contractor
M00900	Substantial Completion	0 - Finish Milestone	See definition	FF	Contractor
C09010	Other Agency Inspection	20 Work Days	M00900	FS	Others
C09020	NYSDOT Final Inspection	20 Work Days	M00900	FS	NYSDOT/NC
C09030	Punchlist Work	20 Contractor Work Days	C09020	FS	Contractor
M00950	Contractor's Last Day of Work	0 - Finish Milestone	C09030	FF	Contractor
M00999	Anticipated Completion Date	0 - Finish Milestone	M00950	FF	Contractor
C09040	Demobilization	10 Contractor Work Days	C09020	FS	Contractor

M00925	Recommendation for Final Acceptance	0 - Finish Milestone	C09040	FF	NYSDOT/NC
M09999	Final Acceptance	0 - Finish Milestone	M00925	FF	NYSDOT/NC

The Logic Tie shown shall be used as a relationship to the predecessor activities contained in the column named Follows.

- d) **Work Breakdown Structure (WBS)** - A multilevel hierarchal WBS shall be incorporated that provides a deliverable-oriented grouping of activities and defines the total scope of the project. The Contractor shall develop a detailed project specific WBS for the Engineer's review and approval. The Engineer shall make the final determination on the number of levels of the WBS, and how the activities shall be grouped to represent the deliverables of the project.

For all projects the first two levels (nodes) of the WBS shall be labeled as follows:

Level 1 - is the project level; and shall have the project name.

Level 2 - shall have three nodes; "PRECONSTRUCTION", "CONSTRUCTION", and "POST CONSTRUCTION";

Level 3- under "PRE-CONSTRUCTION", shall include at least three nodes "GENERAL SUBMITTALS", "SHOP DRAWINGS"; and "PROCUREMENT/FABRICATION/DELIVERY".

Level 3- under "CONSTRUCTION"; shall have three nodes "PRE-CONSTRUCTION", "CONSTRUCTION OPERATIONS", and "POST CONSTRUCTION/CLOSEOUT";

Under the "CONSTRUCTION OPERATIONS" node, the grouping of activities may vary depending on the scope and nature of the project work. The Contractor shall coordinate with the Engineer to determine the best way to represent (group activities) the project deliverables (i.e. Bridge, Roundabout, Highway segment, Interchange, Intersection, etc.) and the various Stages or Phases of work. The Engineer may require sub nodes for AREA (geographic area within the project limits), STAGE, or for a bridge project SUBSTRUCTURE, SUPERSTRUCTURE, and DECK .

Generally Level 4 would be by geographic area within the project limits, Level 5 would be by highway feature (bridge, highway segment, intersection), Level 6 the highway features should be broken into their components (a bridge into components such as Piles, Substructure, Superstructure), and a highway segment into components such as pavement, drainage, earthwork, lighting, traffic signals, etc.

An example Work Breakdown Structure is shown below in Figure 1

FIGURE 1

WBS Code	WBS Name
D269997-WBS	Replace State Route 123 Bridge over RR - BIN 1-2345-6
D269997-WBS.1	PRE-CONSTRUCTION
D269997-WBS.1.1	GENERAL SUBMITTALS
D269997-WBS.1.2	SHOP DRAWINGS
D269997-WBS.1.3	PROCUREMENT / FABRICATION / DELIVERY
D269997-WBS.1.4	PERMITS
D269997-WBS.1.5	UTILITY NOTIFICATIONS
D269997-WBS.2	CONSTRUCTION OPERATIONS
D269997-WBS.2.1	MILESTONES
D269997-WBS.2.2	START-UP / ADMINISTRATIVE
D269997-WBS.2.3	STATE ROUTE 123 BRIDGE OVER RR - BIN 1-2345-6
D269997-WBS.2.3.1	MPT - State Route 123 Bridge over RR
D269997-WBS.2.3.2	Substructure - State Route 123 Bridge over RR
D269997-WBS.2.3.2.1	South Abutment - State Route 123 Bridge over RR
D269997-WBS.2.3.2.2	Center Pier - State Route 123 Bridge over RR
D269997-WBS.2.3.2.3	North Abutment - State Route 123 Bridge over RR
D269997-WBS.2.3.3	Superstructure - State Route 123 Bridge over RR
D269997-WBS.2.3.3.1	Structural Members - State Route 123 Bridge over RR
D269997-WBS.2.3.3.2	Deck - State Route 123 Bridge over RR
D269997-WBS.2.3.3.3	Other Features - State Route 123 Bridge over RR
D269997-WBS.2.3.4	Approaches - State Route 123 Bridge over RR
D269997-WBS.2.3.4.1	South Approach - State Route 123 Bridge over RR
D269997-WBS.2.3.4.2	North Approach - State Route 123 Bridge over RR
D269997-WBS.2.3.5	Demolish Existing Bridge - State Route 123 Bridge over RR
D269997-WBS.2.5	HIGHWAY WORK - STATE ROUTE 123
D269997-WBS.3	POST-CONSTRUCTION / ACCEPTANCE

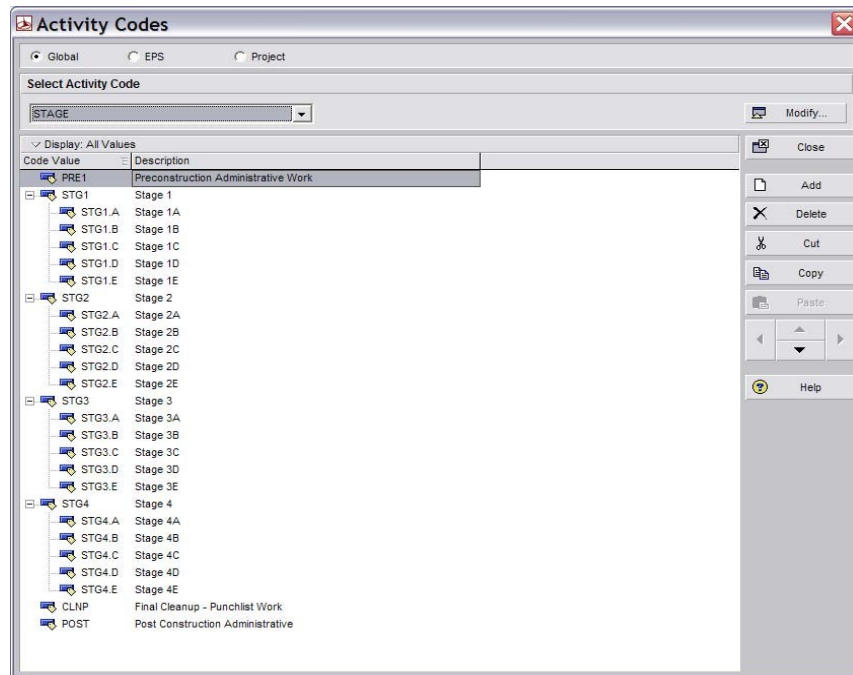
- e) **Activity ID** - Include a unique identification number for each activity. Activity ID numbers shall not be changed, or reassigned for the duration of the contract. Task type Activity IDs shall be prefixed by a “C”. Milestone type activities shall be prefixed by an “M”. .
- f) **Activity Name** - Clearly and uniquely define each activity name with a description of the work that is readily identifiable to inspection staff and the progress of each activity can be measured. Each Activity shall have a narrative description consisting at a minimum of a verb or work function (i.e. form, pour, excavate, etc.), an object (i.e. slab, footing, wall, etc.), and a location (i.e. STA, bridge or retaining wall number, street, etc.). The work related to each Activity shall be limited to one Area of the contract, one Stage of the contract, one WZTC Phase of the contract, and one Responsible Party of the contract. The Activity Name shall not be changed for the duration of the contract without approval of the Engineer.
- g) **Milestone Activities** - Include activities for all contract milestones that define significant contractual events such as Contract Award, Notice to Proceed, Contractor Start Work, Substantial Completion, Physical Completion, Contract Completion, and coordination points with outside entities such as utilities, State agencies, Authorities, municipalities, Time-Related Contract Provisions, etc.
  - The Contract Completion milestone shall have a primary constraint of “Finish on or before” and the contract Completion Date.
  - The Contractor Start Work” Start milestone activity, that will eventually reflect the actual date the Contractor started work authorized under the contract.

- h) **Activity Durations** – Define the Original Duration of each activity in units of whole work days, except for activities of less than one day duration which should be shown in units of tenths of a day. Except submittal/procurement activities, durations shall not exceed 15 work days unless approved by the Engineer. Durations for Department submittal reviews shall meet the requirements set forth in the contract documents. If requested by the Engineer, the Contractor shall justify the reasonableness of planned activity time durations. Task Dependent activities shall not have a zero duration.
- i) **Activity Relationships** - Clearly assign predecessors and successors relationships to each activity, and assign appropriate logic ties between activities (Finish to Start, Start to Start, Finish to Finish, etc.). Do not have any open ended activities, with the exception of the first activity and last activity in the schedule. An activity may only appear once as a predecessor or successor to another specific activity, but may be assigned as a predecessor or successor to many different activities. Do not include inappropriate logic ties with Milestone activities (For a finish milestone activity: a predecessor shall only be assigned a Finish to Finish logic tie, a successor shall only be assigned a Finish to Start or Finish to Finish logic tie. For a start milestone: a predecessor shall only be assigned a Finish to Start or Start to Start logic tie, a successor shall only be assigned with a Start to Start logic tie). Lag time may not exceed 10 days. The Contractor shall not use negative Lag times.
- j) The Contractor shall assign the ‘Submittal’ activity as a predecessor to all Review and Approval type activities to be performed by Department staff.
- k) **Activity Constraint Dates** – The Contractor shall not have any constrained activities, with the exception of contractual dates, unless the Engineer accepts such constraints in writing. Milestone activities shall be included for the Contract Award which shall have a primary constraint of “Finish On” and the date of contract signature by the State Comptroller, and for the Anticipated Contract Completion which shall have a primary constraint of “Finish on or before” and the contract completion date indicated in the contract documents. Only contractual/owner-designated constraints are allowed unless specifically authorized by this specification or the Engineer. . If used, only Constraints of type, “Finish on or Before”, ‘Start on or After”, or when deemed appropriate by the Engineer “As-Late-As-Possible” are acceptable
- l) **Activity Dates** – With the exception of contract Milestone dates, “Actual Start” and “Actual Finish” dates and “Planned Start” and “Planned Finish” dates, activity dates shall be calculated by the project scheduler tool within the Oracle-Primavera software. No Actual Start or Actual Finish dates shall be entered in the Baseline Progress Schedule, with the exception of activities that were completed prior to the Contract Award.
- m) **Calendars** - Use clearly defined calendars that account for expected seasonal weather conditions (including winter shutdown periods) and environmental permit requirements, for the planning and scheduling of activities. Do not incorporate an activity with a description of “Winter Shutdown” that requires constraints. Provide the working days per week, non-working holidays. Also provide the number of shifts per day, and the number of hours per shift by using the Calendar feature, called “Time Periods” in the P6 software. Incorporate any seasonal restrictions to the work within calendars assigned to activities.
- Global calendars used in the progress schedule shall be those established by the Department. There are only two Global Calendars developed and maintained by the Department for use by Contractor’s, they are the following:
    - NYSDOT/NC Milestone/Curing 365 Day / 8 hour
    - NC Work Days, 5 Day Work Week w/ Holidays (see table on page 5)
- All milestone activities in the schedule shall be assigned the standard Global calendar named ‘NYSDOT/NC Milestone/Curing 365 Day / 8 hour’, this calendar should also be assigned to any activities for concrete curing. Activities for shop drawing reviews and other approvals by

Department personnel shall be assigned the Department's standard Global – "NC Work Day, 5 Day Work Week w/Holidays, Field" Calendar that reflects all holidays as listed above.

- Changes desired for these calendars shall require prior approval of the Engineer. Calendars related to specific resources (i.e., Crane, Bidwell, Asphalt Paver) shall be established as Project level Calendars (not Resource calendars), with the Calendar name clearly identifying the resource.
  - All other calendars developed by a Contractor shall be established as Project Calendars, with the calendar name including the contract ID# and describing the function. All work activities of the Contractor shall be assigned to Project Calendars.
  - **The Baseline Progress Schedule cannot include a calendar that reflects any workers working more than 8 hours in any one calendar day or more than 5 days in any one week.** (§102-10 LABOR AND EMPLOYMENT) Following the contract award the Contractor can add additional calendars in their next Monthly Progress Schedule submission based on an approved overtime dispensation.
- n) Clearly define significant interaction points between the Contractor, the Department, and other entities including but not limited to: Federal, State and local agencies/authorities; and utilities. All activities of the Department, utility companies, adjacent contracts, and other entities that affect progress and influence any contract required dates including durations shall be shown in the schedule. This includes dates related to all Permits or Agreements. The schedule shall give special consideration to sensitive areas such as road closures and parklands and shall indicate any time frames when work is restricted in these sensitive areas as outlined in the permits issued by the regulatory agencies, and provided in the contract documents.
- o) **Activity Resources** – It shall be the Contractor's responsibility to assure the activity logic in the schedule properly reflects their resource limitations. An activity shall not involve multiple crews comprised of the Contractor and a subcontractor, or multiple subcontractors. The level of resource loading of the schedule shall be dependent on the schedule.
- p) **Production Rates** – The Contractor shall enter the quantity of the major item of work for each non administrative activity in the schedule into the field labeled "PR Quantity", the Unit of Measure for that major item in the field labeled "PR Unit", the anticipated production rate of the equipment and labor resources for that activity of work in the field labeled "Production Rate / Day", and the associated duration for that work in the field labeled "PR Duration". These are all Activity level UDF fields, and can be found in the activity Layout named Contractor Production Rates.
- q) **Activity Codes** – The Contractor shall include a well-defined activity coding structure that allows project activities to be sorted and filtered. Activity Codes shall include, but not be limited to: Responsible Party; Stage; Area of Work; Type of Work; Subcontractor; and additionally as required by the Engineer to meet the needs of the specific contract work to facilitate the use and analysis of the schedule.
- 1) Additional Activity Codes developed for specific projects shall be established as Project Activity Codes. As a minimum this shall include the SUBCONTRACTORS.
- r) **Activity Code Values** – Each Activity Code shall be broken down into various Activity Code Values that are then assigned to activities, as shown below in the example of Figure 2

FIGURE 2



- s) **Activity Code Assignments** - For each activity, within the activity details the Contractor shall assign Activity Code values to identify the “Responsible Party” (i.e. – Contractor, NYSDOT, Utility Co, Municipality) for the work to be performed (one and only one responsible party shall be assigned to each activity), the “Stage” of the contract for the work that will be performed, the “Area” where the work is to be performed, the “WZTC Phase”, and the Type of Work (i.e. - Procurement, Paving, Embankment, Excavation, Electrical, Signing, etc.). For activities included in work governed by time related contract provisions, the appropriate “Time Related” activity code shall be utilized. For activities included in work added and/or changed within an Order-On-Contract, the appropriate “Added/Changed Work” code shall be utilized. For all work activities performed by the Contractor or subcontractors/fabricators/suppliers, “Contractor” shall be designated as the Responsible Party
- t) **Interim Milestone Dates with Liquidated Damages and Special Time-Related Contract Provisions** (i.e. – A+B Bidding, Incentive/Disincentive provisions, Lane Rental) – Each time-related contract provision in the contract shall be represented in the progress schedule by having a start and finish milestone, with appropriate predecessors and successors assigned to all schedule activities considered part of that time-related contract provision work including the start and finish milestone activities. In addition, the Start milestone for the time-related contract work shall have predecessors and/or date constraints assigned that include those defined in the contract documents, and the Finish milestone for the time-related contract work shall have successors and/or date constraints assigned that include those defined in the contract documents. All schedule activities associated with each specific time-related contract provision shall be assigned to a separate node within the project WBS and the WBS node description shall be labeled accordingly, in addition these activities shall be assigned the appropriate Time-Related Clauses activity code value. A Level Of Effort activity shall be used for each time related contract provision (i.e. - “Incentive 1 Duration” or “B Clock 1 Duration”), this activity shall have the Start Milestone as a predecessor with a SS relationship and the Finish Milestone as a successor with a FF relationship and the duration of this activity shall be calculated when the project is scheduled.



- u) List of Submittals** – The Contractor shall submit with the Progress Schedule a list of all Submittals (i.e. - Shop Drawings, required permits, Erection/Demolition plans, Health and Safety Plan, etc.) generated from the Baseline Progress Schedule for review and approval by the Engineer. The Contractor shall use a Filter to limit the schedule activities shown in the report to only the prepare/submit, and review/approve activities related to submittals. The report shall be in Adobe PDF format and transmitted to the Engineer by email.

**F.2. Monthly Progress Schedules.** In addition to the detailed schedule requirements for the submission of the Baseline Progress Schedule, the Contractor shall complete the following additional requirements for these regular Progress Schedule submissions: a) Activity Status -

- i) Durations – the Original Duration shall not be changed without prior written justification by the Contractor, and written approval by the EIC. The Contractor shall edit the Remaining Duration to reflect progress made on work activities and shall not use Duration percentage. If a proposed change to Original Duration is due to additional or changed work to the contract the Contractor shall instead add an activity to reflect this additional work and assign the appropriate Activity Code. The Contractor shall not use zero durations for Task Dependent activities.
  - ii) Started and Finished dates – for each activity where work was begun during the Weekly/Biweekly or Monthly reporting period, the Contractor shall check the box adjacent to Started and enter the date the work began. For each activity where work was completed during the Weekly/Bi-weekly or Monthly reporting period, the Contractor shall check the box adjacent to Finished and enter the date the work was completed.
  - iii) Suspended work – The first time that work has been suspended on a schedule activity, the Contractor shall enter the Suspend and Resume fields within the Project Details under the Status tab. For any subsequent suspensions of work to that activity the Contractor shall break that activity into two or more activities to accurately reflect the suspension and resumption of work dates in the field, and to more accurately reflect the relationship to other work activities.
- b) Calendars – To change a project calendar for activities scheduled in the future, the Contractor shall copy the calendar and use a revised name that includes a reference to which Update the change was incorporated (i.e. - D260000 - Concrete Calendar should be revised to D260000 – 2 - Concrete Calendar to reflect the 2<sup>nd</sup> Monthly Update when the change was made to the calendar). The reason for the change in the calendar shall be documented in the Narrative.
- c) Resources –
- For each month of the contract the Contractor’s Progress Schedule submission shall include labor, equipment and pay item resources for an additional year of anticipated contract work until all activities in the schedule have resources defined. Until such time that all activities are resource loaded, for any activity that resource limitations are affecting the prosecution of work, as determined by the Engineer, labor and equipment resources shall be entered in the schedule by the Contractor. When the resource assignments are complete for all schedule activities, the Engineer will compare pay item quantities in the schedule with pay item quantities in the Engineer’s estimate to determine if all contract work is represented in the Contractor’s schedule.
- d) Notebook Tab –
- i) Delays - For any activities on the critical path that are delayed during this monthly reporting period, the Contractor in agreement with the Engineer shall enter the dates the activity was delayed and the reason for such delay in the Notebook tab of that activity. The reviewing scheduler will perform the delay analysis and will inform the Contractor accordingly.
  - ii) Activity Changes – For any changes to activity logic, calendar assignments, suspended work, added or revised lag periods or constraints the Contractor shall document the change and reason in a

Notebook Topic for that activity by assigning the appropriate “Progress Submission # Revision” and describing the changes.

- e) **Production Rates** – For all non-administrative that have shifted onto the critical path, or now have less than 20 days of Total Float, the Contractor shall enter the Production Rate information required in paragraph F.1.p. For any activities where the work to be performed is similar in nature to work already performed on the same project and that the Production Rate for the work to be performed is different than the actual Production Rate for work already performed the Engineer may require the Contractor to adjust the Duration for the work to be performed to reflect the more appropriate Production Rate.
- f) **Deleted work** – If work has been deleted the corresponding work activities in the schedule shall be deleted. The Contractor shall not just zero the activity duration since the calendar assigned to the zero duration activity shall still affect the logic of future work activities.
- g) The Project Scheduler can modify the project’s Data Date through the Schedule tool.
- h) The Contractor shall complete the following additional requirements:
  - i) **Data Date** - the “Data Date” shall be the date the Project Scheduler last edits the schedule prior to submission to the Engineer (generally the last working day of the month).
  - ii) **Submission frequency.** The Contractor shall submit the schedule file and Narrative Report to the Engineer **monthly**. The schedule submission to the Engineer shall be made within three (3) Work Days of the last day of the month, whether or not the Engineer has accepted the previous Progress Schedule submission.

## **G. Detailed Narrative Requirements:**

**G.1. For the Baseline Progress Schedule.** The Contractor shall include a narrative in Microsoft Word and/or Adobe Acrobat format that includes the following topics and attachments:

- a) **Contract Identification.** Include the contract D number, project name, project location, and name of Prime Contractor.
- b) **Key milestone dates.** Include the actual contract Award Date, original and adjusted contract Completion Date, Substantial Completion Date, and anticipated completion of all project work. Also include any contract Interim Milestone dates (I/D, B-Clock, LD, etc.), and scheduled Start and Finish dates for those Milestone activities.
- c) **General approach.** Describe the Contractor’s general approach to construct the Work outlined in the baseline schedule. Address the reasons for the sequencing of work and describe any resource limitations, potential conflicts, and other salient items that may affect the schedule and how they may be resolved.
- d) **Key Plans.** If not provided in the contract plans, or if modified by the Contractor, provide copies of the appropriate contract plan sheets marked up to correlate values on the contract plans (for Area of Work, Stage of Work, and WZTC Phase) to the Contractor’s planned breakdown of the project (i.e.- Activity Codes, Activity Descriptions) for scheduling purposes.
- e) **Logic Justifications.** The justification(s) for each activity with a duration exceeding 15 working days. The justification(s) for Contractor imposed activity constraints proposed in the schedule. The reason for any lags assigned to any activities.
- f) **Calendars.** Include a list of calendars which have been incorporated in the schedule, and for each calendar the general reason for it’s use in the schedule.

- g) **Critical Path issues.** A brief discussion of the critical path shown in Appendix 2, highlighting any potential challenges that are foreseen associated with the critical path work.
- h) **Coordination issues.** Outline any anticipated coordination issues related to work activities by other entities that require additional information from, or action by, the Engineer.
- i) **APPENDIX 1 – Scheduling/Leveling Report.** This appendix in Adobe Acrobat PDF file format, formatted to fit standard ANSI Size A (Letter) size paper (8.5 inch x 12 inch) (215 mm x 279 mm) paper, printed with portrait orientation, shall be included with the narrative as a separate file.

A complete Scheduling/Leveling Report file generated by Contractor's Oracle-Primavera scheduling software application) which includes the Schedule Settings, Statistics, Errors, Warnings, Scheduling/Leveling Results, Exceptions, Activities with unsatisfied constraints, Activities with unsatisfied relationships, and Activities with external dates. The statistics shall include, # of Activities, # of Activities Not Started, # of Activities In Progress, # of Activities Completed, # of Activity Relationships, and # of Activities with Constraints. Total number of activities on the critical path, percent complete, activities without predecessors, activities without successors, and activities out of sequence.

- j) **APPENDIX 2 – Progress Schedule plot.** This appendix in Adobe Acrobat PDF file format, formatted to fit ANSI Size B (Ledger) paper (11 inch x 17 inch) (279 mm x 431 mm) paper, printed with Landscape orientation, shall be included with the narrative as a separate file.

Appendix 2 to the narrative shall be an electronic schedule plot (Adobe Acrobat format), with activities sorted by Start Date in ascending order, Grouping of activities by WBS, and only the "Longest Path" filter applied. This plot shall provide a clear critical path from the Data Date to the last activity in the schedule.

Graphical representations shall be shown at a suitable scale to be legible and readable.

**G.2. Monthly Update Progress Schedule.** For each Progress Schedule submission, the Contractor shall submit a revised narrative in Microsoft Word or Adobe Acrobat format that includes (but is not limited to) the information from paragraph G.1, and the following **additional** topics:

- k) **Project Progress.** Discuss the progress that was made during the current reporting period, and document any Total Float gained or recovered during the period. For major work items describe the differences between the actual work performed and the work planned for the period as represented in the preceding Progress Schedule submission, including explanations for the deviations.
- l) **Suspended Work.** For all suspended work activities that could otherwise logically be progressed, identify the responsible party prohibiting the progression of the work, as well as the detailed reasons why.
- m) **Project Delays.** Discuss any delays experienced during the current reporting period. Quantify any relative change in Total Float for the project since the last Progress Schedule submission. For each activity on the critical path (include Activity ID's and Activity Descriptions) where work was delayed during the reporting period, provide the following detailed information including:
  - the extent in days (negative float) of the delay, and events that caused the delay.
  - the party(s) responsible for the delay event(s).
  - the other activities in the construction schedule affected by the events.

- the reasonable steps needed to minimize the impact of the delay, and which party needs to take the action(s).

The Contractor is reminded of the requirements of Notice & Recordkeeping as found in NYSDOT §104-06 of the contract specifications and as they relate to Disputed Work. The Contractor shall include a copy of any notice provided to the Engineer for any time-related delay dispute as part of their narrative.

- n) **Project Issues.** List any other problems experienced during this Progress Schedule submission period, the party responsible for the problems, and the Contractor's intentions to resolve the issue(s).
- o) **Schedule changes.**
  - i) List of all added or deleted activities included in this Progress Schedule submission, and the reason(s) for and the impact(s) of such changes.
  - ii) List all changes in activity Original Durations, the justification for such change(s), and the impact(s) of such changes.
  - iii) List all changes in relationships between activities included in this Progress Schedule submission, and the reason(s) for and the impact(s) of such changes.
  - iv) List any addition or deletion of activity or project constraints, and the reason(s) for and the impact(s) of such changes.
  - v) List all changes to the project calendars, and the reason(s) for and the impact(s) of such changes.
- p) List all activities for procurement of long lead time materials that are behind schedule and the reason(s) why.
- q) Description of any changes to the critical path since the last Progress Schedule submission and the impacts of such changes.
- r) The major work elements, as defined in the WBS, to be accomplished during the next monthly work period.
- s) Any potential problems that are anticipated for the next monthly work period and the proposed solutions to such problems. Identify potential problems or risks that either the Department or Contractor may be potentially responsible for. Explain what action the responsible party (i.e. - Department or Contractor) needs to take and the date by which time the action needs to be taken to avoid the problem.
- t) Any planned acceleration of activities that the Contractor anticipates to undertake within the next monthly work period that either the Department directed, or that the Contractor believes is necessary.
- u) The following appendix in Adobe Acrobat PDF file format, formatted to fit ANSI Size E paper (34 inch x 44 inch) (863 mm x 1117 mm) paper, printed with Landscape orientation, shall be included with the narrative as a separate file.
  - APPENDIX 3 – A listing of all work activities as of the data date, using the Appendix 1 activity layout, sorted by Finish date, Total Float in increasing order, showing the Activity ID, Activity Name, Original Duration, Remaining Duration, Actual Duration, Total Float, Early Start date, Start date, Finish date, Late Finish date, and Calendar ID. The grouping of activities shall be by WBS. The Gantt Chart shall clearly indicate all activities in the schedule. Graphical representations shall be shown at a suitable scale to be legible and readable.
  - APPENDIX 4 – A listing of work activities filtered by Notebook Topics assigned as of the data date, sorted by Finish date and Total Float in increasing order, showing the Activity ID, Activity Name, and Notebook Topic. The grouping of activities shall be by WBS.

**H. Schedule Submission Methodology.** Progress Schedule submissions will only be considered complete when all documents and data have been provided to the Engineer.

**H.1. File Naming Convention.** The schedule filename shall conform to the requirements of the Department and as defined by the Engineer.

## **I. Progress Schedule Review and Analysis:**

**I.1. Immediate Rejection of Progress Schedule Submissions.** The following deficiencies in a

Contractor's progress schedule submission shall be grounds for the immediate rejection by the EIC, without further review, analysis and/or comments.

- a) Failure of the Project Scheduler to submit "schedule" of the project, as of the data date.
- b) Failure to attach a copy of the complete Scheduling/Leveling Report
- c) Any activities without predecessors, or activities without successors, appearing in the Scheduling/Leveling Report with the exception of the first and last activity in the schedule.
- d) Any activity constraints appearing in the Scheduling/Leveling Report that have not been approved in writing by the EIC, or that are not specifically allowed by this specification.
- e) Any Activities with Actual Dates > Data Date appearing in the Scheduling/Leveling Report.
- f) Any Milestone Activities with invalid relationships appearing in the Scheduling/Leveling Report.
- g) Failure to have a clearly defined Critical Path from the Data Date to the last activity in the schedule, using the Longest Path method. This would reflect logic errors in the project schedule.
- h) Failure to attach the schedule Narrative and required appendices.
- i) Repeated failure to correct "Out-Of-Sequence" activities.

If any of these deficiencies are found, the Contractor's submission shall be considered deficient, and Engineer will notify the Contractor immediately by return E-mail of the rejection of the schedule submittal.

### **I.2. Schedule Analysis Method.**

Events, actions, and progress that cause delays or gains to the Progress Schedule will be analyzed solely by the "Contemporaneous Period Analysis" method.

### **I.3. Department Review and Acceptance of Progress Schedules.**

The Engineer will review the Monthly Progress Schedule submissions and will prepare a written response (Progress Schedule Review Report) to the Contractor's submission within five (5) Work Days following receipt of the Contractor's complete schedule submission. The Engineer will either "accept" the schedule, "accept as noted", or "reject" the schedule for re-submittal by the Contractor.

If the Progress Schedule submission is not in compliance with contract requirements, the Engineer may reject the submittal and shall forward any comments and requests for schedule revisions to the Project Scheduler by email, with a copy to the Contractor. The Project Scheduler shall address all comments in writing and/or make the requested revisions, and resubmit the revised schedule within three (3) State Business days of the Engineer's reply. If the Engineer determines the revised submission still does not meet the contract requirements, any further revisions required thereafter shall also be submitted for acceptance within (3) Work Days of the request for revisions by the Engineer.

For schedules that are "accepted as noted" the Engineer shall forward any comments, or requests for revisions, to the Contractor by email,. The Project Scheduler shall address all comments in writing and/or make the requested revisions as part of the next scheduled Progress Schedule submission.

The Project Scheduler shall make adjustments to the Progress Schedule in accordance with the Engineer's comments and resubmit copies for review consistent with the requirements of this section.

The Engineer, by accepting the progress Schedule, does not agree that the Progress Schedule is reasonable or that by following the Progress Schedule the Contractor can complete the work in a timely manner. If, after a Progress Schedule has been accepted by the Engineer, either the Contractor or the

Engineer discover that any aspect of the Schedule is on error, or something significant has been omitted, the Contractor shall correct the Progress Schedule in the next Progress Schedule submission and describe this revision in the Narrative report.

Acceptance of progress schedules by the Engineer shall not be construed to imply approval of any particular construction methods or sequence of construction or to relieve the Contractor from its responsibility to provide sufficient materials, equipment and labor to guarantee the completion of the contract in accordance with the contract documents.

Acceptance of the progress schedule by the Engineer does not attest to the validity of assumptions, activities, relationships, sequences, resource allocations, or any other aspect of the progress schedule. Within the contractual constraints, the Contractor is solely responsible for the planning and execution of the work.

Acceptance of the progress schedule by the Engineer shall not be construed to modify or amend the contract agreement or the date of completion therein. Completion dates can only be modified or amended by standard contractual means, Request For Extension of Completion Date.

If any resources are included in the Progress Schedule, it is not intended that the Engineer, by accepting the schedule should use the Contractor's resource data for anything other than determining the reasonableness of achieving the Contractor's production rates. Resources included with the accepted CPM schedule shall not be misconstrued as a cost benchmark for the performance of planned or actual work.

Once the progress schedule has been accepted, the Contractor shall not deviate from it without first notifying the Engineer in writing.

Upon receipt from the Contractor of the corrected schedule, a new review period by the Engineer of five (5) Work Days will begin.

## **J. Changes to Progress Schedule due to Added/Deleted/Changed Work:**

**J.1. Changes to the contract.** In the event a notice of a change to the contract is received, the appropriate changes to the progress schedule shall be made, as necessary, to incorporate the anticipated added/deleted/changed work and the Contractor shall notify the Engineer in writing within 10 (ten) calendar days if there is any effect of such change to the schedule. Change to the contract includes, but is not limited to, Extra Work, Change Orders, Suspensions of Work Directed by the Engineer, Changed Condition, and Value Engineering Change Proposals. Added, deleted and/or extra work associated with Change Orders shall be reflected in the next Monthly Progress Schedule Submission in anticipation of and prior to the date in which the work physically takes place without regard to the dates when the actual Change Order was approved. The effect of the change to the contract on the projects Critical Path shall be stated. Extra work or additional work that does not affect the controlling operation on the critical path will not be considered as the basis for a time extension. All schedule activities effected by added, deleted or changed work that is included in a signed Order-On-Contract, Field Change Order, or Authorization of Extra Work (with the exception of minor quantity changes that do not impact contract milestones), or work activities performed by the Contractor at risk in anticipation of such Department approval, shall be assigned the appropriate Activity Code (Added/Changed Work) and Code Value (sequentially numbered) to denote which "Changed Contract Work" order number correlates to those activities of work.

## **J.2. Time Impact Analysis.**

For each request of an adjustment of contract time due to an anticipated change to future work in the Progress Schedule, when the Contractor or Engineer consider that an anticipated or approved change to the contract may impact the critical path and contract progress by more than a calendar month, the Contractor shall submit a Time Impact Analysis (TIA). The TIA shall be submitted as part of any Order on Contract (Change Order) and/or VECP if the critical path changes by more than a calendar month. The TIA shall be based on a revised Progress Schedule and shall be submitted as an electronic file (using Microsoft Word for the narrative) containing:

- a) The TIA shall illustrate the impacts of each change or delay on the current scheduled completion date or internal milestone, as appropriate.
- b) The analysis shall use the accepted Monthly Progress Schedule that has a data date closest to and prior to the event as the "Current Baseline", this shall then be compared against the "What-if Project Plan Baseline" for the purpose of the TIA.
- c) If the Engineer determines that the accepted schedule used does not appropriately represent the conditions prior to the event, the accepted schedule shall be updated to the day before the event being analyzed.
- d) The TIA shall include an impacted schedule ("What-if Project Plan Baseline") developed from incorporating the actual or anticipated event into the accepted schedule by adding or deleting activities, or by changing durations or logic of existing activities.
- e) If the impact schedule shows that incorporating the event negatively modifies the critical path and scheduled completion date of the accepted schedule, and the Engineer accepts the impacted schedule, the difference between scheduled completion dates of the two schedules shall be equal to the proposed adjustment of contract time.
- f) The Engineer may construct and utilize an appropriate project schedule or use another recognized method to determine adjustments in contract time until the Contractor provides the TIA.
- g) The Contractor shall submit a TIA within fifteen (15) ~~State~~ Business Days of receiving a written request for a TIA from the Engineer.
- h) The Contractor shall allow the Engineer ten (10) Work Days after receipt to accept or reject the submitted TIA. All accepted TIA schedule changes shall be included in the next Monthly Progress Schedule submission.
- i) If a TIA submitted by the Contractor is rejected by the Engineer, the Contractor shall meet with the Engineer to discuss and resolve issues related to the TIA. If agreement is not reached, the Contractor will give notice in conformance with §104-06 Notice & Recordkeeping, and submit in accordance within the provisions in §105-14.E "Required Content of *Dispute Submissions*".
- j) The Contractor shall only show actual as-built work, not unapproved changes related to the TIA, in subsequent Monthly Progress Schedules submissions. If agreement is reached at a later date, approved TIA schedule changes shall be included in the next Monthly Progress Schedule submission.
- k) Request for a contract time extension will not be processed until the receipt and approval of a Time Impact Analysis. **However, all extension of time will only be considered at the end of the project completion date.**

**K. Failure to Submit Progress Schedules and/or Recovery Schedules:**

- K.1.No progress payment for this item of work shall be made until the progress schedule is "accepted" or "accepted as noted" by the Engineer.
- K.2.If the Contractor's Progress Schedule submission is rejected due to any deficiency noted in paragraph I.1(a) through (i), it shall be considered an incomplete submission and therefore substantially deficient.
- K.3.If the Contractor's revised Progress Schedule submission does not address the written comments provided by the Engineer and does not include a written explanation with a reasonable rational for not addressing those comments, the submission shall be considered deficient.
- K.4. If the Contractor fails to submit a CPM Progress Schedule conforming to the provisions required under this specification, to the degree that such failure is deemed by the Construction Supervisor to adversely affect the management of the project and/or the administration of the construction contract, liquidated damages will be assessed as determined under Basis of Payment.

**L. Recovery Schedule**

- L.1 If the latest completion time for any work on the current Progress Schedule results in an activity being delayed ten percent or more of the time beyond the required Contract duration or any specified Milestone duration, as adjusted if appropriate, the Engineer may require the Contractor to submit a Recovery

Schedule and written description of the plan to recover all lost time and maintain the required Completion Date or specified Interim Milestone Date(s).

- L.2. With the Recovery Schedule the Contractor shall submit a narrative that identifies where additional labor and/or equipment resources will be allocated. Alternately, the Contractor may elect to provide the makeup of their Crew resources in the narrative and assign those Crew resources to the appropriate activities in the Progress Schedule. The makeup of the Crew shall include the various Labor classes and equipment that comprise the Crew along with the quantity of each labor class and type of equipment. Equipment resources shall be shown for major or specialty equipment such as tower cranes, piledrivers, barges, asphalt pavers, concrete pavers, dozers, front end loaders, backhoes, rollers, excavators, graders, long line striping truck or other equipment that cannot be rented easily.

The Contractor shall provide a reasonable plan for accomplishing the work of the contract within the current completion date, or to the requested contract extension date. The Engineer will use the Recovery Schedule to evaluate time extensions, with or without charges.

**M. Submission of progress schedules with projected Early Completion date(s):**

The Contractor may indicate a projected early completion date on any progress schedule submission without compensation

**N. Float**

**During the course of contract execution, Total Float generated due to the efficiencies of either party (Owner or Contractor) will be considered project Float that is not for the sole use of the party generating the float; rather it is a shared commodity to be reasonably used by either party. Any party assigned activity responsibility within the schedule has the full use of the project Float until it is depleted.**

**METHOD OF MEASUREMENT:**

The quantity shall be measured for payment on a Lump Sum basis.

The minimum lump sum bid for this item shall be the unit price shown in the itemized proposal.

Failure of the Contractor to bid at least the minimum amount will result in the Department adjusting the Contractor's bid to include the minimum bid amount for this item.

**BASIS OF PAYMENT:**

The lump sum price bid for CPM Progress Schedules shall include all labor, material, and equipment necessary to satisfactorily complete the work.

Progress payments will be made at 25 percent of the lump sum price bid upon acceptance of the Final Baseline Progress Schedule and the List of Submittals. 70 percent will be paid in subsequent contract payments, in proportion to the number of months remaining in the original contract duration, less any non-payment for substantial deficiencies. The remaining 5 percent will be paid upon acceptance of the As-built Progress Schedule.

**A. Non-Payment.** No payment will be made for any Progress Schedule submitted more than twenty-one calendar days late. For each calendar day during which there are substantial deficiencies with the Progress Schedule no payment will be made. The amount of such non-payment will be 1/30th of the Monthly Payment Amount multiplied by the number of days there are substantial deficiencies.

**B. Liquidated Damages.** Liquidated damages will be assessed for each subsequent calendar day or part thereof that a cited deficiency resulting in non-payment is not corrected or is permitted to recur. **Liquidated damages will be assessed at the rate equal to 1/10<sup>th</sup> of the Monthly Payment Amount.**

If an extension of time with the assessment of engineering charges and/or liquidated damages is approved, no additional payment will be made for CPM Progress Schedules.



**C.** Payment will be made under

Item No.	Item	Pay Unit
639.210053	Critical Path Method (CPM) Progress Schedule with Monthly Update	LS

**To make the item compatible with the existing Computerized Engineers Estimate System the letters will be replaced as per below.**

**X=1 ( monthly)**

**N=5 (Nassau) C=3 (County)**

Disclaimer: Adopted from NYSDOT Specification 639.21010011

**ITEM 655.07010010 - CAST FRAME F1, WITHOUT CURB BOX AND WITH  
RETICULINE GRATE G1**

**ITEM 655.07020010 - CAST FRAME F2, WITHOUT CURB BOX AND WITH  
RETICULINE GRATE G2**

**ITEM 655.07030010 - CAST FRAME F3, WITHOUT CURB BOX AND WITH  
RETICULINE GRATE G3**

All conditions and requirements of Items 655.0701, 655.0702, and 655.0703 of the Standard Specifications shall apply except for the following modifications:

These shall be cast frame without curb box and with reticuline grate as detailed on the plans.

## **DESCRIPTION**

This work shall consist of furnishing and installing LED lighting fixtures in accordance with the contract documents and as directed by the Lighting Design Engineer.

## **MATERIALS**

The provisions of the NYSDOT Standard Specifications Section 670, latest revision, and the contract documents shall apply.

LED lighting fixture's shape, color and aesthetical features shall be as specified in the contract documents.

LED lighting fixtures shall be supplied with the appropriate mounting equipment to satisfactorily attach to the light standards specified in the contract documents.

Luminaires provided shall have an equivalent wattage to obtain similar photometrics to the design luminaire specified in the contract documents.

Luminaires provided shall have a Correlated Color Temperature (Kelvin) = 3000k.

Luminaires must include 7 pin photocontrol receptacle and dimmable driver that can be controlled remotely with the Phillips CityTouch platform.

LED Luminaires shall be manufactured by:

American Electric Lighting (AEL) - Autobahn series  
(*TYPE NN – Series/Performance Package/Voltage/Optics/(Options)*)

TYPE 01 - ATB2 / 60BLEDE70 / MVOLT / R2 / (3K, P7)  
TYPE 02 - ATB2 / 40BLEDE70 / MVOLT / R2 / (3K, P7)  
TYPE 03 - ATB2 / 40BLEDE70 / MVOLT / R3 / (3K, P7)  
TYPE 04 - ATB2 / 40BLEDE10 / MVOLT / R3 / (3K, P7)  
TYPE 05 – ATBS / H / MVOLT /R2 / (3K, P7)  
TYPE 06 – ATBS / H / MVOLT /R3 / (3K, P7)  
TYPE 07 – ATBS / I / MVOLT /R2 / (3K, P7)  
TYPE 08 – ATBS / I / MVOLT /R3 / (3K, P7)  
TYPE 09 – ATBL / A/ MVOLT /R4 / (3K, P7)

The following manufacturers luminaires are acceptable but must meet the same illuminance and uniformity on the target area as the luminaires listed above:

PHILIPS  
GE Lighting  
Or approved equal

The materials used in the construction of lighting systems shall meet the requirements of the following subsections of Section 700- Materials and Manufacturing:

Photoelectric Control

723-50

### **CONSTRUCTION DETAILS**

Luminaires shall be installed per the manufactures recommendations or as shown in the contract documents. All LED highway luminaires shall be installed in accordance with the National Electric Code (NEC), the local utility company regulations, local ordinances and other agency having jurisdiction.

### **METHOD OF MEASUREMENT**

This work will be measured as the number of LED lighting fixtures satisfactorily furnished and installed.

### **BASIS OF PAYMENT**

The unit price bid shall include the cost of furnishing all labor, materials, and equipment necessary to satisfactorily complete the work.

Payment will be made under:

<b><u>Item No.</u></b>	<b><u>Item</u></b>	<b><u>Pay Unit</u></b>
670.02010004	LED HIGHWAY LUMINAIRE (TYPE 01)	EA
670.02020004	LED HIGHWAY LUMINAIRE (TYPE 02)	EA
670.02030004	LED HIGHWAY LUMINAIRE (TYPE 03)	EA
670.02040004	LED HIGHWAY LUMINAIRE (TYPE 04)	EA
670.02050004	LED HIGHWAY LUMINAIRE (TYPE 05)	EA
670.02060004	LED HIGHWAY LUMINAIRE (TYPE 06)	EA
670.02070004	LED HIGHWAY LUMINAIRE (TYPE 07)	EA
670.02080004	LED HIGHWAY LUMINAIRE (TYPE 08)	EA
670.02090004	LED HIGHWAY LUMINAIRE (TYPE 09)	EA

**ITEM 670.15091810 -TYPE P6 ALUMINUM LIGHT STANDARD 23 ft – 29 ½ ft POLE 6 ft  
SINGLE DAVIT ARM**

**ITEM 670.15094510 -TYPE P ALUMINUM LIGHT STANDARD 23 ft – 29 ½ ft POLE 14 ¾ ft  
SINGLE DAVIT ARM**

**ITEM 670.15111810 -TYPE S6 ALUMINUM LIGHT STANDARD 29 ½ ft – 36 ft POLE 6 ft  
SINGLE DAVIT ARM**

**ITEM 670.15114510 -TYPE S ALUMINUM LIGHT STANDARD 29 ½ ft–36 ft POLE 14¾ ft  
SINGLE DAVIT ARM**

**ITEM 670.15131810 -TYPE R6 ALUMINUM LIGHT STANDARD 36 ft – 42 ½ ft POLE 6 ft  
SINGLE DAVIT ARM**

**ITEM 670.15134510 -TYPE R ALUMINUM LIGHT STANDARD 36 ft – 42 ½ ft POLE 14 ¾ ft  
SINGLE DAVIT ARM**

**ITEM 670.15151810 -TYPE T6 ALUMINUM LIGHT STANDARD 42 ½ ft – 50 ft POLE 6 ft  
SINGLE DAVIT ARM**

**ITEM 670.15154510 -TYPE T ALUMINUM LIGHT STANDARD 42 ½ ft – 50 ft POLE 14 ¾ ft  
SINGLE DAVIT ARM**

**ITEM 670.15174510 -TYPE V ALUMINUM LIGHT STANDARD 50 ft – 55 ¾ ft POLE 14 ¾ ft  
SINGLE DAVIT ARM**

**ITEM 670.16114510 -TYPE ST ALUMINUM LIGHT STANDARD 29 ½ ft – 36 ft POLE 14 ¾ ft  
TWIN DAVIT ARM**

**ITEM 670.16151810 -TYPE J ALUMINUM LIGHT STANDARD 42 ½ ft – 50 ft POLE 6 ft  
TWIN DAVIT ARM**

**ITEM 670.16134510 -TYPE RT ALUMINUM LIGHT STANDARD 36 ft – 42 ½ ft POLE 14 ¾ ft  
TWIN DAVIT ARM**

**ITEM 670.16154510 -TYPE TT ALUMINUM LIGHT STANDARD 42 ½ ft – 50 ft POLE 14 ¾ ft  
TWIN DAVIT ARM**

## **DESCRIPTION**

Under these items the Contractor shall furnish and install aluminum light standards (lampposts) of the types and at the indicated locations shown on the drawings and in accordance with the plans, specifications and orders of the Engineer.

## **MATERIALS**

1. General - All elements of the light standard shall meet the minimum standards of the American Association of State Highway and Transportation Officials as stated in “Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals” (Referred to herein as AASHTO Spec.)

Dimensions of the various components shown on the drawings may exceed those required by the AASHTO specifications in order to provide uniform sizes on a given project.

Unless otherwise detailed in the plans and specifications, all components of the light standard shall be sized to meet the AASHTO specifications for the pole heights, arm length, wind velocity,

12/23/08E

Oct. 1998M  
Rev. Mar. 1999

## **ITEM 670.XXXX0010-ALUMINUM LIGHT STANDARDS(Continued)**

wind gust, luminaire weight and luminaire projected area shown on the drawings or herein.

2. Shaft - The shaft of the light standard shall be a one piece seamless round tapered tube of 6063 wrought aluminum alloy as specified by the Aluminum Association. Shaft shall be formed by cold working process. The shaft shall be free of longitudinal welds and be of sufficient diameter and thickness to withstand the design loads listed on the drawings.

The shaft shall be tapered uniformly except at its extremities where constant uniform diameters are required for joining or overlapping connections.

The shaft shall be welded to an anchor base which shall conform to subsection 723-10. After welding the shaft shall be heat treated to T-6 temper.

The top of the shaft shall terminate in a tenon and be equipped with a friction fit outer sleeve to produce a flush joint with the arm.

The shaft shall be furnished together with other components of the light standard in the same way which shall be hereinafter specified.

3. Breakaway Transformer Base (Aluminum) - Transformer base shall conform to subsection 723-15.01 (except that it shall be finished as hereinafter specified).

The transformer base supplied shall be shown on the Approved List as required by subsection 723-15.01. In addition, the Contractor shall submit three copies of the Manufacturer's drawings of the transformer base to be used to the Engineer at least 30 calendar days prior to the initial installation of this item. The Engineer will retain one copy and forward two copies to the Materials Bureau for verification of acceptability. The Engineer shall inspect the transformer bases supplied to ensure that they conform to the approved drawings.

4. Davit Arms - Davit arms shall be constructed of materials and methods specified for the shaft and as dimensioned on the drawings. Davits shall be bent to a radius and project upwards at an angle shown on the drawings.

The davit arm shall be secured to the shaft in a flush connection with two ½ inch stainless steel bolts, nuts and lock washers. Where twin davit arms are required a twin flush connector assembly shall be provided secured with two ½ inch stainless steel bolts.

5. Davit Arm to Luminaire Connecting Tenon - Davit arms shall terminate in a cast or fabricated flush tenon as shown on the drawings or as approved by the Engineer. The flush tenon shall be secured to the davit arm by ½ inch stainless steel bolts.

6. Miscellaneous

- a. Identification Tags and Reflector Strips

All lettering, numbering and background on the tags shall be of pressure-sensitive  
12/23/08E

Oct. 1998M  
Rev. Mar. 1999

reflective sheeting. Each letter or digit shall be 3 inches high. The tag for each letter or digit shall be 4 inches x 4 inches. The entire tag shall consist of a clear background and white reflective letter. Reflective strips shall be placed on the transformer base prior to installing the transformer base. Reflective materials and their installation shall be as specified in Section 730-05, Materials Designation 730-05.01. Identification tags and reflector strips shall be located as shown on the drawings.

- b. Anchor Bolts shall conform to subsection 723-60.
- c. Cable from transformer base to luminaire shall be type USE copper.
- d. Fused Connector shall be fabricated from a molded rubber receptacle housing, molded rubber plug housing and metal fuse holder fittings. The design shall be such that the assembled connector is waterproof and suitable for direct burial. With the fuse installed, the fuse shall remain in the plug housing (load side) when disconnecting. Fuses shall be the size indicated on the drawings.
- e. Grounding - Provide grounding of the transformer base, as provided by subsection 723-15.01.
- f. Miscellaneous Hardware - All nuts, bolts and washers used in the fabrication of the pole shall be Grade 18-8 stainless steel, except for anchorage hardware.
- g. Welding - All aluminum welding on light standards shall be performed in the shop, using the inert metal-arc welding process. Filler metal shall conform to the A.W.S. specification A5.10
- h. Shipping - Shafts and arms shall be tire-wrapped with a heavy water resistant paper, for protection during shipment and installation.

7. Finishes

- a. Aluminum light standards shall be finished in a Urethane or Acrylic Urethane Enamel Coating system, in a satin brown or satin non-metallic medium bronze color as approved by the Engineer.

Aluminum light standards, including transformer and shoe bases, shall be coated with a Urethane or Acrylic Urethane Enamel Coating system generally described as the manufacturers premium grade coating system for transportation industry applications, consisting of but not limited to the following coordinated elements all in accordance with the manufacturer's recommendations:

Mechanical Metal Surface Preparation  
Solvent Cleaner  
Wash Primer

12/23/08E

Oct. 1998M  
Rev. Mar. 1999

## **ITEM 670.XXXX0010-ALUMINUM LIGHT STANDARDS(Continued)**

Intermediate Primer

Top Coat of Urethane or Acrylic Urethane Enamel

The intent is to obtain a Urethane or Acrylic Urethane Enamel coating and substrata system conforming to the highest quality available for application in the transportation industry equal to those manufactured by Du Pont, PPG Industries, and Sherwin Williams.

- b. Mechanical surface preparation shall meet the requirements of Steel Structures Painting Council Surface Preparation No. 7 (SSPC-SP7).
  - c. Solvent Cleaning shall be performed in accordance with the requirements of SSPC-SP1.
  - d. Wash primer shall be specifically as recommended by the paint manufacturers for aluminum metal and shall be chemically formulated to provide maximum bond between the metal and the coating system. Wash primer shall be applied in accordance with the manufacturer's instruction.
  - e. Intermediate Primer shall be an integral part of the manufacturer's coating system and shall be a two part epoxy enamel intermediate primer sprayed to a dry film thickness of 0.002 inch.
  - f. Finish Color Coat shall have a dry film thickness of 0.002 inch. It shall be a Urethane or Acrylic Urethane Enamel consisting of a pigmented enamel plus hardener. Accelerators may be added in accordance with the manufacturer's instructions to speed drying time to customary performance as later stated. Levelers may also be added to eliminate fish eyes all in accordance with manufacturer's instructions.
  - g. Color - Color shall be a satin non-metallic medium bronze or satin brown. Prior to production finishing, the lamp post manufacturer shall submit through the Contractor, for the approval of the EIC, samples of the allowable color and range of the finished material. The color and range samples shall be established from production material specified herein. The EIC shall approve samples of the lightest and darkest shades of the selected color that will be acceptable. Visual comparison of production work shall be made by the EIC. Instruments used for visual comparison shall be agreed upon by the Contractor and EIC.
  - h. Minor imperfections in the color coat caused by shipping and handling shall be touched up in the field utilizing a sealer primer and top coat as recommended by the manufacturer of the coating system.
  - i. Painting, except as specified herein, shall conform to Section 740 Painting Procedures.
8. Inspection:

The Contractor shall provide for adequate inspection by the coating manufacturer to insure that the applied coating meets the minimum requirements as required by the coating manufacturer.

12/23/08E

Oct. 1998M  
Rev. Mar. 1999



Test reports shall be made of all inspections and shall include:

- a. Date when tests were performed and date of issue of report.
- b. Identification of alloy and finish system tested and manufacturer.
- c. Copy of drawings submitted showing exposed surfaces.
- d. Test results.
- e. Statement indicating that finish system tested passed all tests or failed one or more.
- f. In case of failure, which test(s) and description of failure(s).
- g. Statement that all tests were conducted in accordance with this specification.
- h. A random sample of finished work (3/4 inch cut plug) shall be selected from each lot (no less than one sample in 50 lampposts) and tested by an approved testing laboratory in a manner approved by the coating manufacturer and the EIC in order that the paint manufacturer can certify that the coating system has been applied in accordance with its recommendations.
- i. The coating manufacturer shall provide a factory representative who shall furnish the EIC with all factory invoices and also shall examine surface preparation, observe application methods and record wet and dry film thickness of random samples in each batch. Inspection reports shall be in writing as required herein.
- j. After an initial instruction period by the representative of the coating manufacturer in the presence of the EIC and representatives of the lighting standard manufacturer, inspections shall be intermittent.

9. Alternate Finish for Aluminum Light Standard:

- a. As an alternate to the finish for aluminum light standards specified in paragraph 7 for this item, an architectural grade anodic coating system may be provided. Transformer bases, and shoe bases shall, in addition, be coated with a matching coating system as specified in paragraph 7.
- b. Aluminum light standards shall be coated with an architectural grade anodic finish in a medium dark bronze color as approved by the Engineer. The anodic finish shall consist of, but not be limited to, the following coordinated elements all in accordance with the Aluminum Association Incorporated Bulletin 46 "Standard for Anodized Architectural Aluminum":

Mechanical pretreatment

12/23/08E

Oct. 1998M  
Rev. Mar. 1999

## **ITEM 670.XXXX0010-ALUMINUM LIGHT STANDARDS(Continued)**

Chemical pretreatment  
Anodizing finish  
Rinsing  
Sealing

- c. The mechanical pretreatment shall be a coarse satin, directional textured finish, polished with a wheel or belt with aluminum oxide grit of 80 to 100 size, with a peripheral wheel speed of 100 ft/s. This mechanical pretreatment is designated by the Aluminum Association as "M-33."
- d. The chemical pretreatment shall be medium matte etched finish accomplished with a sodium hydroxide solution of 4-6 oz/gal used at 120-150 degree F for 5 to 10 minutes. This chemical pretreatment is designated by the Aluminum Association as "C-22".
- e. An anodic coating of 0.0007 inch thickness (designated by the Aluminum association Architectural Class 1) shall be applied to the aluminum lighting standard. The finish process may be either a coating which has an integral color, designated by the Aluminum Association as finish A-42), or the finish process may be a coating whereby the desired color finish is achieved by application of the anodic coating which is followed by an electrolytic deposition of inorganic pigment in the coating (designated by the Aluminum Association as finish A-44). The anodic treatment process shall consist of immersion in an electrolyte consisting of 15% sulfuric acid by weight and a temperature of 70°F, with a constant direct current density of 1.3 amperes per square 16 inch of surface being anodized. Immersion shall be for 60 minutes in an electrolyte which has been adequately agitated throughout the tank and especially at the work surfaces being anodized. The coating shall be at least 0.0007 inch thick and have a minimum coating weight of 0.001oz/in<sup>2</sup> and a minimum apparent density of (2.32 g/mm<sup>3</sup> )1341oz/in<sup>3</sup>.
- f. The anodic coating shall be rinsed free of electrolyte. Two cold water rinses in clean flowing water shall be applied for at least two minutes, special attention being directed toward pockets or recesses.
- g. The finish shall be sealed for at least twenty-five minutes in distilled or deionized water having pH of 5.5-7.0 at temperature of 206-212 F. Deionized water shall be free of traces of organic matter such as residuals form ion exchange resins.
- h. The coating shall be uniform in appearance and free from powdery areas based on visual inspection. The EIC, prior to fabrication, will approve samples of the lightest and darkest shades of the selected color, that will be acceptable. Visual comparison of the producing work will be made by the EIC.
- i. Particular care shall be exercised during the installation and construction period to protect the anodic finish from handprints, mortar stain, scratches and other imperfections. Imperfections resulting from any source will require refinishing as directed by the EIC.
- j. Minor mismatches of color at welds or castings shall be touched up by the finisher.

12/23/08E

Oct. 1998M  
Rev. Mar. 1999

Special care shall be taken to pretreat welds and castings so that anodic process does not inhibit bonding coating required by coating procedures described in paragraph 7 above.

10. **Inspection of Alternate Finish**

Provisions of 8. Inspection above shall apply except that 8.h, 8.i and 8.j shall not apply and the following provisions shall govern.

- a. The anodic coating shall be tested to conform with minimum requirements for thickness, weight and apparent density. Thickness shall be determined by ASTM method B 137 (stripping of coating in phosphoric acid solution). The apparent density (oz per cubic inch) shall be the weight of the sealed anodic coating expressed in oz per square inch divided by the thickness of the anodic coating expressed in microns measured by metallographic techniques using a microscope (ASTM B487).
- b. The manufacturer shall furnish one sample or test coupon from each rack load of anodized components for the dye stain (ASTM B 136) and coating thickness (ASTM B244) tests and at least one sample or coupon from each production shift for coating weight (ASTM B 137) and apparent density determination.
- c. The manufacturer shall in accordance with 8.a-8.g submit test results supplied by a testing laboratory approved by the Engineer.
- d. The manufacturer shall have all bending or forming procedures to be executed, after the anodized coating is applied, reviewed by the finishing contractor and testing laboratory and secure a certification signed by the manufacturer, finisher and testing laboratory that no post-finishing bending or forming process has breached the integrity of the finish. A random sample of the most stressed bend shall be submitted to the testing laboratory in order to aid in this determination.
- e. Lamppost shaft and davit arm shall require the manufacturer's certification that they meet the requirements of this specification.

**CONSTRUCTION DETAILS**

The installation shall conform to the requirements of subsections 670-3.01, 3.02, 3.06, 3.14, 3.15, 3.16 and 3.17. Identification tags shall be mounted 24 inches above the ground and facing traffic.

**METHOD OF MEASUREMENT**

Subsection 670-4.02 shall apply.

**BASIS OF PAYMENT**

The unit price bid for each lamppost shall include the cost of the transformer base, base-shoe, shaft, davit arm, tenons, identification tags, anchor bolts set in the foundation, nuts, washers, cable from transformer base to luminaire, fuse, fused connectors, splicing of wire in the transformer base, inspection, testing, and all labor, equipment and other materials necessary to complete the work.

12/23/08E

Oct. 1998M  
Rev. Mar. 1999

## **DESCRIPTION:**

Under this work the contractor shall furnish and apply epoxy reflectorized pavement markings in accordance with these specifications, the Contract Documents, the NYSMUTCD, or as ordered by the Engineer. Items for Special Markings include stop bars and crosswalks.

Yield line symbols are isosceles triangles with height equaling 1.5 times the base dimension:

A small yield line symbol shall have a base dimension of one foot.

A large yield line symbol shall have a base dimension of two feet.

Yield line symbols are to be installed with the Apex of the triangle oriented towards oncoming traffic.

The epoxy marking material shall be hot-applied by spray methods onto bituminous and portland cement concrete pavement surfaces at the thickness and width shown on the Contract Documents. Following a simultaneous application of Standard Glass Beads (Type 2) and Wet/Night Visibility Beads (Type 1), the cured epoxy marking shall be an adherent reflectorized stripe that will provide wet night retro-reflectivity.

## **MATERIALS REQUIREMENTS:**

Epoxy Paint	727-03
Glass Beads for Pavement Markings	727-05

### **Reflective Glass Spheres**

Retro-reflective beads shall be a double drop system of glass spheres consisting of Standard Beads (Type 2) and Wet/Night Visibility Beads (Type 1) as defined in §727-05 Glass Beads for Pavement Markings.

## **EPOXY APPLYING EQUIPMENT**

In general, a mobile applicator shall be a truck mounted, self-contained pavement marking machine, specifically designed to apply epoxy resin materials and reflective glass spheres in continuous line patterns. The applying equipment shall be maneuverable to the extent that straight lines can be followed and normal curves can be made in a true arc. In addition, the truck mounted unit shall be provided with accessories to allow for the marking of cross hatching and other special patterns as directed by the Engineer.

At any time throughout the duration of the project, the Contractor shall provide free access to his epoxy applying equipment for inspection by the Engineer or his authorized representative.

The Engineer may approve the use of a portable applicator in lieu of mobile truck mounted accessories for use in applying special markings only, provided such equipment can demonstrate satisfactory application of reflectorized epoxy markings in accordance with these specifications.

Mobile applying equipment shall be capable of installing up to 19 miles of epoxy reflectorized pavement markings in an eight hour day and shall include the following features:

1. Individual tanks for the storage of Part A and Part B of the epoxy resin.
2. Individual tanks for the storage of Standard (Type 2) and Wet/Night Visibility (Type 1) glass spheres. Each tank shall have a minimum capacity of 3000 lbs.
3. Heating equipment of sufficient capacity to maintain the individual epoxy resin components at the manufacturer's recommended temperature for spray application.
4. Individual dispensers for the simultaneous application of Standard (Type 2) and Wet/Night Visibility (Type 1) glass spheres. Each dispenser shall be capable of applying spheres at a minimum rate of 10 lbs/gal of epoxy resin composition.
5. Metering devices or pressure gauges on the proportioning pumps, positioned to be readily visible to the Engineer.
6. All necessary spray equipment, mixers, compressors, and other appurtenances for the placement of epoxy reflectorized pavement markings in a simultaneous sequence of operations as described in Construction Details, D. Application of Epoxy Reflectorized Pavement Markings.

## **CONSTRUCTION DETAILS**

### **A. General**

All pavement markings shall be placed as shown on the Contract Documents and in accordance with the New York State, Manual of Uniform Traffic Control Devices (MUTCD).

Before any pavement marking work is begun, a schedule of operations shall be submitted for the approval of the Engineer.

At least five (5) days prior to starting striping, the Contractor shall provide the Engineer with the epoxy manufacturer's written instructions for use. These instructions shall include, but not be limited to, material mixing ratios and application temperatures.

When pavement markings are applied under traffic, the Contractor shall provide all necessary flags, markers, signs, etc. in accordance with the MUTCD to maintain and protect traffic, and to protect marking operations and the markings until thoroughly set.

The application of pavement markings shall be done in the general direction of traffic. Striping against the direction of traffic flow shall not be allowed.

The Contractor shall be responsible for removing, to the satisfaction of the Engineer, all tracking marks, spilled epoxy, and epoxy markings applied in unauthorized areas.

When necessary the Contractor shall establish marking line points at 30 foot intervals throughout the length of the pavement or as directed by the Engineer.

## **B. Atmospheric Conditions**

Epoxy pavement markings shall only be applied during conditions of dry weather and on substantially dry pavement surfaces. At the time of installation the pavement surface temperature shall be a minimum of 50°F and the ambient temperature shall be a minimum of 50°F and rising. The Engineer shall be the sole determiner as to when atmospheric conditions and pavement surface conditions are such to produce satisfactory results.

## **C. Surface Preparation**

The Contractor shall clean the pavement and existing durable markings to the satisfaction of the Engineer.

Surface cleaning and preparation work shall be performed only in the area of the epoxy markings application.

At the time of application all pavement surfaces and existing durable markings shall be free of oil, dirt, dust, grease and similar foreign materials. The cost of cleaning these contaminants shall be included in the bid price of this item.

In addition, concrete curing compounds on new portland cement concrete surfaces and existing painted pavement markings on both concrete and bituminous pavement surfaces shall be cleaned and paid for in accordance with §635 Cleaning and Preparation of Pavement Surfaces for Pavement Markings.

## **D. Application of Epoxy Reflectorized Pavement Markings**

Epoxy reflectorized pavement markings shall be placed at the width, thickness, and pattern designated in the Contract Documents.

Marking operations shall not begin until applicable surface preparation work is completed and approved by the Engineer, and the atmospheric conditions are acceptable to the Engineer.

Pavement markings shall be applied by the following simultaneous operation:

1. The pavement surface is air-blasted to remove dirt and residues.
2. The epoxy resin, mixed and heated in accordance with the manufacturer's

recommendations, is uniformly hot-sprayed onto the pavement surface at the minimum specified thickness.

3. Standard (Type 2) and Wet/Night Visibility (Type 1) reflective glass spheres are injected into or dropped onto the liquid epoxy marking. Standard beads (Type 2) shall be applied first immediately followed by the application of Wet/Night Visibility beads (Type 1). Each type shall be applied at a minimum rate of 10 lbs/gal of epoxy resin (minimum total application = 20 lbs/gal).

#### **E. Defective Epoxy Pavement Markings**

Epoxy reflectorized pavement markings, which after application and curing are determined by the Engineer to be defective and not in conformance with this specification, shall be repaired. Repair of defective markings shall be the responsibility of the Contractor and shall be performed to the satisfaction of the Engineer as follows:

1. Insufficient film thickness and line width; insufficient glass bead coverage or inadequate glass bead retention.

Repair Method. Prepare the surface of the defective epoxy marking by grinding or blast cleaning. No other cleaning methods will be allowed. Surface preparation shall be performed to the extent that a substantial amount of the reflective glass spheres are removed and a roughened epoxy marking surface remains.

Immediately after surface preparation remove loose particles and foreign debris by brooming or blasting with compressed air.

Repair shall be made by restriping over the cleaned surface in accordance with the requirements of this specification and at the full thickness indicated on the Contract Documents.

2. Uncured or discolored epoxy\*; insufficient bond (to pavement surface or existing durable marking).

Repair Method. The defective epoxy marking shall be completely removed and cleaned to the underlying pavement surface in accordance with the requirements of Section 635 - Cleaning and Preparation of Pavement Surfaces, at the Contractor's expense.

The extent of removal shall be the defective area plus any adjacent epoxy pavement marking material extending three feet in any direction.

After surface preparation work is complete, repair shall be made by reapplying epoxy over the cleaned pavement surface in accordance with the requirements of this specification.

\*Uncured epoxy shall be defined as applied material that fails to cure (dry) in accordance with the requirements of §727-03 Epoxy Paint; or applied material that fails to cure (dry) within a reasonable time period under actual field conditions, as defined by the Engineer.

Discoloration shall be defined as localized areas or patches of brown, grayish or black colored epoxy marking material. These areas often occur in a cyclic pattern and often are not visible until several days or weeks after markings are applied.

Other defects not noted above, but determined by the Engineer to need repair, shall be repaired or replaced as directed by and to the satisfaction of the Engineer.

All work in conjunction with the repair or replacement of defective epoxy reflectorized pavement markings shall be performed by the Contractor at no additional cost to the State.

#### **METHOD OF MEASUREMENT**

Pavement striping (regular lines, cross hatching and special markings) will be measured in feet along the centerline of the pavement stripe and will be based on a 4 inch wide stripe. Measurement for striping with a width greater than the basic 4 inches, as shown on the plans or directed by the Engineer, will be made by the following method:

$$\frac{\text{Plan Width of Striping (inches) X Feet}}{4 \text{ inches}}$$

#### **BASIS OF PAYMENT**

The accepted quantities of markings will be paid for at the contract unit price, which shall include the cost of furnishing all labor, materials and equipment to satisfactorily complete the work. The cost for maintaining and protecting traffic during the marking operations shall be included in the price bid. The cost of removal of concrete curing compounds and existing pavement markings will be paid under separate items and are not included in this item.

No payment will be made for the repair or replacement of defective epoxy reflectorized pavement markings.

<b><u>PAY ITEM NO.</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>PAY UNIT</u></b>
685.07150110	White Epoxy Reflectorized Pavement Stripes – 15 mils	Foot



685.07150210	(Wet Night Visibility Spheres) White Epoxy Reflectorized Pavement Letters - 15 mils	Each
685.07150310	(Wet Night Visibility Spheres) White Epoxy Reflectorized Pavement Symbols – 15 mils	Each
685.07150410	(Wet Night Visibility Spheres) White Epoxy Reflectorized Cross Hatching -15 mils Thick	Foot
685.07150510	(Wet Night Visibility Spheres) White Epoxy Reflectorized Pavement Stripes (Special Markings) 15 mils Thick (Wet Night Visibility Spheres)	Foot
685.07150610	Yellow Epoxy Reflectorized Pavement Stripes – 15 mils	Foot
685.07150710	(Wet Night Visibility Spheres) Yellow Epoxy Reflectorized Pavement Stripes (Cross Hatching) 15 mils Thick (Wet Night Visibility Spheres)	Foot
685.07150810	White Epoxy Reflectorized Pavement Yield Line Symbols - Small - 15 mils	Each
685.07150910	(Wet Night Visibility Spheres) White Epoxy Reflectorized Pavement Yield Line Symbols - Large - 15 mils	Each
	(Wet Night Visibility Spheres)	
685.07200110	White Epoxy Reflectorized Pavement Stripes – 20 mils	Foot
685.07200210	(Wet Night Visibility Spheres) White Epoxy Reflectorized Pavement Letters – 20 mils	Each
685.07200310	(Wet Night Visibility Spheres) White Epoxy Reflectorized Pavement Symbols – 20 mils	Each
685.07200410	(Wet Night Visibility Spheres) White Epoxy Reflectorized Pavement Stripes (Cross Hatching) 20 mils Thick (Wet Night Visibility Spheres)	Foot
685.07200510	White Epoxy Reflectorized Pavement Stripes (Special Markings) 20 mils Thick (Wet Night Visibility Spheres)	Foot

685.07200610	Yellow Epoxy Reflectorized Pavement Stripes – 20 mils (Wet Night Visibility Spheres)	Foot
685.07200710	Yellow Epoxy Reflectorized Pavement Stripes (Cross Hatching) 20 mils Thick (Wet Night Visibility Spheres)	Foot
685.07200810	White Epoxy Reflectorized Pavement Yield Line Symbols - Small - 20 mils (Wet Night Visibility Spheres)	Each
685.07200910	White Epoxy Reflectorized Pavement Yield Line Symbols - Large - 20 mils (Wet Night Visibility Spheres)	Each

**NO TEXT ON THIS PAGE**

# LPM

## CHAPTER 12

# CONSTRUCTION CONTRACT REQUIREMENTS

## Contents

<b>Appendices .....</b>	<b>4</b>
<b>12.1 INTRODUCTION.....</b>	<b>5</b>
<b>12.2 PROJECT MANAGEMENT.....</b>	<b>5</b>
12.2.1 Construction Management Plan (CMP).....	5
12.2.2 Combination of Two or More Projects for Bidding Purposes.....	5
12.2.3 Bundling of Projects .....	6
<b>12.3 CONTRACTOR'S BID PROPOSAL PACKAGE CONTENTS.....</b>	<b>6</b>
12.3.1 Appendix 12-1 and Appendix 12-1A, Construction Contract Requirements.....	6
12.3.1.1 Non-Collusive Bidding and Other Certifications .....	7
12.3.1.2 Report of Violations of Non-Collusive Bidding or Other Prohibited Contract Activities.....	7
12.3.1.3 Certification for Federal-Aid Contracts: Lobbying Disclosure .....	7
12.3.1.4 Required Contract Provisions for Federal-Aid Construction Contracts (FHWA 1273).....	7
12.3.1.5 Offer Disclosure of Prior Non-Responsibility Determinations .....	8
12.3.1.6 Contract Bonds .....	8
12.3.1.7 Bid Deposit.....	8
12.3.2 Civil Rights Requirements.....	8
12.3.2.1 Disadvantaged Business Enterprise (DBE) Participation.....	8
12.3.2.2 Minority and Women-Owned Business Enterprises (M/WBE) and Service-Disabled Veteran-Owned Business (SDVOB) Programs .....	9
12.3.2.3 Equal Employment Opportunity (EEO) Requirements .....	9
12.3.2.4 Civil Rights Monitoring and Reporting .....	9
12.3.2.5 Title VI Assurances .....	9
12.3.3 Other Requirements.....	9
12.3.3.1 Authority Delegation.....	9
12.3.3.2 Insurance Provisions .....	10
12.3.3.3 Prevailing Wage Rates, Use of Convict Labor and Materials.....	10
12.3.3.4 Buy America Requirements and Waivers .....	10
12.3.3.5 Changed Conditions and Disputed Work Provisions.....	11
12.3.3.6 Retainage Provisions .....	11
12.3.3.7 Prompt Payment Provisions .....	11
<b>12.4 MISCELLANEOUS REQUIREMENTS.....</b>	<b>12</b>
12.4.1 Residency and Other Requirements .....	12
12.4.2 Specialized Experience Requirements.....	12
12.4.3 Wicks Law Requirements.....	12
12.4.4 Prequalification .....	13
12.4.5 Project Labor Agreement .....	13

12.4.6 Design-Build .....	14
12.4.7 Warranties and Specialty Items.....	14
12.4.8 Training and Apprenticeship Requirements.....	14
12.4.9 NYSDOT Oversight.....	15
<b>12.5 CONTRACTING METHODS .....</b>	<b>15</b>
12.5.1 Force Account Work by Sponsors .....	15
12.5.1.1 Public Interest Finding .....	15
12.5.1.2 Use of Sponsors' Equipment or Materials.....	15
12.5.2 Using Alternate Bidding.....	16
12.5.2.1 Format for Alternate Bidding.....	16
<b>12.6 REFERENCES.....</b>	<b>18</b>

**NOTE: This Chapter has associated appendices and forms at:**  
<https://www.dot.ny.gov/plafap>

**The web addresses for hyperlink words referenced throughout this Chapter (except LPM Chapter links) are on the last page under REFERENCE.**

## **Appendices**

### **Appendix**

- 12-1 CONSTRUCTION CONTRACT REQUIREMENTS**
- 12-2 ADDITIONAL CONSTRUCTION CONTRACT REQUIREMENTS**
- 12-3 CONSTRUCTION MANAGEMENT PLAN**
- 12-4 PUBLIC INTEREST FINDING, INSTRUCTIONS, SAMPLE LETTER**
- 12-5 TRANSMITTAL OF CONTRACT BID DOCUMENTS AND PLANS, SPECIFICATIONS, AND ESTIMATE LETTER**
- 12-6 CONTRACT BID DOCUMENTS – PLANS, SPECIFICATIONS, AND ESTIMATE (PS&E) - CHECKLIST**
- 12-7 PROPOSAL COVER, TABLE OF CONTENTS, TITLE SHEET**
- 12-8 NYSDOT SHELF NOTES**
- 12-9 CERTIFICATION FOR PLANS, SPECIFICATIONS, AND ESTIMATE (PS&E)**
- 12-10 DBE COMMITMENT (Prior Appendix 14-9)**

## 12.1 INTRODUCTION

This Chapter describes the requirements that apply to construction contracts advertised, bid, and awarded by Sponsors. The requirements are from the United States Code of Federal Regulations (CFR), specifically Title 23, Highways, and Title 49, Transportation. Sponsors must adhere to the requirements of both CFR Titles 23 and 49 when using federal funds. [Chapter 3](#) of the Local Projects Manual (LPM) provides additional information on the Federal Highway Administration (FHWA) funded programs and eligibility.

## 12.2 PROJECT MANAGEMENT

### 12.2.1 Construction Management Plan (CMP)

As stated in [Chapter 2](#) of the LPM, NYSDOT requires all Sponsors to have a written Construction Management Plan (CMP) detailing how the construction contract will be administered. The plan describes how the Sponsor plans to provide adequate supervision and inspection, including materials inspection and acceptance, and independent quality assurance to ensure projects are completed in conformance with the approved plans and specifications.

The CMP is part of the overall Project Management Plan (PMP) (see [Chapter 2](#)). Title **23 CFR 635.105(c)(4)** requires a Sponsor to provide a full-time employee to be in responsible charge of the project even if using consultants to provide engineering and construction inspection services or project management. This full-time employee is referred to as the Project Manager (PM). The PM reports to the Responsible Local Official (RLO), who has ultimate oversight and responsibility for the project.

The PM and the RLO may be the same individual if the RLO has project management experience. However, since each Sponsor has different resources and each construction project is different, the minimum requirements to be included in each CMP are noted in Appendix 12-3.

If the CMP is not approved before letting, between contract letting and contract award, the Sponsor's PM, Engineer-in-Charge (EIC), Inspector(s), and the Regional Local Projects Liaison (RLPL) shall meet to modify the CMP to include information initially not available to the Sponsor.

The CMP should be updated to include a list of individuals involved, their qualifications, responsibilities, and supervision hierarchy. The CMP may be modified by agreement between the contractual parties as necessary due to personnel changes, changed conditions, scope changes, schedule changes, or other reasons. See Appendix 12-3 for the CMP template. NYSDOT must approve the CMP before contract award.

### 12.2.2 Combination of Two or More Projects for Bidding Purposes

Title **23 CFR 635.111** permits two or more federal-aid and state-aid financed projects to be tied (combined) for bidding purposes into one contract where it appears that more favorable bids may be received by doing so. All proposals submitted for tied projects must contain separate engineering shares for each project. Typically, the combination of projects is predetermined at the beginning of the project, with inclusion in the Project Management Plan. Care should be taken in determining the combination of the projects so that one will not delay the progress of the other (e.g., environmental issues, right-of-way concerns, schedule, funding availability). The Sponsor will coordinate the combination of two or more projects with the RLPL.



### 12.2.3 Bundling of Projects

Projects can be bundled for bidding purposes into one contract where it appears that more favorable bids may be received by doing so. Bundled projects must have an independent utility with an independent logical termini and do not rely on each other to be completed. This bundling is typically determined and combined as a single contract package at PS&E. In the event that a bundled project includes both a federal-aid funded project and a state-aid funded project, the entire bundled project will need to meet federal contract requirements, which include compliance with Buy America, DBE, and Federal Prevailing Wage Rates. NEPA re-evaluation prior to construction authorization will only be required on the federally funded projects included.

All proposals submitted must contain separate bid prices for each project. It will be vital to track the expenses to the separate engineering shares to ensure no federal funds are expended on any of the state-funded projects included. Reimbursement requests will need to be submitted clearly separating the items for each project/engineering share (including lump sum items.) If federal aid is expended on a state-funded project, then that project would need to be in compliance with all federal regulations, including NEPA.

### 12.3 CONTRACTOR'S BID PROPOSAL PACKAGE CONTENTS

Sponsors can begin preparing the Contractor's Bid Proposal Package as soon as they have received federal authorization for Detailed Design. This section addresses the major topics covered in the Contractor's Bid Proposal Package. Sponsors must ensure that they use the most recent version of Appendices 12-1 and 12-1A and that the package is organized sequentially. Appendix 12-7, Proposal Title Page, Table of Contents, and Project Title Sheet should be included. Appropriate Shelf Notes to be added can be obtained from the RLPL. See Appendix 12-8 for a list.

The contract plans (if applicable), specifications, and estimate (PS&E) are the outcome of the design stage. It is a summary of the final design information necessary for contract advertisement.

- **For contracts off the State Highway System or National Highway System (NHS)** - The Sponsor must document in writing to the RLPL that all requirements and appropriate appendices were included in the contract bid documents.
- **For contracts on the State Highway System or NHS** - Contract bid documents must be submitted to the RLPL for a completeness review and approval by the Regional Director (RD) and/or FHWA prior to contract advertisement.
- See Project Development Manual (PDM) Exhibit 4-2 and Exhibit 4-3 for approval requirements.

The Contract Bid Document Transmittal Letter (see Appendix 12-5) is used to transmit to NYSDOT all required documents and information necessary to progress the project to the construction phase. The Sponsor provides the completed Contract Bid Documents – Plans, Specifications, and Estimate (PS&E) Checklist (see Appendix 12-6) and PS&E Certification (Appendix 12-9) to NYSDOT for review.

Appendix 12-2 Additional Construction Contract Requirements must be included in their entirety in all federally aided construction contract bid proposals that do not use NYSDOT Standard Specifications. See LPM [Chapter 9](#) Section 9.3 Construction Specifications for additional information.

#### 12.3.1 Appendix 12-1 and Appendix 12-1A, Construction Contract Requirements

Appendix 12-1 and Appendix 12-1A, Construction Contract Requirements, contain sworn written statements from the contractor to the Sponsor regarding conditions set by the Sponsor. Appendices

12-1 and 12-1A, in their entirety, must be included in all construction contract bid proposals. By signing the Combined Certification Form of Appendix 12-1A, the contractor certifies that the contents are true.

#### 12.3.1.1 Non-Collusive Bidding and Other Certifications

Collusion is defined as any activity that artificially affects prices when bidding on a contract or activity that restricts competition among bidders or potential bidders by exchanging or sharing information with firms presumed to be competing for the same contract. Title **23 CFR 635.112(f)**; **New York State Finance Law (SFL) Article 9, §139-d** and **General Municipal Law (GML) Article 5A, §103-d** require non-collusive bidding and other certifications in all construction contracts. The above laws require bidders to certify that the bid submitted was arrived at without resorting to any collusive bidding practices.

Additionally, federal law requires bidders to certify that they are eligible to compete for contracts under federal regulations and are not under the sanction of any federal agency, nor are any sanctions pending against the firm or owner of the firm. Title **2 CFR 1200** also requires the bidder to certify that they have not been subject to legal action regarding fraud or misconduct.

A sample signature page (see Appendix 12-1A, Non-Collusive Bidding Certifications) allows for one signature to provide multiple certifications. NYSDOT recommends using this form to simplify signing for various certifications for the same contract.

#### 12.3.1.2 Report of Violations of Non-Collusive Bidding or Other Prohibited Contract Activities

The laws noted in the **Non-Collusive Bidding Requirements** section encourage any person with knowledge of collusive bidding or other misconduct by others to report possible violations to the appropriate federal and/or state authorities. Reporting Violations of Non-Collusive Bidding Procedures Misconduct or Other Prohibited Contract Activities provides information on how to report such activities; and must be submitted with all federal-aid construction contracts.

#### 12.3.1.3 Certification for Federal-Aid Contracts: Lobbying Disclosure

Title **23 CFR 635.112(g)** requires contractors or firms intending to conduct business with the federal government or participate in contracts funded with federal aid to disclose all lobbying activities.

#### 12.3.1.4 Required Contract Provisions for Federal-Aid Construction Contracts (FHWA 1273)

All federal aid highway contracts are bound by various federal laws, rules, regulations, and presidential executive orders. These requirements address issues such as:

- General contract administration,
- Non-discrimination,
- Non-segregated facilities,
- Payment of predetermined minimum wage,
- Statements and payrolls,
- Records of materials,
- Supplies and labor,
- Subletting and assigning of the contracts,
- Safety and accident prevention,
- False statements concerning highway projects,
- Clean air and water pollution control,
- Contractor lobbying activities; and
- Other aspects of the contract and/or contractor responsibilities.

[FHWA-1273, Required Contract Provisions Federal-Aid Construction Contracts](#) includes detailed descriptions and explanations of these requirements and must be included verbatim in all federal aid highway contract packages (see Appendix 12-1).

#### 12.3.1.5 Offer Disclosure of Prior Non-Responsibility Determinations

As part of the Contractor's Bid Proposal Package, **SFL Article 9, §139j** and **139k** require contractors to complete the Offerors Disclosure of Prior Non-Responsibility Determinations form affirming that all information provided to the Sponsor is complete, true, and accurate. The form must be completed and submitted by the individual or entity seeking to enter into a Procurement Contract, Supplement or Change Order.

#### 12.3.1.6 Contract Bonds

**GML Article 5A, §103-f**, and **Standard Specifications 103-03** require the contractor to provide the Sponsor with a Faithful Performance Bond and a Labor and Material Bond from a Surety Company. The contractor shall procure and deliver bonds to the Sponsor and maintain them at their own expense and without expense to the Sponsor until final contract acceptance by the Sponsor. See the Standards Specifications noted for additional information.

#### 12.3.1.7 Bid Deposit

Bidders must submit a bid bond with each proposal for a federally aided contract. The bid bond guarantees that the bidder will enter a contract with the Sponsor for work if a Sponsor accepts a bidder's proposal. Each proposal shall be accompanied by a certified check or a bank cashier's check for a specified amount payable to the Sponsor (see NYSDOT's **Standard Specifications 102-06** and **GML, Article 5A, §102**). Bid deposits will be returned within 30 days after award to non-awarded bidders.

### **12.3.2 Civil Rights Requirements**

#### 12.3.2.1 Disadvantaged Business Enterprise (DBE) Participation

Under **49 CFR 26**, the Sponsor will ensure that the contract includes a Disadvantaged Business Enterprise (DBE) participation goal in accordance with NYSDOT's current [DBE Plan](#). The DBE Program Plan is approved by FHWA and establishes contract goals by geographic location and project work type. When a construction contract is funded wholly or partially with federal funds, only a DBE goal is assigned to the contract; no other State or local business enterprise goals (no M/WBE goal) can be assigned. The DBE Goal Setting Procedures (Local Program) on the NYSDOT Office of Diversity and Opportunity website linked below detail how a DBE Goal is to be set on local projects. As referenced in the procedures, to set the DBE goal, Sponsors will use the table of Construction Contract Groups, Multi-Regional (Market Area) Map, and the Baseline DBE Goal Selection Chart in the Goal Setting Tools. These forms and instructions are found on NYSDOT's Office of Diversity and Opportunity [website](#).

##### 12.3.2.1.1 Instructions to Bidders Regarding DBE Participation

**NYSDOT Standard Specification Section 102-12 (Participation Pre-Award Package)**, participation indicates that the bidder shall submit DBE commitments with its proposal, including DBE name, address, work category, a brief description of work, and commitment amount. See Appendix 12-10 DBE Commitment (previously Appendix 14-9) to assist the Sponsor in collecting the information from proposed bidders.

#### 12.3.2.2 Minority and Women-Owned Business Enterprises (M/WBE) and Service-Disabled Veteran-Owned Business (SDVOB) Programs

All contracts entered into by the Sponsor that is wholly funded with state funds must be assessed to determine appropriate M/WBE and SDVOB goals. For detailed information on M/WBE and SDVOB goal setting, see LPM [Chapter 19](#) Appendix 19-1 and 19-5.

#### 12.3.2.3 Equal Employment Opportunity (EEO) Requirements

Per Title **41 CFR 60** and **23 CFR 230**, the Sponsor will ensure contracts with an Engineer's Estimate of \$10,000 or more include EEO workforce utilization goals. Their contractor shall not discriminate against any employee or applicant for employment. EEO utilization refers to workforce makeup, including women and minorities. The contract goal for minorities varies; it is dependent upon the county or counties in which the work is located. The female EEO participation goal is 6.9% throughout the State of New York. EEO requirements apply to prime contractors and their subcontractors. See Appendix 12-1.

#### 12.3.2.4 Civil Rights Monitoring and Reporting

All civil rights reporting is to be performed utilizing NYSDOT's approved civil rights reporting software, EBO (Equitable Business Opportunities Solution). Sponsors must submit an EBO access form to the RLPL with their contract bid. Information concerning EBO is found online at <https://www.dot.ny.gov/dotapp/ebo>. Sponsors should contact their RLPL for additional assistance with EBO.

#### 12.3.2.5 Title VI Assurances

The Title VI Assurances contained in *APPENDIX A-1 SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)* must be physically inserted into all federal aid contracts and subcontracts. Therefore, it may not be included by reference.

### **12.3.3 Other Requirements**

#### 12.3.3.1 Authority Delegation

Locally administered federal aid transportation projects will use the current NYSDOT Standard Specifications detailed in LPM [Chapter 9](#) Section 9.3. Modifications to the specifications will require written approval from NYSDOT. See [Chapter 9](#), Section 9.3.3 for more information on special specifications.

NYSDOT Standard Specifications refer to NYSDOT employees (Chief Engineer, Deputy Chief Engineer Structures, etc.) and functional units (Structures, Traffic, and Safety, etc.) to provide for approvals or to perform functions. Sponsors may or may not have access to these resources. Depending on NYSDOT's level of oversight and/or capacity to perform the work, functional unit actions identified in NYSDOT specifications may need to be performed by contract. For example, subsurface exploration would be performed by an approved Geotechnical Consultant if NYSDOT's Geotechnical Engineering Bureau does not have the capacity for the necessary work. Costs and confirmation of availability must be identified in Schedule A of the State Local Agreement before scheduling NYSDOT technical services.

Approval authority is delegated to the Responsible Local Official (RLO) by Municipal Resolution attached to the State-Local Agreement. If the RLO is not a Licensed Professional Engineer, the RLO will recommend the plans, specifications, and estimate based on certification provided by a Licensed

Professional. These delegated authorities, approvals, and functional unit actions or subcontracting shall be approved by the RLPL and documented in the Project Management Plan and the Construction Management Plan.

#### 12.3.3.2 Insurance Provisions

The following insurance provisions are required when contractors, subcontractors, and their suppliers intend to conduct business in New York State:

- Workers' Compensation
- Disability Insurance
- Commercial General Liability Insurance
- Commercial Automobile
- Umbrella or Excess Liability
- Special Protective and Highway Liability

Sponsors may require other insurances, depending on the work being performed, including Professional Liability/Errors and Omissions, Railroad Protective, Marine Protection and Indemnity, Pollution Liability, and Builder's Risk.

All required insurance policies, except worker's compensation and professional liability, shall be endorsed to provide coverage to "The Sponsor, any municipality in which the work is being performed, any public benefit corporation, railroad, or public utility whose property or facilities are affected by the work, and any consultants working for or on the project, and their agents or employees." See NYSDOT's **Standard Specifications 107-06** for more details.

#### 12.3.3.3 Prevailing Wage Rates, Use of Convict Labor and Materials

Federal and state contracts must include requirements regarding prevailing wage rates, various employment practices, and the use of convict-produced materials (see NYSDOT **Standard Specifications 102-10**).

Federal wage rates must be obtained online from the official federal contracting [Wage Determinations Online website](#). The federal wage rates must be physically inserted into the contract proposal. The federal wage rates must be updated by addendum within 10 days or more before the letting,

New York State prevailing wage rates can be found online at the [New York State Department of Labor's website](#). A Prevailing Rate Case number (PRC) will be issued. If the same request is submitted multiple times, the Sponsor will be assigned a different PRC each time for the same project. Only the first four pages of the most current state wage rates, including the PRC number, need to be included in the proposal. Contractors are obligated to pay the higher of the two as both are stated as minimum rates.

#### 12.3.3.4 Buy America Requirements and Waivers

Title **23 CFR 635.410** and **SFL Article 9, §146** require all bidders for federal aid contracts to submit bids based on furnishing domestic steel and iron materials (manufacturing processes including the application of coatings must be performed domestically). The contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and iron materials. This includes any federal aid in any project phase regardless of whether federal aid will be applied to construction. Buy America also applies to general utility installations and municipal utilities if federal funds are involved in any project phase.



When steel and iron materials are used in a project, the requirements of this section do not prevent a minimal use of foreign steel and/or iron materials if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. The combined cost of the foreign steel and/or iron products will be the value of the materials as they are delivered to the contract, documented by invoice or bill of sale to the contractor. See **Standard Specifications 106-11**.

At the request of the Sponsor, NYSDOT may request from FHWA a waiver of the provisions of this section if:

- (i) the application of those provisions would be inconsistent with the public interest or,
- (ii) the use of domestic steel and/or iron materials/products that are not produced in the United States in sufficient and reasonably available quantities that are of satisfactory quality.

Note should be made that the submittal of a waiver request requires an extensive review and approval and does not guarantee that a waiver will be granted.

A Sponsor may use the alternative bidding procedure to justify the use of foreign steel or iron without requesting a waiver. Under this procedure, the total project is bid with two alternatives: one which is based on foreign source iron/steel materials while the second alternative requires domestic iron/steel materials. All bidders must submit a bid using domestic source iron/steel and have the option of submitting a bid using foreign source iron/steel. The use of foreign products is justified if the lowest total bid with domestic iron/steel products is at least 25 percent more than the lowest bid with foreign source iron/steel. The 25 percent differential applies to the total bid for the entire project, not just the bid prices for items with iron or steel elements.

#### 12.3.3.5 Changed Conditions and Disputed Work Provisions

Title **23 CFR 635.109**, "Standardized Changed Conditions Clauses," requires all FHWA funded contracts let by NYS agencies, municipalities, and/or public authorities to provide processes for equitable contract adjustments and contract disputes. Title **23 CFR 635.109** also contains three contract clauses (found in NYSDOT's **Standard Specifications 104-03, Standard Specifications 104-04, and Standard Specifications 104-05**) which must be included verbatim in each federal aid construction contract. These clauses are included in all federally funded local projects by reference to the NYSDOT Standard Specifications.

#### 12.3.3.6 Retainage Provisions

**SFL Article 9, §139-f**, and **GML Article 5-A, §106-b** does not require NYSDOT and Sponsors to hold retainage from contractors or permit the contractor to withhold retainage except for work not completed on NYSDOT administered contracts. Therefore, the limits on retainage as provided in **GML Article 5-A, §106-b** cannot be applied by the Sponsor. In accordance with Standard Specification 109-07 Prompt Payment, the Sponsor must ensure that the Contractor does not hold any. See [LPM Chapter 5.3.1.4 Retainage Policy](#).

#### 12.3.3.7 Prompt Payment Provisions

**GML Article 5-A, §106-b**, and **SFL Article 9, §139-f** require the contractor to pay their subcontractors and suppliers within seven (7) calendar days of receipt of payment from the Sponsor and provide for interest on late payments for all public works contracts. See [LPM Chapter 5.3.1.3 Prompt Payment Policy](#). The prime contractor's date of payment to subcontractors is the date that payment is sent to the subcontractors; this date is recorded in EBO. Subcontractors are required to acknowledge these payments in EBO promptly. Contract provisions stating any other payment

schedule will not be allowed; contracts cannot supersede State Finance Law. In accordance with Standard Specification 109-07 Prompt Payment, the Contractor will not withhold payment to subcontractors or DBE/MBE/WEB/SDVOB's due to disputes about the quantity of work performed. See Construction Administration Manual (MURK Part 1A) for additional information.

## **12.4 MISCELLANEOUS REQUIREMENTS**

### **12.4.1 Residency and Other Requirements**

Title **23 CFR 635.110(b)** prohibits the Sponsor from imposing unusual contract specifications, including requirements for an award or submitting a bid, such as residency requirements or geographical or other restrictions, which tend to restrict competition. Such requirements cannot be part of the solicitation for bids or the bid proposal package nor appear in any advertisement for bids.

### **12.4.2 Specialized Experience Requirements**

The special requirements for determining the lowest responsible bidder should be clear, reasonable, and consistent with standard industry practices. For instance, on a project involving historic preservation, several years of experience in the historic preservation field, or at least three completed historic preservation contracts similar in size and scope would be a reasonable requirement. However, special expertise cannot be written to preclude any bidder from submitting a bid and can only be used to determine the lowest responsible bidder. Below is an example of an appropriate clause for historic preservation work which may be included in a bid proposal package.

Due to the highly sensitive nature of the historic preservation work in this contract, as a condition of the award, bidders must have at least \_\_\_\_\_ years' experience working with historic (timber, iron, etc.) structures (bridges, buildings, etc.), including work on similar contracts or structures. In addition, the bidder must include a list of current and previously completed historic preservation contracts in its bid package, including the name of the contract owner, a contact person, and telephone number so that references can be verified. The contract will be awarded to the lowest responsible bidder who meets the experience specifications.

### **12.4.3 Wicks Law Requirements**

Known as Wicks Law, **GML Article 5-A, §101** and **SFL Article 9 §135**, applies to State agencies, certain public benefit corporations, municipalities, school districts, and boards of cooperative educational services but does not apply to private building construction. This is a New York State statute, and NYSDOT has no authority to grant waivers. The law applies if a construction contract involves building construction and the total construction contract value exceeds:

- \$3 million in Bronx, Kings, New York, Queens, and Richmond Counties,
- \$1.5 million in Nassau, Suffolk, and Westchester Counties, or
- \$500,000 in all other counties in New York State.

**GML Article 5-A, §101** requires the contract owner (Sponsor) to bid and execute separate contracts for general construction, plumbing, heating/ventilating/air conditioning, and electrical components for building construction. For any project which does not meet the above thresholds and is not let with separate contracts, this law applies in the following ways:

- All bidders must submit with their bids a sealed list of the subcontractors that will perform the plumbing, H/V/AC, and electrical work.
- The successful low bidder's sealed list will be opened, and the Contractor is required to use the list of subcontractors unless there is a legitimate construction need to change the subcontractor. The Sponsor's approval is required for a change to be made.
- The sealed lists are returned unopened to the non-selected bidders.

#### 12.4.4 Prequalification

**GML Article 5-A, §103** allows political subdivisions (municipalities) with populations over 50,000 to prequalify bidders. The prequalification program establishes guidelines governing the qualifications of bidders for construction/procurement contracts. These programs are allowed if the Sponsor maintains an appropriate list of qualified bidders who meet the Sponsor's established standards. Indication of the use of a pre-qualified bidder must be noted in the advertisement of the project. The established standards shall consider the prospective bidders' experience and the past performance of work completed by the prospective bidders as well as:

1. The prospective bidders' ability to undertake the type and complexity of work,
2. The financial capability, responsibility, and reliability of the prospective bidders for such type and complexity of work,
3. The record of the prospective bidders in complying with existing labor standards and maintaining harmonious labor relations,
4. The prospective bidders' compliance with equal employment opportunity requirements and anti-discrimination laws, and demonstrated commitment to working with disadvantaged businesses through joint ventures or subcontractor relationships; and
5. The record of the prospective bidders in protecting the health and safety of workers on public works projects and job sites as demonstrated by the prospective bidders' [Workers Compensation Experience Modification Rate](#) for each of the last three years.

The Sponsor's prequalification process must have a documented appeal process for firms denied a place on a pre-qualified list. In addition, NYSDOT must review and approve any prequalification provisions.

#### 12.4.5 Project Labor Agreement

**NYS Labor Law Article 8, §222** allows Sponsors to use a Project Labor Agreement (PLA) when it has been determined that the Sponsor's interest in obtaining the best work at the lowest possible price, preventing favoritism, fraud, and corruption, and other considerations such as the impact of delay, and the possibility of costs savings are best met by requiring a PLA. Project Labor Agreement shall mean a pre-hire collective bargaining agreement between a contractor and a bona fide building and construction trade labor organization. The trade labor organization is the collective bargaining representative for all persons who will perform work on a public works project. Only contractors and subcontractors who sign a pre-negotiated agreement with the trade labor organization can perform project work.

It should be noted that any project undertaken with a PLA shall:

- For design, be subject to the review and approval of the Sponsor; and the design and construction standards are subject to the review and approval of NYSDOT,
- Contain a provision that the contractor shall furnish a labor and material bond guaranteeing prompt payment and a performance bond for the faithful performance of the project,
- Participate in an apprentice training program if the project exceeds the noted values under **NYS Labor Law Article 8, §222**.

The use of a PLA must :

- Be consistent with **23 United States Code (USC) 112**,
- Lead to a more effective use of federal funds; and
- Be in compliance with all **Title 23** and **Title 49 USC** and **CFR** requirements.

To accomplish consistency and compliance with the referenced codes, a complete study, analysis, and report must be prepared by an independent consultant retained by the Sponsor who is



experienced in the development and implementation of PLA's and has not been retained to perform the design of the project. The consultant must conduct a thorough project analysis of the costs/benefits of a PLA and document specific facts and figures in the Due Diligence Impact Study Report.

NYSDOT will review all PLA's prior to submitting to FHWA for approval, including Design-Build. The final report must be provided to the RLPL to be included in the project files.

The NYS Office of General Services (OGS) has a contract for Project Labor Agreement Services that Sponsors may use to select a firm. The Sponsor must use the mini-bid process to solicit a cost estimate from all on the list before selecting one firm. If a Sponsor uses the OGS Contract, the federal requirements as found in Appendices 12-1 and 12-1A must be incorporated into the contract. Therefore, the Sponsor would be eligible for reimbursement only if the federal requirements are incorporated into the contract.

#### **12.4.6 Design-Build**

The "[New York City Public Works Investment Act of 2019](#)" authorized the New York City's Department of Design and Construction and Department of Transportation to undertake public work projects pursuant to project labor agreements that cost \$10 million or more, use of the alternative delivery method known as Design-Build contracts. The [New York State Department of Transportation Design-Build Procedures Manual](#) provides the procedures to be followed. No other Sponsor is permitted at this time to utilize Design-Build as an alternative delivery method.

#### **12.4.7 Warranties and Specialty Items**

**Title 23 CFR 635.413** generally prohibits the Sponsor from requiring a contractor to warrant or guarantee its overall workmanship for some time after the contract work is accepted. Warranties and guarantees are not allowed on federal aid contracts and should not be part of the contract bid proposals. Warranties for routine maintenance items not within the control of the contractor are prohibited. Specific Sponsor requests to use warranty clauses must be submitted to the RLPL for NYSDOT approval before Contract Bid Document Package submission. Standard manufacturers and suppliers' warranties on installed equipment and materials are allowed under federal regulations without additional approval. See **Standard Specifications 105-18 and 105-19** for more information.

#### **12.4.8 Training and Apprenticeship Requirements**

Training is one of the Civil Rights activities that may be used to address the under-utilization of minorities, females, and economically-disadvantaged persons in highway construction and engineering contracts. The Sponsor must include Item 691 Training and Apprenticeship Requirements if the construction cost is estimated above \$5M. It should be noted that if the construction cost is below \$5M and there is an opportunity for training, the item may be included. The program requirements must be reviewed and approved by both NYSDOT and FHWA. Only FHWA-approved On-the-Job Training (OJT) programs or NYS Department of Labor (NYSDOL)/U.S. Department of Labor (USDOL) registered apprenticeship programs may be used to fulfill training requirements. The review and approval processes are extensive; therefore, appropriate time should be allocated for the approval process. Sponsors should coordinate with their RLPL. See Highway Design Manual (HDM) 21.4.3.2 Training Requirements.

### 12.4.9 NYSDOT Oversight

There are times where different phases of the project, such as preliminary design, detailed design, right-of-way, construction inspection, or construction, are not funded with federal funds. If the construction phase is not advanced with federal funds, NYSDOT must provide oversight and ensure compliance in the areas of Environmental Commitments, Right-of-way (ROW) Requirements/Acquisition, and Buy America provisions.

## 12.5 CONTRACTING METHODS

Title **23 CFR 635** describes federal regulations governing construction contracts let by a Sponsor for which the Sponsor anticipates federal reimbursement. Title **23 CFR 635.104(a)** requires construction contracts to be awarded to the lowest responsible bidder, as determined by a competitive bidding process. The Sponsor must comply with federal aid competitive bidding requirements. NYSDOT is the primary recipient of FHWA funding. When receiving federal funds, NYSDOT must monitor and assure compliance with federal regulations on contracts initiated by a project Sponsor or subcontracts initiated by a contractor.

Failure to comply with all federal and state laws, rules, regulations, and federal presidential and state gubernatorial executive orders may result in the loss of federal aid and removal of NYSDOT and/or FHWA participation from the project. In addition, the State may deduct other state or federal aid due to the Sponsor's future payments. Refer to [Chapter 4](#), Local Project Agreements, for rules and regulations regarding possible repayment of funds to NYSDOT. For additional requirements regarding construction contract administration and compliance, see [Chapter 15](#).

Costs found to be ineligible after payment was made to the Sponsor must be repaid to New York State. NYSDOT will reduce current or future reimbursement claims on the same or other projects the Sponsor may have with NYSDOT if the Sponsor fails to repay.

### 12.5.1 Force Account Work by Sponsors

Title **23 CFR 635.104(a)** requires competitive bidding for construction contracts unless provided in **23 CFR 635.104(b)**, some other method is more cost-effective. Force Account Construction by the Sponsor is one method utilized. Title **23 CFR 635.201-205** documents the federal requirements for Force Account Construction. NYSDOT or FHWA must approve all requests to use Force Account Work on local let construction projects.

#### 12.5.1.1 Public Interest Finding

Title **23 CFR 635.104(b)** provides the option for a Sponsor to determine if it is more cost-effective to use its resources to perform the work adequately than competitive bidding on a local-let, federally aided construction contract (i.e., Force Account Work). The Sponsor must submit to the RLPL in writing a request justifying why "no-bid force account work" is necessary. This can be justified by showing how it is cost-effective to use the Force Account method vs. competitive bidding (e.g., during emergency conditions). This request is called a Public Interest Finding (PIF). For projects OFF the National Highway System (NHS), the PIF will be submitted to NYSDOT for approval. For projects ON the NHS, the PIF will be submitted by NYSDOT to FHWA for approval. See Appendix 12-4 for the PIF form, instructions, and transmittal letter.

#### 12.5.1.2 Use of Sponsors' Equipment or Materials

Generally, Sponsors cannot require the prime contractor to use the Sponsor's equipment or materials as a condition or pre-condition of awarding the contract. However, if documented in the

PIF, exceptions may be allowed by NYSDOT or FHWA. Equipment must be acquired through competitive bidding or produced by municipal forces. The Contractor must have the option to use their own equipment. Cost for equipment must be based on rental rates or unit prices, and points of availability shall be documented in the Contract Bid Package.

**Note:** Sponsors cannot profit from the rental of their equipment or materials.

## **12.5.2 Using Alternate Bidding**

If the Sponsor utilizes an alternate bid process to stay within budget limits, the alternate bid process must be clearly described in the bid proposal. A Sponsor cannot use an alternate process where the Sponsor may arbitrarily choose from among the alternate bid items. An arbitrary process may create an impression of impropriety. FHWA has accepted the method described in the Alternate Bidding Section of this chapter.

A Sponsor may choose alternate bidding to maximize the benefits of the funding available for a contract. In general, the concept allows for Contractors to bid on the elements of the basic contract scope (base bid) first as well as submit bids on work outside of the basic contract scope: the alternate bid items. These alternates can be either additions or deletions from the basic contract scope. Bids on the basic scope of the contract and the alternate items are submitted at the same time and opened at the same time.

If the Sponsor receives a bid on the basic scope which is less than the Engineer's Estimate for the basic scope, bids on the alternate items are considered according to a predetermined order of priority, so long as the total bid price remains under the total contract budget (see Scenario #1). Conversely, if all bids exceed the Engineer's Estimate, Sponsors may delete alternate bid items, subject to a priority ranking, to stay within the contract budget (see Scenario #3).

### **12.5.2.1 Format for Alternate Bidding**

The use of alternate bid items is permissible under strict budgetary circumstances. To assure bidders of the integrity of the competitive bid process, the criteria and formula for determining the low bidder in an alternate bid process must be fully and clearly described in the bid proposal documents. The bid solicitation must advise potential bidders that alternate bidding will be used. Whether adding or deleting alternate items, the Sponsor must prioritize the alternate bid items and follow a rational sequence when selecting the alternate items. The Sponsor is not free to pick and choose among the alternates. The following format must be adhered to.

**EXAMPLE:** If a budgeted figure cannot be exceeded, the total budget figure should be announced at the public bid opening just prior to opening the bids. The bid proposal should state the criteria on which award will be based as follows:

- If any bids for the base bid plus Alternates 1-3 come under the budget figure, the award will be made based on the base bid plus Alternates 1-3; however,
- If all bids for the base bid plus Alternates 1-3 exceed the budget figure, the award will be based on the base bid plus Alternates 1 and 2; however,
- If all bids for the base bid plus Alternates 1 and 2 exceed the budget figure, the award will be based on the base bid plus Alternate 1; however,
- If all bids for the base bid plus Alternate 1 exceed the budget figure, the award will be based on the base bid only; however,
- If all bids for the base bid exceed the budget figure, the award will be based on the base bid and Alternate 4 (deduct item); however,
- If all bids for the base bid and Alternate 4 (deduct item) exceed the budget figure, the award will be based on the base bid and Alternates 4 and 5 (deduct items); however,

- If all bids for the base bid and Alternates 4 and 5 (deduct items) exceed the budget figure, the award will be based on the base bid plus Alternates 4, 5, and 6 (deduct items)

Scenarios #1, #2, and #3 below illustrate the above example in determining the low bidder when alternate bid items are used.

**SCENARIO #1**

**BUDGET FIGURE \$200,000**

BIDDER	BASE BID	ALT.#1	ALT.#2	ALT.#3	TOTAL
A	\$150,000	\$20,000	\$20,000	\$20,000	\$210,000
B	\$170,000	\$15,000	\$ 7,000	\$ 7,000	\$199,000
C	\$185,000	\$17,000	\$10,000	\$ 3,000	\$215,000
D	\$175,000	\$18,000	\$ 5,000	\$15,000	\$213,000

**BIDDER B is the low bidder, using base bid plus Alternates 1-3, for a total of \$199,000.**

**SCENARIO #2**

**BUDGET FIGURE \$200,000**

BIDDER	BASE BID	ALT.#1	ALT.#2	ALT.#3	TOTAL
A	\$196,000	\$ 8,000	\$ 8,000	\$ 8,000	\$220,000
B	\$192,500	\$10,000	\$ 2,000	\$ 8,000	\$212,500
C	\$194,000	\$11,000	\$ 6,000	\$ 9,000	\$220,000
D	\$190,000	\$15,000	\$ 5,000	\$15,000	\$225,000

**BIDDER D is the low bidder based on the base bid only. All other applications of the formula exceed the budget figure.**

**SCENARIO #3**

**BUDGET FIGURE \$200,000**

BIDDER	BASE BID	ALT.#1	ALT.#2		ALT.#3	ALT.#4	ALT.#5	ALT. #6
A	\$220,000	\$ 8,000	\$ 9,000		\$ 8,000	(\$10,000)	(\$10,000)	(\$10,000)
B	\$225,000	\$ 7,000	\$ 7,000		\$ 8,000	(\$ 8,000)	(\$ 7,000)	(\$ 8,000)
C	\$215,000	\$10,000	\$ 7,000		\$ 6,000	(\$10,000)	(\$ 6,000)	(\$ 5,000)
D	\$230,000	\$10,000	\$10,000		\$ 7,000	(\$12,000)	(\$10,000)	(\$ 8,000)

**BIDDER C is the low bidder, based on the base bid plus Alternates 4 and 5 (\$215,000 minus \$10,000) (Alt. #4) and minus \$6,000 (Alt. #5), total price \$199,000 following the formula.**

## 12.6 REFERENCES

### Federal Laws and Regulations

[USC Title 23](#) United States Code – Title 23 Highways  
[USC Title 49](#) United States Code – Title 49 Transportation  
[Code of Federal Regulations](#) Code of Federal Regulations  
[2 CFR 1200](#) Debarment  
[23 CFR 112](#) Letting of Contracts  
[23 CFR 230](#) External Federal Highway Programs  
[23 CFR 635](#) Construction and Maintenance  
[23 CFR 635.104\(a\)\(b\)](#) Method of Construction  
[23 CFR 635.105\(c\)\(4\)](#) Supervising agency  
[23 CFR 635.109](#) Standardized changed condition clauses  
[23 CFR 635.110\(b\)](#) Licensing and qualification of contractors  
[23 CFR 635.111](#) Tied Bids  
[23 CFR 635.112\(e\)\(f\)\(g\)](#) Advertising for bids  
[23 CFR 635.114\(a\)](#) Award of contract and concurrence in the award  
[23 CFR 635.201-205](#) Force Account Construction  
[23 CFR 635.410](#) Buy America requirements  
[23 CFR 635.413](#) Guaranty and warranty clauses  
[41 CFR 60](#) (Equal Opportunity Clauses – Compliance Reports  
[49 CFR 20.100](#) Conditions on use of funds  
[49 CFR 26](#) Disadvantaged Business Enterprises, (DBE)

### State Laws and Regulations (State Finance Law, (SFL) & Labor Law)

[Article 9, Section 135](#) Separate specifications for contract work  
[Article 9, Section 139-d](#) Statement of non-collusion in bids to the state  
[Article 9, Section 139-f](#) Payment on public work projects  
[Article 9, Section 139-j](#) Restrictions on contracts during the procurement process  
[Article 9, Section 139-k](#) Disclosure of contracts and responsibility of offers  
[Article 9, Section 146](#) Certain construction contracts involving steel  
[NYS Labor Law, Article 8, Section 222](#) Project Labor Agreements, (PLAs)

### General Municipal Laws and Regulations (General Municipal Law (GML))

[Article 5-A, Section 101](#) Separate specifications for certain public work  
[Article 5-A, Section 102](#) Deposits on plans and specifications  
[Article 5-1, Section 103](#) Political Subdivisions  
[Article 5-A, Section 103-d](#) Statement of non-collusion bids  
[Article 5-A, Section 103-f](#) Security bonds on municipal projects  
[Article 5-A, Section 106-b](#) Payment on public work projects

### Other:

FHWA Contract Administration Core Curriculum Manual (Buy America)  
<https://www.fhwa.dot.gov/programadmin/contracts/cacc.pdf>

FHWA Project Labor Agreements  
<https://www.fhwa.dot.gov/construction/contracts/100507.cfm>

FHWA-1273, Required Contract Provisions Federal-Aid Construction Contracts  
<https://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>

MURK Part 1A Contract Administration Manual (CAM)  
[https://www.dot.ny.gov/main/business-center/contractors/construction-division/forms-manuals-computer-applications-general-information/murk\\_1a](https://www.dot.ny.gov/main/business-center/contractors/construction-division/forms-manuals-computer-applications-general-information/murk_1a)

New York State Department of Labor's Prevailing Work and Public Wage  
<http://labor.ny.gov/workerprotection/publicwork/PWRateSch.shtm>

US Government Wage Determinations  
<https://beta.sam.gov/search?index=wd>

Workers Compensation Experience Modification Rate  
<http://www.safetymanagementgroup.com/emr-experience-modification-rate.aspx>

**NO TEXT ON THIS PAGE**

# **APPENDIX 12-1**

## **CONSTRUCTION CONTRACT REQUIREMENTS**



**This page has been left intentionally blank.**

## Contents

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION (FHWA Section 1273 X).....	1
CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING(FHWA 1273 Section XI).....	1
FALSE CLAIMS CERTIFICATION (31 USC §3729, NYS Finance Law Article 13) .....	2
NON-COLLUSIVE BIDDING CERTIFICATION (49 CFR 29).....	4
REPORTING VIOLATIONS OF NON-COLLUSIVE BIDDING PROCEDURES, .....	5
GOALS FOR EQUAL EMPLOYMENT OPPORTUNITY (EEO) PARTICIPATION .....	6
REQUIRED CONTRACT PROVISIONS.....	7
FEDERAL-AID CONSTRUCTION CONTRACTS.....	7

**ALL FORMS MUST BE INCLUDED IN ALL FEDERAL AID CONTRACTS AND MUST BE INCLUDED IN EACH BID PROPOSAL.**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION (FHWA Section 1273 X)**

- A. The prospective bidder certifies to the best of its knowledge and belief that they and their Principals:
1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
  2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
  3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with the commission of any of the offenses enumerated in paragraph (A)(2) of this certification; and
  4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
- B. Where the Bidder is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING(FHWA 1273 Section XI)**

- A. The prospective bidder certifies, by signing and submitting this bid or proposal, to the best of his/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 federally 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.
- B. 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.
- C. The prospective bidder also agrees by submitting his/her bid or proposal that he/she shall require that the language of this certification be included in all lower tier subcontracts which exceed \$100,000 and that such subrecipients shall certify and disclose accordingly.

**THESE MUST BE INCLUDED IN ALL FEDERAL AID CONTRACTS AND MUST BE INCLUDED IN EACH BID PROPOSAL.**

## **FALSE CLAIMS CERTIFICATION (31 USC §3729, NYS Finance Law Article 13)**

Under the Federal False Claims Act, 31 U.S. Code §3729, any person or entity who knowingly presents, or causes to be presented to the Federal Government, a false or fraudulent claim for payment or approval is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus three times the amount of damages the Government sustains.

Under the New York State False Claims Act, NYS Finance Law Article 13, any person or entity who knowingly presents or causes to be presented to the State of New York or Local Governments within the State of New York, a false or fraudulent claim for payment or approval is liable to the Government for a civil penalty of not less than \$6,000 and not more than \$12,000, plus three times the amount of damages the Government sustains.

“Knowingly” is defined as (1) actual knowledge; (2) acting in deliberate ignorance of the truth or falsity of information; or (3) acting in reckless disregard of the truth or falsity of information. No proof of specific intent to defraud is required.

The Contractor to whom the above-identified contract is to be awarded does hereby certify to the New York State Department of Transportation that it understands the prohibitions under the Federal and New York State False Claims acts and that it has not and will not submit or cause to be submitted any fraudulent claims in the submission of this bid or in connection with the above-identified contract. The Contractor further certifies that it understands retaliatory actions against employees and officers who initiate a *qui tam* (public) action on behalf of the government or cooperate in the investigation of a false claim are prohibited and are subject to an assessment of damages and penalties under the provisions of the Federal and New York State False Claims Acts.

**THIS MUST BE INCLUDED IN ALL FEDERAL AID CONTRACTS AND MUST BE INCLUDED IN EACH BID PROPOSAL.**

**NON-COLLUSIVE BIDDING CERTIFICATION  
(NYS Finance Law §139-d and General Municipal Law §103-d)**

1. By submission of this bid:

(a) Each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

- (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- (3) No attempt has been made or will be made by the bidder to induce any other person, partnership, or corporation to submit or not to submit a bid for the purpose of restricting competition.

(b) A bid shall not be considered for award nor shall any award be made where (a)(1)(2) and (3) above have not been complied with; provided, however, that if in any case, the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons, therefore. Where (a)(1)(2) and (3) above have not been complied with, the bid shall not be considered for award, nor shall any award be made unless the head of the purchasing unit of the state, public department, or agency to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that the bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price-lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of subparagraph one (a).

2. Any bid hereafter made to the state or any public department, agency, or official thereof by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, or regulation, and where such bid contains the certification referred to in subdivision one of this section, shall be deemed to have been authorized by the board of directors of the bidder and such authorization shall be deemed to have included the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation."

**STATE NON-COLLUSIVE BIDDING CERTIFICATIONS MUST BE INCLUDED IN EVERY BID  
PROPOSAL REGARDLESS OF WHETHER NYSDOT SPECIFICATIONS OR LOCAL  
SPECIFICATIONS ARE USED.**

## **NON-COLLUSIVE BIDDING CERTIFICATION (2 CFR 1200)**

"By submission of this bid, the Bidder does hereby tender to the Owner this sworn statement pursuant to Section 1128 of Title 23, U. S. Code-Highways and does hereby certify, in conformance with said Section 112 of Title 23, U. S. Code-Highways that the said Contractor has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the above contract."

The signatory to the proposal, being duly sworn, certifies that, EXCEPT AS NOTED BELOW, his/her company and any person associated therewith in the capacity of owner, partner, director, officer, or major stockholder (of five percent or more ownership):

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency,
2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any Federal agency within the past three years,
3. Does not have a proposed debarment pending; and
4. 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 three years.

EXCEPTIONS: The Contractor should list any relevant information, attaching additional sheets to the proposal if necessary. (Exceptions will not necessarily result in disapproval but will be considered in determining responsibility. For any exception noted, the Contractor should indicate to whom it applies, the initiating agency, and the dates of actions. Providing false information may result in criminal prosecution or administrative sanctions).

**FEDERAL NON-COLLUSIVE BIDDING CERTIFICATION MUST BE INCLUDED IN EVERY BID PROPOSAL REGARDLESS OF WHETHER NYSDOT SPECIFICATIONS OR LOCAL SPECIFICATIONS ARE USED.**

**REPORTING VIOLATIONS OF NON-COLLUSIVE BIDDING PROCEDURES,  
MISCONDUCT OR OTHER PROHIBITED CONTRACT ACTIVITIES**

**US DEPARTMENT OF TRANSPORTATION  
OFFICE OF INSPECTOR GENERAL - FRAUD, WASTE & ABUSE HOTLINE**

The U.S. Department of Transportation (USDOT) Office of Inspector General (OIG) maintains a Hotline for receiving allegations of fraud, waste, abuse, or mismanagement in USDOT programs or operations. Persons with knowledge of bid collusion (i.e., contractors, suppliers, work persons, etc.), or other questionable contract related practices (inadequate materials, poor workmanship, theft of materials, etc.), are encouraged to report such activities by calling the Hotline at 1-800-424-9071, emailing [hotline@oig.dot.gov](mailto:hotline@oig.dot.gov), or writing to the USDOT Inspector General, 1200 New Jersey Ave SE, West Bldg. 7th Floor, Washington, DC 20590. Allegations may be reported 24 hours a day, seven days a week by DOT employees, contractors, or the general public.

**NEW YORK STATE OFFICE OF THE INSPECTOR GENERAL HOTLINE**

The New York State Office of the Inspector General maintains a Hotline for receiving allegations of governmental misconduct. Reports of New York State governmental misconduct may be made in strict confidence to the Toll-Free 24-hour Statewide HOTLINE at 1-800-DO RIGHT (1-800-367-4448), the online complaint form at [www.ig.ny.gov](http://www.ig.ny.gov) or in writing to the New York State Office of the Inspector General, Empire State Plaza, Agency Building 2 - 16th Floor, Albany, New York 12223.

**THIS PAGE MUST BE INCLUDED IN ALL FEDERAL AID CONTRACTS AND MUST BE INCLUDED  
IN EACH BID PROPOSAL.**

## GOALS FOR EQUAL EMPLOYMENT OPPORTUNITY (EEO) PARTICIPATION

The Contractor shall follow the requirements of NYSDOT Standard Specification §102-11 *Equal Employment Opportunity Requirements*. The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, which is the county or counties in which the work is located, are as follows:

GOALS FOR PARTICIPATION OF MINORITIES					
COUNTY	%	COUNTY	%	COUNTY	%
Albany	3.2	Herkimer	2.1	Richmond	Table
Allegany	6.3	Jefferson	2.5	Rockland	22.6
Broome	1.1	Kings	Table	St. Lawrence	2.5
Bronx	Table	Lewis	2.5	Saratoga	3.2
Cattaraugus	6.3	Livingston	5.3	Schenectady	3.2
Cayuga	2.5	Madison	3.8	Schoharie	2.6
Chautauqua	6.3	Monroe	5.3	Schuyler	1.2
Chemung	2.2	Montgomery	3.2	Seneca	5.9
Chenango	1.2	Nassau	5.8	Steuben	1.2
Clinton	2.6	New York	Table	Suffolk	5.8
Columbia	2.6	Niagara	7.7	Sullivan	17.0
Cortland	2.5	Oneida	2.1	Tioga	1.1
Delaware	1.2	Onondaga	3.8	Tompkins	1.2
Dutchess	6.4	Ontario	5.3	Ulster	17.0
Erie	7.7	Orange	17.0	Warren	2.6
Essex	2.6	Orleans	5.3	Washington	2.6
Franklin	2.5	Oswego	3.8	Wayne	5.3
Fulton	2.6	Otsego	1.2	Westchester	22.6
Genesee	5.9	Putnam	22.6	Wyoming	6.3
Greene	2.6	Queens	Table	Yates	5.9
Hamilton	2.6	Rensselaer	3.2		

(45 FR 65976 – 10/3/1980)

GOALS FOR PARTICIPATION OF MINORITIES BRONX, KINGS, NEW YORK, QUEENS, AND RICHMOND COUNTIES			
Electricians	9.0 to 10.2	Bricklayers	13.4 to 15.5
Carpenters	27.6 to 32.0	Asbestos workers	22.8 to 28.0
Steam fitters	12.2 to 13.5	Roofers	6.3 to 7.5
Metal lathers	24.6 to 25.6	Iron workers (ornamental)	22.4 to 23.0
Painters	26.0 to 28.6	Cement masons	23.0 to 27.0
Operating engineers	25.6 to 26.0	Glaziers	16.0 to 20.0
Plumbers	12.0 to 14.5	Plasterers	15.8 to 18.0
Iron workers (structural)	25.9 to 32.0	Teamsters	22.0 to 22.5
Elevator constructors	5.5 to 6.5	Boilermakers	13.0 to 15.5
		All others	16.4 to 17.5

(43 FR 14888 – 4/7/1978)

### GOAL FOR PARTICIPATION OF WOMEN

The goal for the participation of women is 6.9%.

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted). If the Contractor performs construction work outside of New York State, it shall apply the goals established for the covered area where the work is actually performed.



## REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

### ATTACHMENTS

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

### I. GENERAL

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

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

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

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

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

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

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include

roadways functionally classified as local roads or rural minor collectors.

## II. NONDISCRIMINATION

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

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

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

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

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

requirements.

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

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

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

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

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will

have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical

area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

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

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

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

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

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

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such

labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

#### **8. Reasonable Accommodation for Applicants / Employees with Disabilities:**

The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

#### **9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:**

The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

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

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

#### **10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

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

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

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

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

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

and

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

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

### **III. NONSEGREGATED FACILITIES**

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

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

contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

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

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

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

#### **1. Minimum wages**

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon

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

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

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

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

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

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

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

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

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

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

## **2. Withholding**

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

## **3. Payrolls and basic records**

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

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only



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

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

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

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no

deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

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

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

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

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

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

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

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

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

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

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

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

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

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If

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

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

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

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

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

particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

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

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

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

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

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the

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

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

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

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

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

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

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of

work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

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

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

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

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

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

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

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

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

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

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

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

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

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

This provision is applicable to all Federal-

aid construction contracts and to all related subcontracts.

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

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

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

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

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

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

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

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

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

Whoever knowingly makes any false statement or false representation as to

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

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

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

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

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

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

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

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

### **1. Instructions for Certification – First**

### **Tier Participants:**

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

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

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

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

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered

Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

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

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective

participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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

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

\* \* \* \* \*

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

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

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

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public



(Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

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

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

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

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

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

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

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

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

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,"

without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

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

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

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

\* \* \* \* \*

#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary**

#### **Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions 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.

\* \* \* \* \*

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

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

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

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

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or

attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

#### **ATTACHMENT A EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS**

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

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

a. To the extent that qualified persons

regularly residing in the area are not available.

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

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

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

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

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any

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

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

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

**NO TEXT ON THIS PAGE**

**APPENDIX 12-1A**

**CONSTRUCTION CONTRACT REQUIREMENTS**

**FILLABLE FORMS**

**This page has been left intentionally blank.**

**Contents**

NON-COLLUSIVE BIDDING CERTIFICATION..... 4

OFFERER DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS..... 5

COMBINED CERTIFICATION FORM..... 6

**ALL FORMS MUST BE INCLUDED IN ALL FEDERAL AID CONTRACTS AND MUST BE INCLUDED  
IN EACH BID PROPOSAL.**



**NO TEXT ON THIS PAGE**

**NON-COLLUSIVE BIDDING CERTIFICATION  
BIDDER INFORMATION**

Bidder to provide information listed below:

Bidder Address:

Street or P. O. Box No.

City

State

ZIP

Federal Identification No.:

Name of Contact Person:

Phone # of Contact Person:

**If Bidder is a Corporation:**

President's Name & Address:

Secretary's Name & Address:

Treasurer's Name & Address:

**If Bidder is a Partnership:**

Partner's Name & Address:

Partner's Name & Address:

**If Bidder is a Sole Proprietorship:**

Owner's Name & Address:

**THIS PAGE MUST BE INCLUDED IN ALL FEDERAL AID CONTRACTS AND MUST BE INCLUDED IN  
EACH BID PROPOSAL.**

**NO TEXT ON THIS PAGE**

## Offerer Disclosure of Prior Non-Responsibility Determinations

Name of Individual of Entity Seeking to Enter into the Procurement Contract:

Address:

Name and Title of Person Submitting this Form:

Contract Procurement Number:

Date:

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?

NO ☐ YES ☐

If yes, please answer the next questions:

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law § 139-j?

NO ☐ YES ☐

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity?

NO ☐ YES ☐

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity:

Date of Finding of Non-Responsibility:

Basis of Finding of Non-Responsibility:

*(Add additional pages as necessary.)*

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information?

NO ☐ YES ☐

6. If yes, please provide details below.

Governmental Entity:

Date of Termination or Withholding of Contract:

Basis of Termination or Withholding:

*(Add additional pages as necessary.)*

Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: \_\_\_\_\_ Date:

Signature

Name:

Title:

**NO TEXT ON THIS PAGE**

## **COMBINED CERTIFICATION FORM**

### **BY EXECUTING THIS DOCUMENT, THE CONTRACTOR AGREES TO:**

1. Perform all work listed in accordance with the Contract Documents including all amendments, at the prices bid; subject to the Changed Conditions provisions if applicable,
2. Accompany this proposal with a bid bond, certified check or bank cashier's check for the specified amount of deposit required,
3. All the terms and conditions of the non-collusive bidding certifications required by §139-d of the State Finance Law and 2 CFR Part 1200,
4. Certify, under penalty of perjury, as to the current history regarding suspensions, debarments, voluntary exclusions, determinations of ineligibility, indictments, convictions or civil judgments required by FHWA Form 1273 Required Contract Provisions Federal-Aid Construction Contracts-Section X "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion",
5. Certify that no Federal appropriated funds have been paid or will be paid, to any person for lobbying a Federal official or employee, or disclosure was made in accordance with 31 USC 1352 required by FHWA Form 1273 Required Contract Provisions Federal-Aid Construction Contracts-Section XI "Certification Regarding Use of Contract Funds for Lobbying",
6. Attest that its performance of the services outlined in this proposal does not and will not create a conflict of interest with nor position the firm to breach any other contract currently in force with the State of New York,
7. Certify that it understands the prohibitions under the Federal False Claims Act (31 USC §3729) and the New York State False Claims Act (NYS Finance Law Article 13),
8. Certify that all information provided to the Department with respect to the requirements contained in the Procurement Lobbying Law (State Finance Laws §139-j and §139-k) is complete, true and accurate,
9. Affirm, under penalty of perjury, that all the responses provided to the Department with respect to its submitted Form CCA-2 New York State Vendor Responsibility Questionnaire For-Profit Construction, are complete, true, and accurate, and further affirms and acknowledges that it must remain a responsible Contractor throughout the duration of the contract, in accordance with §105-05 Vendor Responsibility,
10. Provide commitments to meet the established DBE goal(s) prior to award or demonstrate good faith efforts to do so,
11. By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of the New York State Labor Law.

**NO TEXT ON THIS PAGE**

12. Certify to all other clauses required by this proposal and contained herein.

Dated \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Legal Name of person, firm or corporation

By \_\_\_\_\_  
Signature (Title)

**(Acknowledgment by Individual Contractor)**

STATE OF NEW YORK \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known and known to me to be described in and who executed the foregoing instrument, and that he/she acknowledged that he/she executed the same.

\_\_\_\_\_  
Notary Public

**(Acknowledgment by Individual Contractor, If a Corporation)**

STATE OF NEW YORK \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known and known to me to be the person who executed the above instrument, who being duly sworn by me, did depose and say that he/she resides at \_\_\_\_\_, and that he/she is the \_\_\_\_\_ of the \_\_\_\_\_ the corporation described in and which executed the above instrument, and that he/she signed his/her name thereto on behalf of said Corporation by order of the Board of Directors of said Corporation.

\_\_\_\_\_  
Notary Public

**(Acknowledgment of Co-Partnership Contractor)**

STATE OF NEW YORK \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known and known to me to be the person described in and who executed the above instrument, who, being duly sworn by me, did for himself/herself depose and say that he/she is a member of the firm of \_\_\_\_\_, consisting of himself/herself and \_\_\_\_\_, and that he/she executed the foregoing instrument in the firm name of \_\_\_\_\_ and that he/she had authority to sign same, and did duly acknowledge to me that he/she executed same as the act and deed of said firm of \_\_\_\_\_ for the uses and purposes mentioned herein.

\_\_\_\_\_  
Notary Public



**NO TEXT ON THIS PAGE**

## Federal DBE Commitment and GFE Bid Requirements

Letting Date:

Proposer Name

Address:

PIN   
 Contract #   
 DBE Goal  % as Stated in the Advertisement

We hereby submit a DBE commitment of  % for the above-referenced project.

Identified below are the commitment(s) to certified\* DBE's for this contract:

DBE Name:	Work Category*	Description of Work	DBE Credit % (A)	Commitment (B)	DBE Credit (AxB)
Example Company: Drainage R Us Address: 2543 Lexington Street, Troy, NY 12180	Construction	Closed Drainage Installation	100	\$1,120,000	\$1,120,000
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Address: <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Address: <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Address: <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Address: <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Address: <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

\*Only submit DBE(s) that you have verified are certified to perform/supply the identified commitments.

**Total Commitment:**

You are required to have firm commitments at the time of Letting. Within 5 calendar days of notification as apparent Low Bidder, you shall enter exactly (as shown) all of the DBE commitments identified here, into Equitable Business Opportunity Solution (EBO), NYSDOT's civil rights reporting software. No substitutions or reductions in commitments will be allowed without prior approval by the Sponsor, in accordance with NYSDOT Standard Specification §105-21.D.3.

*NOTE: Bids may be submitted below the DBE Goal. If you do not meet the DBE Goal and are identified as apparent Low Bidder, you will be required to submit a Good Faith Effort package to the Sponsor, within 5 calendar days of notification.*

*Key:	Work Categories:	DBE Credit %
	Construction	100
	Fabricator	100
	Manufacturer	100
	Material Supplier	60
	Professional Service	100
	Trucking Firm	100

Submitted By:

Enter Proposers Contact Information

Name:

Title:

Company Federal Tax ID XX-XXXXXXX

**NO TEXT ON THIS PAGE**

# LPM

## CHAPTER 13

# CIVIL RIGHTS REQUIREMENTS

## CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
13.1	INTRODUCTION	3
13.2	TITLE VI OF THE CIVIL RIGHTS ACT OF 1964,	3
13.2.1	Sponsor's Title VI Requirements	3
13.2.2	Title VI Complaints_	5
13.2.3	Title VI Program Reviews	5
13.3	AMERICANS WITH DISABILITIES ACT (ADA)	6
13.3.1	Nondiscrimination	7
13.3.2	Self-Evaluation_	7
13.3.3	ADA Transition Plan_	7
13.3.4	Design and Construction	8
13.4	ENVIRONMENTAL JUSTICE (EJ)	8
13.5	LIMITED ENGLISH PROFICIENCY (LEP)	9
13.6	EQUAL EMPLOYMENT OPPORTUNITY (EEO)	10
13.7	TRAINING	10
13.8	DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION	10
13.8.1	DBE Contract Requirements / Establishing DBE Plan and Goals	11
13.8.1.1	Consultant and Professional Services	11
13.8.1.1.1	Architectural & Engineering (A&E) Consultant Contracts	11
13.8.1.1.2	Non-Architectural & Engineering (Non-A&E) Consultant Contracts	11
13.8.1.2	Construction Contracts	11
13.8.2	DBE Goal Modification Process	11
13.8.3	DBE Good Faith Efforts (GFE)	12
13.9	PROMPT PAYMENT	12
13.10	FEDERAL REPORTING REQUIREMENTS	12
13.11	CONTRACT COMPLIANCE REVIEWS	12
13.12	FINAL REPORTS – CONTRACT CLOSE-OUT	13
13.13	NON-COMPLIANCE WITH FEDERAL CIVIL RIGHTS REQUIREMENTS	13
13.14	REFERENCES	13

**NOTE:** This Chapter has associated appendices and forms which can be found at [www.dot.ny.gov/plafap](http://www.dot.ny.gov/plafap).

## 13.1 INTRODUCTION

This chapter is an overview of federal Civil Rights laws, rules, regulations, and presidential executive orders for locally administered federal aid transportation projects. It has always been the New York State Department of Transportation's (NYSDOT) policy to ensure equal opportunity and to prevent and eliminate discrimination in all of its activities. NYSDOT and project Sponsors share this compliance responsibility in meeting the requirements for federal Civil Rights law on locally administered federal aid transportation projects. Other Chapters in the Procedures for Locally Administered Federal Aid Projects (PLAFAP), NYSDOT's Construction Administration Manual or CAM, the Highway Design Manual or HDM, and the Regional Local Project Liaison's (RLPL) direction provide more Civil Rights functional guidance.

## 13.2 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin. Specifically, 42 USC 2000d states that:

*No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.*

As amended, Title VI includes other nondiscrimination statutes affording legal protection, which include protection on the basis of sex, age, and disability through Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 USC 324) [sex], Age Discrimination Act of 1975 [age], and Section 504 of the Rehabilitation Act of 1973/Americans With Disabilities Act of 1990 [disability]. Taken together, these requirements define the Title VI program and requirements.

Title 23 **CFR 200** clarifies that programs and activities receiving federal financial assistance from the United States Department of Transportation (USDOT) are required to comply with Title VI requirements. This includes Sponsors who receive Federal Highway Administration (FHWA) funding through NYSDOT. As sub-recipients of federal financial assistance on locally administered federal aid transportation projects, Sponsors must have policies and procedures in place that address Title VI requirements.

### 13.2.1 Sponsor's Title VI Requirements

Title VI Assurance is a shared responsibility for all parties involved in delivering federal aid projects. For example, Sponsors must submit minority contracting information to the RLPL prior to awarding any contract and work with NYSDOT staff to assure data and process quality throughout the project delivery and construction processes. NYSDOT requires software reporting, currently in EBO or Equitable Business Opportunities software, to monitor construction contract payments and DBE goals, commitments, and attainments. The results go into NYSDOT's semi-annual Title VI Compliance Reviews and assist our regular monitoring efforts.

Sponsors are required to implement a system of procedures and actions for Title VI compliance, including:

- Developing Title VI Assurances and a Title VI Policy Statement identifying a Title VI Coordinator, also known as the Sponsor's Responsible Local Official (RLO).
- The RLO must have a responsible position in the Sponsor's organization and have 'easy access' to the agency's leadership.
- Notifying all departments in the Sponsor's organization of the Title VI Coordinator's responsibilities for initiating and monitoring Title VI activities.

- Developing procedures for processing external discrimination complaints.
- Notifying NYSDOT of any external discrimination complaints and lawsuits.
- Providing accommodations for Limited English Proficient (LEP) persons as needed.
- Ensuring nondiscrimination in the Sponsor's public participation process.
- Collecting and analyzing data to ensure nondiscrimination in the Sponsor's policies, programs, and activities.
- Ensuring that contracts contain the appropriate Title VI contract provisions.
- Ensuring non-discrimination in contract awards.

The Title VI Coordinator's or RLO's responsibilities include:

- Identifying DBE goals and commitments during the contract pre-award phase and completing the award package and certifications detailed in Chapter 14.
- Assisting program personnel with Title VI problems or any discriminatory practices in the contracting and construction processes by monitoring contract to progress up to contract completion and closeout as outlined in Chapter 15.
- Take appropriate action when notified by NYSDOT of any potential Title VI problems or discriminatory practices.
- Being the point of contact for Title VI implementation and monitoring of programs. Work with industry to meet DBE and EEO goals including Good Faith Efforts or GFE when needed. The Sponsor should post explanations, exceptions, and requests for additional GFE information, under 'Notes' in EBO.
- Ensuring that Title VI requirements are included in any internal policy directives and procedures.
- Implementing procedures for the prompt processing of Title VI external discrimination complaints
- Attend training, and assure sponsor's staff has adequate training, on Title VI and other nondiscrimination activities as needed.
- Coordinating the development and implementation of any needed Title VI and related statutes training programs.
- Developing Title VI information for public dissemination, and where appropriate, in languages other than English.

Sponsors shall prohibit discrimination during all phases of the work, whether directly or through their consultants and contractors, by monitoring and managing the work for compliance. Some discriminatory examples may include:

- Denying program services, financial aid, prompt payment, or other benefits.
- Providing different program services, financial aid, or other benefits; or providing them in a manner different from that provided to others.
- Segregating or separately treating individuals or groups in any matter related to the receipt of any program service, financial aid, or benefit.
- Restricting in any way the enjoyment of any advantage or privilege enjoyed by others receiving any program service, financial aid, or other benefits.
- Denying persons, the opportunity to participate as a member of a planning, advisory, or similar body; or
- Denying persons, the opportunity to participate in any program or activity that receives Federal financial assistance.

Sponsors have the option of:

- Adopting by resolution NYSDOT's own Title VI Plan (see Appendix 13-5 Title VI Plan).
- Developing their own Title VI Plan using Appendix 13-5 as a guide.

The State-Local Agreement (SLA) contractually obligates the Sponsor to ensure that all federal civil rights laws, rules, regulations, and presidential executive orders are adhered to in *all* of their policies, procedures, programs, and activities.

### **13.2.2 Title VI Complaints**

The Sponsor shall develop procedures for prompt processing and disposition of external Title VI Discrimination Complaints. The Sponsor's Title VI Coordinator or designee shall conduct a preliminary inquiry to determine the validity and jurisdiction of the complaint, including reasonable attempts to resolve all complaints at the lowest administrative level. Any person who believes that they have been discriminated against based on their race, color, national origin, sex, age or disability in a program, activity, or service may file a complaint with the Sponsor or an agency funded through the Sponsor.

The complaint may be filed by the individual or their representative. A complaint must be filed no later than 180 days after the date of the alleged act of discrimination. Copies of all Title VI Discrimination Complaints received by the Sponsor must be forwarded to NYSDOT's Office of Civil Rights, with a copy sent to the Regional Local Project Liaison (RLPL). If the complainant is not satisfied with the Sponsor's investigation or the resolution of the complaint, the complainant may follow-up directly with NYSDOT's Office of Civil Rights.

Examples that demonstrate compliance include:

- Written procedures for processing and investigating external discrimination complaints
- External discrimination complaints filed under Title VI against the Sponsor in which the Sponsor or its sub-recipient is named as the respondent. (Complaints should be forwarded to NYSDOT's Office of Civil Rights for investigation within 10 calendar days.)
- Complaint log or method to track complaints that identifies:
  - Each complainant by race, color, sex, and national origin
  - The recipient of the complaint
  - The nature of the complaint
  - The date(s) the complaint was filed and the date the investigation completed
  - The disposition
  - The date of the disposition

Other pertinent information:

- Methods to distribute external discrimination complaint handling procedures to agency personnel
- List of personnel trained in handling external discrimination complaint investigations and the training they attended
- Methods for making the public aware of the procedures for filing a discrimination complaint, such as information on an external Web site or brochure
- External discrimination complaint form

### **13.2.3 Title VI Program Reviews**

In accordance with **23 CFR 200.9(b)**, NYSDOT must conduct Title VI program reviews of sub-recipients, including Sponsors. The purpose of the program reviews is to evaluate the Sponsor's programs, policies, procedures, contract specifications, manuals, etc. in order to ensure compliance with the requirements of Title VI of the Civil Rights Act of 1964, as amended. Sponsors should summarize how they monitor nondiscrimination in their relevant programs and activities, which could include the following program areas:



- Planning
- Project Development (Design)
- Right-of-Way
- Construction
- Public Involvement
- Research

Formalized reviews must be conducted externally on sub-recipients of federal funds. Sub-recipients include all sponsor agencies through which NYSDOT passes Federal funds, including local agencies, colleges, universities, and MPOs. Because 59% of federal aid projects were delivered by local Sponsors in 2013, this represents a large portion of NYSDOT's program, making this an important process.

*Title **23 CFR 200.9(b)(7)** Conduct Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds.*

*(13) Establishing procedures for pre-grant and post-grant approval reviews of State programs and applicants for compliance with Title VI requirements; i.e., highway location, design and relocation, and persons seeking contracts with the State.*

These formalized compliance reviews are a critical component of a Title VI program, not just because they are required by **23 CFR 200.9**, but because they are the primary mechanism for assuring nondiscrimination in internal NYSDOT functions and sub-recipients. NYSDOT's program review of Sponsors will consist of formal reviews conducted by the Office of Civil Rights. Staff from NYSDOT's Office of Civil Rights will initiate and conduct the review after notifying the Sponsor. The RLPL will be copied on all correspondence concerning Title VI program reviews.

### **13.3 AMERICANS WITH DISABILITIES ACT (ADA)**

Section 504 of the 1973 Rehabilitation Act (**Public Law 93-112**) prohibits discrimination on the basis of disability in federally assisted programs. Section 504 requirements for the U.S. Department of Transportation (USDOT) are covered in **49 CFR Part 27**, nondiscrimination on the basis of disability in programs and activities receiving or benefiting from federal financial assistance. The Americans with Disabilities Act (ADA, 1990, **Public Law 101-336**) is a broader civil rights statute that prohibits discrimination against people with disabilities in all areas of public life.

Sponsor's Oversight Responsibilities must:

- Ensure all municipal departments are informed of their responsibilities to provide accessibility in their activities, programs, services, and facilities (i.e. department's public rights-of-way)
- Ensure the Sponsor and its sub-recipients are applying appropriate accessibility standards to their transportation facilities as defined in NYSDOT's Highway Design Manual (HDM).
- Ensure that all complaints filed under Section 504 and/or the ADA are processed in accordance with established complaint procedures
- Ensure that their ADA Transition Plan is in place and updated per Section 13.3.3 ADA Transition Plan.

### **13.3.1 Nondiscrimination**

Title **49 CFR 27.7** requires all programs, services, and facilities are made available to and usable by persons with disabilities. The ADA requires public facilities and programs to be accessible regardless of the funding source. The Act also requires effective communication with persons with disabilities, and state and local governments must respond to their requests. Communication venues and media (public meetings, announcements, publicity, etc.) must also be accessible. Any public meetings or outreach during project development shall comply with Title 49 requirements.

### **13.3.2 Self-Evaluation**

Title **49 CFR 27.11** requires federal aid recipients and subrecipients to conduct self-evaluations of policies, practices, and programs for compliance with ADA.

Title **28 CFR 35.105** is the USDOJ Title II regulation and requires public entities (whether or not they are the recipient of federal aid) to evaluate their current programs, services, and activities, and to make the self-evaluation available for public comment. A template for self-evaluation, the ADA Transition Plan Checklist, can be found in Appendix 13-2.

### **13.3.3 ADA Transition Plan**

Title **28 CFR 35.150(d)(1)** requires “a public entity that employs 50 or more persons” to prepare an *ADA Transition Plan* identifying non-compliant pedestrian routes and facilities in the municipal Sponsor’s public right-of-way. ADA Transition Plans shall also include a plan and schedule for corrective action. Failure to create and maintain an ADA Transition Plan may result in an entity’s ineligibility to receive federal funds.

If a public entity employs fewer than 50 persons, the entity need only conduct self-evaluations (see section 13.3.2).

The ADA Transition Plan should include detailed information about, the condition of the Sponsor’s pedestrian accessible route network, a list of the physical barriers that limit accessibility on pedestrian facilities, and the schedule to correct any noncompliance; this should include identifying the party responsible for planning the corrective action to ensure all Sponsor facilities are accessible to individuals with disabilities. The completed ADA Transition Plan must also be made available for Public Comment. Reference **28 CFR 35.150(d)(3)(i-iv) and (d)(1)**.

NYSDOT developed Appendix 13-2, ADA Transition Plan Checklist, and Appendix 13-3 ADA Transition Plan (fillable forms), to assist Sponsors in preparing their ADA Transition Plans. Sponsors are strongly encouraged to use the ADA Transition Plan Checklist in Appendix 13-2 as a guide when preparing their own ADA Transition Plan.

NYSDOT has developed its [ADA Transition Plan](#), which includes an inventory of sidewalks and curb ramps alongside state-owned transportation infrastructure, and a rating for accessibility of each. NYSDOT continues to update this inventory as it completes capital work at these locations as well as periodically refreshes the statewide inventory.

NYSDOT may construct sidewalks, curbs, and curb ramps alongside State highways located in Villages ([NYS Highway Law Section 46](#)), Towns ([NYS Highway Law Section 140](#)), and Cities ([NYS Highway Law Section 349-c](#)); however, under the statutory provisions granting NYSDOT such authority, respective Villages, Towns and Cities are responsible for repairing and maintaining sidewalks, curbs, and curb ramps in their respective municipality. Maintenance

includes both preventive and corrective maintenance. For further information, consult the applicable Highway Law Sections provided above.

When NYSDOT alters a State highway that provides pedestrian access, NYSDOT must design and construct the State highway in such a manner that a barrier to the usability of the streets by a protected class (individuals with disabilities) is not created or retained. (**See 28 CFR 35.150, 35.151(b and i)**). If NYSDOT does not alter the State highway, it remains the municipality's legal responsibility to comply with applicable ADA accessibility requirements.

A Sponsor's ADA Transition Plan shall include a list of locations with physical barriers that limit the accessibility of programs, activities, or services within its jurisdiction, including those identified alongside State highways. However, to ensure a clear understanding of anticipated and upcoming NYSDOT capital work, municipalities should discuss the State inventory and NYSDOT plans with the Regional Local Project Liaison (RLPL).

The Sponsor's completed ADA Transition Plan must be made available for Public Comment. For more information regarding ADA Transition Plans, contact the RLPL.

#### **13.3.4 Design and Construction**

Sponsors must comply with ADA accessibility standards for all facilities they construct, maintain, monitor, or upgrade. Compliance applies to all projects classified as new construction, reconstruction, rehabilitation, or repair, as well as any work undertaken by the Sponsor's forces. Therefore, existing and proposed pedestrian facilities in a public right-of-way must be provided. The applicability of design and construction standards are addressed in Chapter 9 of this manual.

The Department of Justice and the Federal Highway Administration [clarified](https://www.ada.gov/doj-fhwa-ta.htm) in the 2013 DOJ/DOT Joint Technical Assistance Informal Guidance Document (<https://www.ada.gov/doj-fhwa-ta.htm>) that "pavement alteration" activities require a Sponsor to address compliance, and distinguished between "pavement maintenance" activities which do not require such compliance. This guidance further clarifies this requirement stating that whenever a "pavement alteration" is made to a street, roadway, or highway, curb ramps must be provided at locations where there are curbs or other barriers restricting access to sidewalks or other pedestrian walkways. Examples of "**pavement alterations**" include additions of new asphalt layers, in-place recycling, micro-surfacing/thin lift, mill and fill overlays, open-graded surface courses, cape seals, new construction, rehabilitation, and reconstruction. Curb ramps and detectable warnings are required to be installed before or during the "pavement alteration" project. Examples of "pavement maintenance" include crack filling and sealing, surface sealing, chip seals, slurry seals, fog seals, scrub seals, joint crack seals, dowel bar retrofits, spot locations of high-friction surface treatments, diamond grinding, or pavement patching. See NYSDOT Highway Design Manual (HDM) [Chapter 7](#) and [Chapter 18](#) and the [DOJ/DOT Joint Technical Assistance Informal Question and Answer Supplemental](#) for more guidance.

#### **13.4 ENVIRONMENTAL JUSTICE (EJ)**

**Presidential Executive Order (EO) 12898**, *Federal Action to Address Environmental Justice in Minority Populations and Low-Income Populations*, directs each Federal agency to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States. **23 CFR 450** requires States and Metropolitan Planning Organizations (MPOs) to seek out and consider the needs of those traditionally underserved by

existing transportation systems, including, but not limited to, low-income and minority households. There are three fundamental Environmental Justice principles:

1. To avoid, minimize, or mitigate disproportionately high and adverse human health or environmental effects, including social and economic effects, on minority populations and low-income populations.
2. To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
3. To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority populations and low-income populations.

Sponsors must consider EO 12898, along with existing requirements under Title VI of the Civil Rights Act of 1964, and other statutes and regulations, during project development so that the interests and well-being of minority populations and low-income populations are considered during transportation decision making, including alternative analysis and project selection. For more information concerning Environmental Justice, contact NYSDOT's Office of Civil Rights.

### **13.5 LIMITED ENGLISH PROFICIENCY (LEP)**

***Presidential Executive Order 13166*** *Improving Access to Services for Persons with Limited English Proficiency*, contains two major initiatives. The first is designed to better enforce and implement Title VI, which prohibits recipients and sub-recipients of federal financial assistance from discriminating based on national origin by, among other things, failing to provide meaningful access to individuals who have Limited English Proficiency. The second initiative requires all federal agencies to meet the same standards as federal financial assistance recipients and sub-recipients by providing meaningful access to federally funded programs. Put simply, Sponsors and the federal government must provide materials in other languages or translate at meetings when individuals have Limited English Proficiency.

Sponsors shall consider implementing the following to demonstrate LEP compliance:

- Written translation of the agency's vital documents
- Language Implementation Plan
- Bilingual staff for translation
- Language needs assessments or efforts to consider the following:
  - The number or proportion of LEP persons in the eligible service population
  - The frequency with which LEP individuals come in contact with the Sponsor's programs or activities
  - The program's importance, activity or services provided by the Sponsor
  - The resources available to the Sponsor and the costs

The resources available to the Sponsor and the costs:

- Translated external Web site
- Methods to provide oral interpretation either in person or via telephone interpretation services and the procedures used by staff to access those services
- Training attended by staff that focused on helping staff better communicate with LEP persons
- Notices detailing the Sponsor's Title VI obligations and complaint procedures that have been translated into languages other than English:
- Notification to Limited English Proficiency customers of the availability of language services
- Monitoring and evaluation of efforts to provide language access

Outreach materials, including public hearing announcements, must be made available in languages understood by the affected population. Public hearings should be held at locations that are both geographically and structurally accessible. Public announcements should indicate that accommodations, to the extent possible, will be provided for individuals with disabilities and populations with LEP; and, if requested, spoken and sign language interpreters and alternately formatted materials will be provided at no cost. NYSDOT maintains LEP maps of New York State which can be used by Sponsors to assist them in identifying the LEP communities in their jurisdiction; and, the languages into which materials must be translated or for which interpreters are needed. For more information concerning NYS LEP maps, contact NYSDOT's Office of Civil Rights at (518) 457-1129.

### **13.6 EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

The Federal aid Highway Act of 1968 [**23 USC 140(a)** and **23 CFR 230**] ensure nondiscrimination in employment on the basis of race, color, creed, or national origin on any federally aided projects. Sponsors are required to include EEO provisions in all their federal aid construction contracts -- contained in Form FHWA 1273, *Required Contract Provisions Federal Aid Construction Contracts*, which must be incorporated in the contract proposal. EEO provisions are contained in the EEO section of Appendix 12-1 Construction Contract Proposal Package; the Contract Award process in Chapter 14; and the Contract Administration process in Chapter 15.

For federally aided projects, Sponsors must identify employment goals for each specific contract. These goals are contained in the Special Notes, *Goals for Equal Employment Opportunity Participation*, in the contract proposal. Contractors are required to submit workforce data to Sponsors during the performance of their construction contracts. Employees and work hours must be entered into EBO on a weekly basis. Sponsors shall review EEO reporting and compare to a certified payroll and payroll audit, with the RLPL also monitoring to ensure compliance. EEO goals and attainments are also monitored by both the RLPL and Sponsor.

### **13.7 TRAINING**

Training is one of the Civil Rights activities which may be used to address the under-utilization of minorities, females, and economically disadvantaged persons in highway construction and engineering contracts. Should a Sponsor wish to include a training requirement, it must develop its own provision in accordance with **23 CFR 230.111**; the provision must be reviewed and approved by both NYSDOT and FHWA. Only FHWA-approved On-the-Job Training (OJT) programs or NYS Department of Labor (NYSDOL)/U.S. Department of Labor (USDOL) registered apprenticeship programs may be used to fulfill training requirements. NYSDOL should be contacted for questions about registered apprenticeship programs. The review and approval process is extensive; therefore, appropriate time should be budgeted for the approval process. NYSDOT has online training available upon request. An overview of FHWA's Civil Rights Program for Local Public Agencies including training videos may be found at <http://www.fhwa.dot.gov/federal-aidessentials/index.cfm>.

### **13.8 DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

Title **49 CFR 26.45** requires NYSDOT to submit a programmatic DBE plan to the USDOT. NYSDOT's DBE plan is available at <https://www.dot.ny.gov/main/business-center/civil-rights>. Sponsors must use NYSDOT's approved DBE Program Plan or develop their DBE Program Plan (in accordance with **49 CFR 26.45**) which must be reviewed and approved by both NYSDOT and FHWA. The review and approval process is extensive; therefore, an appropriate amount of time needs to be allocated for review and approval.

Only firms certified through the New York State Unified Certification Program (NYSUCP) as DBEs may be used to fulfill DBE utilization goals set on federal aid contracts. The NYSUCP DBE Directory is the sole resource for identifying DBEs. The Directory is located at <https://nysucp.newnycontracts.com/>. Firms not certified as DBEs can obtain an application for certification from any of the Certifying Partners listed on the Directory's home page. NYSDOT does not pre-qualify nor recommend particular firms for utilization.

### **13.8.1 DBE Contract Requirements / Establishing DBE Plan and Goals**

#### **13.8.1.1 Consultant and Professional Services**

##### **13.8.1.1.1 Architectural & Engineering (A&E) Consultant Contracts**

All A&E consultant contracts should encourage utilization. The Project Manager shall monitor DBE participation as the project progresses. The prime consultant shall report attainment data to the Sponsor each time a payment request is submitted. For consultant selection procedures, see Chapter 6.

##### **13.8.1.1.2 Non-Architectural & Engineering (Non-A&E) Consultant Contracts**

For non-A&E contracts such as real estate, legal, accounting, auditing, and public relations, the Sponsor in coordination with the RLPL will determine the DBE goal during the final stages of drafting the Request for Proposals (RFP). This goal is based on the value of the contract, the type of work involved that could be subcontracted, and the availability of DBEs to accomplish the work, as determined by NYSDOT's methodology (see NYSDOT's DBE Program Plan). Attainment data shall be reported by the prime consultant to the Sponsor each time a payment request is submitted using NYSDOT's approved Civil Rights reporting software.

#### **13.8.1.2 Construction Contracts**

NYSDOT's website has established DBE construction contract goals and instructions at <https://www.dot.ny.gov/divisions/engineering/design/dgab/hdm/chapter-21/dmwbe-goals>. The minimum thresholds for DBE goal inclusion is either \$500,000 or \$1,000,000 based on the Engineer's Estimate (EE) and the contract's scope and location. Contracts less than \$500,000 will have a zero DBE goal unless otherwise specified by the Local Programs Bureau. Contractors shall encourage DBE participation on these zero goal projects as described in NYSDOT's Standard Specifications Section 102-12.

### **13.8.2 DBE Goal Modification Process**

Sponsors may request a modification to DBE goals. A modification can be an increase, reduction, or exemption. Increases might be appropriate for those projects with additional opportunities for DBE participation due to the variety of operations or magnitude of the project. Conversely, a reduction or exemption could be sought for projects with no significant opportunities for DBE participation, perhaps due to being specialized in nature with few pay items. The Sponsor must make a written request to the RLPL prior to contract advertisement, but preferably before contract document review and approval. The Sponsor must include a detailed analysis with calculations and supporting documentation justifying the request on Form C-258 Disadvantaged/Minority/Women's Business Enterprise Goals: Exemption or Reduction in Goal(s) Request. Refer to HDM Chapter 21, *Contract Plans, Specifications, and Estimates*.

The DBE goal modification must be reviewed and approved by both NYSDOT and FHWA. The review and approval process is extensive; therefore, an appropriate amount of time needs to be allocated for review and approval. The revised DBE goal must be included in the project's



advertisement, proposal, and contract (see Chapter 14 for guidance).

### **13.8.3 DBE Goal and Good Faith Efforts (GFE)**

The DBE goal is expressed as a percentage of the total award amount. The goal is stated in the bid proposal and remains in effect throughout the life of the contract. Failure to commit to meeting the established contract goal or to demonstrate Good Faith Efforts (GFE) may be grounds for rejection of the bid. In executing the contract or bid documents, the bidder is declaring acceptance of the goal and shall meet the goal or demonstrate GFE to do so during the Post-Award phase. Further details concerning GFE's can be found in Chapter 14 and the CAM.

### **13.9 PROMPT PAYMENT**

The Sponsor is responsible for ensuring all consultants and contractors comply with the prompt payment contract requirements in **49 CFR 26.29**. These requirements must be included in the Sponsor's contract specifications. The Sponsor is responsible for quality control monitoring of prompt payments using EBO and other means with the RLPL's providing quality assurance monitoring and enforcement.

While **49 CFR 26.29** requires payment to subcontractors within 30 days, New York State and General Municipal Laws are more stringent. Specifically, NYS Finance Law Article 9, Section 139-f, and NYS General Municipal Law, Section 106-b, require prime consultants and contractors to pay their subconsultants/contractors and their various vendors within seven (7) calendar days of receipt of payment from the public owner, e.g., the project Sponsor and provides for interest on late payments for all public works contracts. Contract provisions incorporating any other payment schedule will not be allowed (see Chapters 6 and 12).

### **13.10 FEDERAL REPORTING REQUIREMENTS**

Consultants and contractors are required to submit data to Sponsors primarily by using NYSDOT's Civil Rights reporting software, i.e., EBO. Sponsors are required to ensure that consultants and contractors submit timely, accurate, and complete data. This will enable NYSDOT to submit timely, accurate, and complete federal reports that include all federally aided contracts in New York State as required by federal regulations. Tables 13-1 and 13-2 in the Appendices summarize the Civil Rights data that consultants and contractors must report to Sponsors. A Sponsor's failure to ensure timely, accurate and complete reporting of Civil Rights data will result in a loss of federal aid. All data must be entered prior to project final acceptance by the Sponsor.

### **13.11 CONTRACT COMPLIANCE REVIEWS**

The Sponsor must conduct Civil Rights monitoring on all federal aid construction contracts. The Sponsor may be directed to perform a comprehensive construction contract compliance review in accordance with **23 CFR 230 Subpart D**. The procedure and forms for the construction contract compliance review process are found in the Contract Administration Manual (CAM), Section 98 and can be accessed at, [https://www.dot.ny.gov/main/business-center/contractors/construction-division/construction-repository/CAM\\_Sect98.pdf](https://www.dot.ny.gov/main/business-center/contractors/construction-division/construction-repository/CAM_Sect98.pdf).

### **13.12 FINAL REPORTS – CONTRACT CLOSE-OUT**

Sponsors must ensure that all required Civil Rights data is in NYSDOT approved Civil Rights reporting software EBO prior to contract closeout. Failure to ensure timely, accurate, and complete data may jeopardize federal reimbursement and future federal aid.

### **13.13 NON-COMPLIANCE WITH FEDERAL CIVIL RIGHTS REQUIREMENTS**

By signing the State-Local Agreement (SLA), the Sponsor becomes contractually obliged to ensure all Civil Rights laws, rules, regulations, and federal executive orders are adhered to in contracts with its consultants and contractors. Failure by the Sponsor to carry out its responsibilities under, and to comply with, federal civil rights requirements will result in a loss of federal aid by one of the following options: non-reimbursement, administrative disallowance, or, Federal-Aid Ineligibility Notice (FAIN).



## 13.14 REFERENCES

### **Federal Laws and Regulations and Guidance**

[23 USC.140\(a\)](#) (Nondiscrimination)  
[23 CFR 200.9\(b\)](#) (State highway agency responsibilities)  
[23 CFR 230](#) (External Federal Highway Programs)  
[23 CFR 230.111](#) (Implementation of special requirements for the provision of on-the-job training)  
[23 CFR 450](#) (Planning Assistance and Standards)  
[28 CFR 35.105](#) (Self-evaluation)  
[28 CFR 35.150\(d\)\(1\)\(3\)\(i-iv\)](#) (Existing facilities)  
[28 CFR 35.151\(b\)\(i\)](#) (New Construction and Alterations)  
[49 CFR 26](#) (Disadvantaged Business Enterprises, (DBE))  
[49 CFR 26.45](#) (How do recipients set overall goals?)  
[49 CFR 26.29](#) (What prompt payment mechanisms must recipients have?)  
[49 CFR 27.7](#) (Discrimination prohibited)  
[49 CFR 27.11](#) (Remedial and voluntary action and compliance planning)  
[Title VI of the Civil Right Act of 1964](#)  
[Section 504 of the 1973 Rehabilitation Act](#)  
[Americans with Disabilities Act of 1990 \(ADA\)](#)  
[Presidential Executive Order \(EO\) 12898](#) (Environmental Justice)  
[Presidential Executive Order \(EO\) 13166](#) (Limited English Proficiency (LEP))

### **State Laws, Regulations, and Guidance**

NYSDOT Highway Design Manual, Chapter 21  
NYSDOT Contract Administration Manual (CAM), Section 98  
NYS General Municipal Law, Section106-b  
NYS Finance Law, Article 9, Section139-f  
NYSDOT DBE Plan  
NYSDOT LEP Maps

# CHAPTER 13

## APPENDICES

## APPENDIX 13-1

# SUMMARY OF CIVIL RIGHTS REPORTING REQUIRMENTS

## **CONTENTS**

<b><u>Section</u></b>	<b><u>Title</u></b>	<b><u>Page</u></b>
Table 13-1	Summary of Civil Rights Reporting Requirements – Consultant Agreements	4
Table 13-2	Summary of Civil Rights Reporting Requirements – Construction Agreements	5

Table 13-1 Summary of Civil Rights Reporting Requirements – Consultant Agreements					
	Form #	Form Name	Submission	Source	Comments
Pre-Designation		DBE Utilization	Expression of Interest	Prime	List DBEs and respective tasks/scope of work
Post-Designation	AAP7LL	Summary of Consultant Payments to Subconsultants	Each Invoice	Prime	Entered into EBO
	AAP15LL	Designation of CR Representatives	Scope of Services Meeting; Revisions	Prime/ Subs	
	AAP26LL	Monthly Training Progress Report	20 <sup>th</sup> of the following month	Prime	If applicable

<b>Table 13-2 Summary of Civil Rights Reporting Requirements – Construction Contracts</b>					
	<b>Form #</b>	<b>Form Name</b>	<b>Submission</b>	<b>Source</b>	<b>Comments</b>
<b>Pre-Award</b>	AAP10LL	DBE Solicitation Log	7 days after bid opening	Prime	Provide if DBE Goal is not met
	AAP15LL	Designation of CR Representatives	7 days after bid opening	Prime/ Subs	Not required for Material Suppliers; entered into EBO
	AAP19LL	DBE Schedule of Utilization	7 days after bid opening	Prime	Entered into EBO
	AAP20LL	DBE Utilization Worksheet	7 days after bid opening	Prime	Entered into EBO
	AAP23LL	Pre-Award DBE Trucking Commitment Info	7 days after bid opening	Prime	Provide if trucking is utilized; entered into EBO
	AAP22LL	Pre-Award DBE Material Supplier Commitment Info	7 days after bid opening	Prime	Provide if suppliers are utilized
<b>Post-Award</b>	AAP35LL	Workforce Participation Plan	Preconstruction Meeting	Prime	Each time there is a significant change. A separate form is required for each year. Composite workforce. If not approved, no work shall occur until such time that it is accepted
	AAP15LL	Designation of CR Representatives	Revisions	Prime/ Subs	Entered into EBO
	AAP19LL	DBE Schedule of Utilization	Revisions	Prime	Entered into EBO
	AAP20LL	DBE Utilization Worksheet	Revisions	Prime	Entered into EBO
	AAP21LL	Contractor Report of Contract Payments	Every estimate	Prime	Entered into EBO
	AAP26LL	Monthly Training Progress Report	20 <sup>th</sup> of the following month	Prime	If applicable; entered into EBO; print and obtain all signatures
	AAP33LL	Monthly Employment Utilization Report	15 <sup>th</sup> of the following month	Prime/ Subs	Workforce data entered into EBO

## APPENDIX 13-2

### **ADA TRANSITION PLAN CHECKLIST (For Pedestrian Facilities in the Public Row)**

## ADA TRANSITION PLAN CHECKLIST FOR PEDESTRIAN FACILITIES IN THE PUBLIC ROW

The Americans with Disabilities Act (ADA) and other federal statutes place responsibility on Sponsors to meet accessibility requirements for pedestrians. These requirements include a self-evaluation study to see where the Sponsor's facilities stand with regard to accessibility and a transition plan to provide the needed accessibility improvements.

This Appendix (13-2– ADA Transition Plan Checklist) was developed and modified based on document [NCHRP 20-7 \(232\): ADA Transition Plans A Guide to Best Management Practice](#) from the National Cooperative Highway Research Programs authored by Jacobs Engineering Group. The link above is to the guidance document in its entirety.

The appendix helps Sponsors identify deficiencies in their pedestrian network; develop a method to make pedestrian facilities accessible in the public Right-of-Way; provide a schedule for making the required access modifications and designate an ADA Coordinator responsible for coordinating all ADA related inquiries. This checklist is a discussion about how Sponsors have undertaken or are planning to undertake this requirement.

The following are eight sections to the checklist:

- (1) Sponsor Responsibilities;
- (2) Identification of Deficiencies;
- (3) Designs and Cost Estimates for Improvements;
- (4) Prioritization of Improvements;
- (5) Management Approach to Implementation;
- (6) Funding Mechanisms;
- (7) Scheduling and Budgeting;
- (8) Coordination with Other Agencies;
- (9) Promulgation and Feedback

We encourage municipalities to use a rating scale similar to NYSDOT's for consistence when evaluating their own facilities. Rating can be done along with the checklist.

### EXAMPLE NYSDOT Sidewalk Rating

- Rating 1 – Not Applicable: A facility not considered to require accessibility, for example limited access highways.
- Rating 2 – Not Accessible: Significant discontinuity such as steps, no ramps, more than 100 feet of unpaved walkway, heaving, vertical displacement, other severe distress, flooding.
- Rating 3 – Partially Accessible: Not designed to current standards, problems with geometry of sidewalks, ramps and landings, no detectable warnings, handrails.
- Rating 4 – Accessible: May need additional improvements, for example, circuitous routes, insufficient width.
- Rating 5 – Fully Accessible: Designed to current standards, for example, presence of detectable warnings at curb ramp locations.



Sponsors vary greatly in their responsibilities and their structure and in the nature of the facilities that they manage. This section is intended to provide some context to help understand Sponsor planning for accessibility.

Sponsor	
Responsible Local Official (RLO)	
Title of RLO	
Telephone Number	
E-Mail Address	
Date of Discussion	
What are your responsibilities?	
ADA Coordinator	
Title II Coordinator	
Section 504 Coordinator	
Self-Evaluation Plan Manager	
ADA Transition Plan Manager	
Other	

<b>1. Sponsor Responsibilities</b>	
The goal of this section is to determine the range of facilities/assets that the Sponsor is responsible for.	
What types of facilities/assets is the Sponsor responsible for?	
Highways	
Rest Areas	
Welcome Areas	
Scenic Overlooks	
Recreation Areas	
Office Buildings	
Maintenance Facilities	
Bus Transit Systems	
Bus Stops	
Van Transit Systems	
Rail Transit systems	
Public Safety Facilities	
Railways	
Ferries	
Airports	
Ports and Harbors	
Pipelines	
Waterways	
Anything else	

## 2. Identification of Deficiencies

The goal of this section is to discuss what facilities the Sponsor is typically dealing with and what some of the common deficiencies are.

What types of facilities are you dealing with?

Sidewalks

Curb Ramps

Curb Cuts

Driveway Crossings

Crosswalks

Ramps

Medians

Bus Stops

Shared Use Paths

Other

What types of deficiency issues are present?

Clear Width and Other Dimensions  
(Narrow, Below Guidelines)

Grade (Steepness, Angle Points)

Cross Slope (Steepness, Irregularity, Variability)

Materials and Finishes  
(Deterioration, Inappropriateness)

Discontinuities (Missing Sections, Gaps, Drops)

Obstructions  
(Signs, Lights, Mail Boxes, Fire Hydrants, Newspaper  
Boxes, Drainage Structures, Standing Water)

Detectable Warning Systems  
(Missing, Inappropriate Materials, Inadequate Size,  
Wrong Location)

Traffic Signal Systems  
(Inadequate Time Allowed, Inaccessible Buttons,  
Inoperable Buttons, Lack of Visually Impaired  
Provisions)

Lighting(Missing, Not Operating,  
Inadequate Levels)

Maintenance and Services (Snow Removal, Debris  
Clean Up, Trash Cans, Recyclable Material Bins)

Access Through Work Zones

Other

### 3. Designs and Cost Estimates for Improvements

The improvements needed to correct deficiencies have to be defined through a design and cost estimating process. The goal of this section is to discuss the Sponsor's approach to doing this.

Have your design standards been reviewed with regard to accessibility issues?	
Do you have in-house design capability with regard to accessibility issues?	
Are design consultants needed?	
What cost estimating <u>resources</u> do you rely on for accessibility improvements?	
What escalation factors are you applying to accessibility improvements?	

### 4. Prioritization of Improvements

A priority ranking for approaching the defined improvements has to be worked out so that an effective schedule can be established. The goal of this section is to discuss the methods used to rank the improvements in order of priority.

What is the approach to prioritizing improvements?	
Population density in the area	
Significant disabled population within the area	
Proximity to key locations	
Government offices	
Schools	
Hospitals	
Places of employment	
Shopping areas	
The severity of the deficiency	
Is a review of complaints a factor	
Is public demand a factor	
What are the sources of public demand	
Is compatibility with the available budget a factor	
How are the available budget and the improvement needs matched?	

### 5. Management Approach to Implementation

The goal of this section is to explore how the Sponsor manages the development of the transition plan and carrying out the improvements. The development of the plan may be a one time rather intense effort but the tracking of the implementation of the improvements will be a less intense long time assignment.

Who is the Responsible Local Official (RLO) in-charge of the implementation of the Transition Plan?	
Who Is the ADA Transition Coordinator?	

Is there an internal committee that provides input into the Transition Plan process?	
Has any staff been assigned to the Transition Plan Process?	
How many staff persons?	
In what capacity?	
In what department does the responsibility for the Transition Plan reside?	
What training courses about accessibility has the staff gone through?	
What reference works about accessibility do you find useful?	
Who has responsibility for transition plan updates?	
Have any consultants been contracted relative to Transition Plan work?	

## 6. Funding Mechanisms

There is no specific funding mechanism related to the improvement of accessibility deficiencies. Funding might come from many different sources. The goal of this section is to explore the funding experience of the Sponsor.	
Have accessibility improvements been incorporated into existing programmed projects?	
Has any cost differential been recognized?	
Have stand alone accessibility improvements projects been processed through the Transportation Improvements Program?	
Have you had any instances where an accessibility improvement was found to be "unduly burdensome"?	
What sources have provided funding for accessibility improvement programs?	
National Highway System Program	
Surface Transportation Program	
Highway Safety Improvements Program	
Railway—Highway Crossing Program	
Transportation Alternatives Program	
Congestion Mitigation/Air Quality Program	
Recreational Trails Program?	
State and Community Traffic Safety Program?	
Other Programs?	
Have accessibility improvements been included in developer impact fees?	

<b>7. Scheduling and Budgeting</b>	
Schedules and budgets are the tools of implementation. The goal of this section is to determine how the Sponsor will/is scheduling and budgeting for accessibility improvements.	
Is there an overall completion target date?	
Are there milestone dates?	
Is there a separate Curb Ramp Installation Schedule?	
Is there a budget line item for accessibility improvements programs?	

<b>8. Coordination with Other Agencies</b>	
Other agencies have authority over pedestrian facilities and have an interest in accessibility. The goal of this section is to explore the exchange of information and the handling interfacing with other agencies.	
Are there local government pedestrian master plans that are used as input and guidance?	
Are there local government transition plans for accessibility improvements that are used as input and guidance?	
How is the interface between agency sidewalks and local sidewalks handled?	
Who has authority over bus stops?	
How is the interface between sidewalks and bus stops handled?	
What other agencies – transit authorities, airport authorities, turnpike authorities – have jurisdiction over pedestrian facilities?	
Do you receive input from any social service agencies?	

<b>9. Promulgation and Feedback</b>
This is the step where the plan will be made public and feedback will be accepted. Public feedback may affect current and future plan updates.

APPENDIX 13-3

SAMPLE ADA TRANSITION PLAN  
For  
Pedestrian Facilities in the Public  
Right-of-Way

THE (SPONSOR TYPE)  
OF (NAME OF SPONSOR)  
ADA TRANSITION PLAN:  
Pedestrian Facilities  
In the Public Right-of-Way

## TABLE OF CONTENTS

<b><u>Appendix</u></b>	<b>Pg</b>
<b>INTRODUCTION</b>	<b>Pg</b>
Transition Plan History and Overview	Pg
<b>LEGAL REQUIREMENTS</b>	<b>Pg</b>
<b>IDENTIFIED OBSTACLES TO THE PUBLIC RIGHT-OF-WAY</b>	<b>Pg</b>
Preliminary Evaluation	Pg
Detailed Evaluation	Pg
<b>METHODS TO REMOVING BARRIERS - POLICIES &amp; PRIORITIES</b>	<b>Pg</b>
Barrier Removal Priorities	Pg
Location Priority	Pg
Accessibility Condition	Pg
Priority Rank	Pg
<b>PUBLIC COMPLAINT PROCESS</b>	<b>Pg</b>
<b>NEW CONSTRUCTION &amp; ALTERATIONS</b>	<b>Pg</b>
<b>SCHEDULE</b>	<b>Pg</b>
Proposed Work Plan and Schedule	Pg
Responsible Individual	Pg
Public Input	Pg
<b>ATTACHMENT A</b>	<b>Pg</b>
<b>ATTACHMENT B</b>	<b>Pg</b>
<b>ATTACHMENT C</b>	<b>Pg</b>
<b>ATTACHMENT D</b>	<b>Pg</b>
<b>PUBLIC COMMENT AND RESPONSE FORM</b>	<b>Pg</b>

***Note: Wherever the word Municipality occurs throughout this document, it refers to the Municipal Sponsor indicated on the Cover Page.***

***Note: Wherever blank spaces (e.g., enter Municipal Sponsor text) appear throughout this appendix, the Municipal Sponsor should enter their own text.***



## INTRODUCTION

The purpose of this ADA Transition Plan is to ensure that *Municipality* creates reasonable, accessible paths of travel in the public right-of-way for everyone, including people with disabilities.

The *Municipality* has *e.g., made a significant and long-term commitment to improving the accessibility of their pedestrian facilities.*

The ADA Transition Plan identifies physical barriers and prioritizes improvements that should to be made throughout the . This Transition Plan describes the plans, policies and programs to enhance the overall pedestrian accessibility.

### Transition Plan History and Overview

*In year, the Municipality, e.g., completed an ADA Transition Plan addressing architectural barriers in their buildings, facilities, and programs. Also since year, the Municipality e.g., has had an active Sidewalk Replacement Program and in year e.g., began a five-year program to replace or add curb ramps at intersections throughout the (Choose One). This plan is, e.g., to demonstrate the continued progress by the Municipality to make their pedestrian facilities in the public right-of-way reasonably accessible for all persons.*

## LEGAL REQUIREMENTS

The federal legislation, known as the American with Disabilities Act (ADA), enacted on July 26, 1990, provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, and access to public accommodations, transportation, and telecommunications.

Title II specifically applies to "public entities" (state and local governments) and the programs, services, and activities they deliver. Title II, Article 8, requires public entities to take several steps designed to achieve compliance. The plan shall, at a minimum includes:

- A list of the physical barriers and their locations in a public entity's facilities that limit the accessibility of its programs, activities, or services to individuals with disabilities.
- A detailed outline of the methods to be utilized to remove these barriers and make the facilities accessible.
- The schedule for taking the necessary steps to achieve compliance with Title II.
- Public complaint/grievance procedure.
- The name/position of the ADA Coordinator and/or official responsible for the plan's implementation.

Transition plans provide a method for a public entity to schedule and implement ADA required improvements to existing streets and sidewalks. Before a transition plan can be developed, an inventory of the current curb ramps and sidewalks must be developed.

## IDENTIFIED OBSTACLES TO THE PUBLIC RIGHT-OF-WAY

The *Municipality* has a two-tiered system to identify and assess obstacles in the public right of way: a Preliminary Evaluation and a Detailed Evaluation. The barriers used in the evaluations are based on the ***Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way*** (ADA Guidelines) from the U.S. Access Board.

## Preliminary Evaluation

The first tier is a Preliminary Evaluation of the sidewalks and intersections. This initial evaluation includes searching and visually checking the street network to identify deficiencies in sidewalks and intersections. The purpose of this evaluation is to determine which sidewalks and intersections are obviously non-compliant with the ADA Guidelines and to get a comprehensive overview of the complete pedestrian network. The preliminary inventory evaluates four (4) criteria for curb ramps and three (3) criteria for sidewalks:

### Curb Ramps

1. Is a curb ramp required?
2. Does the curb ramp have a color contrasting detectable warning?
3. Does the curb ramp have a clear landing at the top of the ramp?
4. Is surface of ramp and landing smooth without cracking or heaving?

### Sidewalks

1. Is there a continuous clear space for pedestrian access?
2. Does the sidewalk appear to provide adequate passing zones?
3. Does the sidewalk appear to be smooth without grade breaks

The Preliminary Evaluation (*e.g., utilizes aerial and street-level photography*) to view each sidewalk and intersection. Any mapping tool application (*e.g. google streets, mapquest, etc.*) may be utilized. The criteria used can be seen on these (*e.g., aerials*) and are key design components to determine ADA compliance.

If the curb ramps and sidewalks do not meet the criteria, then that intersection does not need further evaluation because it is obviously non-complaint with the ADA Guidelines. If it did meet the criteria, then that intersection would be "potentially compliant" and would need a Detailed Evaluation to determine if it fully complies with the ADA Guidelines.

## Detailed Evaluation

The second tier is a Detailed Evaluation of the sidewalks and intersections identified as "potentially compliant" during the Preliminary Evaluation. This requires a site visit to measure specific physical attributes, such as width, running slope, and gaps in the curb ramp or sidewalk, to determine compliance with the identified ADA barriers. For a description of the identified barriers see Attachment A. When the data is gathered, it is recorded (*e.g., in an intersection database*). The result of this evaluation (*e.g., is a detailed understanding of the ADA barriers at that intersection*).

## METHODS TO REMOVING BARRIERS — POLICIES & PRIORITIES

The *Municipality* utilizes many different approaches to removing barriers in the public right-of-way, including proactively identifying and eliminating the barrier, responding to public complaints and ensuring the appropriate design and build-out of new construction following the most recent design guidelines.

### Barrier Removal Priorities

The *Municipality* bases barrier removal priorities on two factors: location and the accessibility condition of the intersection.

### Location Priority

According to the proposed ADA design guidelines, " the U.S. Department of Justice (DOJ) regulation imposes a specific construction requirement...specifies a priority for locating (curb ramps) at State and local government offices and facilities; transportation; places of public accommodation; places of employment; and other locations." Following this guidance, the *Municipality* identified its location priority as follows:

- Intersections serving (*e.g., government facilities*),
- Intersections serving (*e.g., commercial and employment centers*) and
- Intersections serving other areas, (*e.g., parks and historic sites*).

## Accessibility Condition

Using the data from the Preliminary Evaluation and the Detailed Evaluation, an accessibility condition rating can be determined. NYSDOT uses the following ratings and definitions to assess the condition of each sidewalk, curb ramp or crosswalk feature; this method is highly recommended:

- **Rating 1** - Not Applicable: A facility not considered to require accessibility, for example, limited-access highways, no sidewalk present.
- **Rating 2** - Not Accessible: Significant discontinuity such as steps, no ramps, more than 100 feet of unpaved walkway, heaving, vertical displacement, other severe distress, flooding.
- **Rating 3** - Partially Accessible: Not designed to current standards, for example, problems with geometry of sidewalks, ramps and landings, no detectable warnings, handrails.
- **Rating 4** - Accessible: May need additional improvements, such as no detectable warnings at curb ramp locations, insufficient width.
- **Rating 5** - Fully Accessible: Designed to current standards, presence of detectable warnings at curb ramp locations.

## Priority Rank

In order to determine the overall priority of an intersection, or Priority Rank, the *Municipality* may chose to use the following matrix to match the location priority to the Access Grade.

	Location Priority		
	1	2	3
Access Grade	Locations serving ( <i>e.g., Government Facilities</i> )	Locations serving <i>e.g., Commercial &amp; Employment Centers</i>	Locations serving Other Areas
2	1	2	3
3	1	2	3
4	1	2	3
5	1	2	3

**Priority Rank Levels**

<b>High</b>	<b>Medium</b>	<b>Low</b>
-------------	---------------	------------

The *Municipality* determines the priority of improvements by indentifying which of the groupings are high, medium, or low priorities. A listing of priority intersections and a map that shows which intersections are high, medium, and low priorities for barrier removal are in Attachment B.

## PUBLIC COMPLAINT PROCESS

The public complaint process is an integral part of this Transition Plan. Public complaints or requests may often drive the prioritization of improvements. To file a complaint or a request regarding accessibility of a sidewalk or curb ramp, go to “Procedures for Implementing Reasonable Accommodation in Programs and Services for Individuals with Disabilities” at <https://www.dot.ny.gov/programs/adamanagement/ada-procedures> or contact the [NYSDOT Regional ADA Coordinator](#), (e.g., in writing or electronically) and describe the issue in detail, including the location. The ADA Coordinator will route this information to the appropriate department of the *Municipality's* for inspection and possible action. That department will then respond to the ADA Coordinator with its findings, and the ADA Coordinator will record the formal response and reply to the complainant/requestor. All complaints or requests will be kept on file and will include the response. Attachment C is a copy of the *Municipality's* public Grievance Procedure for Pedestrian Facilities in the Public Right-of-Way.

## **NEW CONSTRUCTION & ALTERATIONS**

In order to ensure the correct design of curb ramps, sidewalks, and crosswalks in new construction and alterations, the *Municipality* has adopted the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) ([www.access-board.gov](http://www.access-board.gov)) as supplemented by the 2011 *Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way* (ADA Guidelines). These are the primary regulatory standards that govern the design and construction of all pedestrian facilities in all Department projects. It is important to note that in alteration projects, whenever pedestrian facilities cannot fully meet the standards outlined in the ADA Guidelines, a determination of each structural impracticability or technical infeasibility must be thoroughly documented in the permanent project record. See HDM Section 18.6.1.2 for further information. This information will support the brief explanation that should be included in the Project Scoping and Design Reports

## **SCHEDULE**

As opportunity allows, the *Municipality* will make efforts to improve the ADA Accessibility of pedestrian facilities in the public right-of-way. Compliance is required to the extent practicable within the scope of the project." There will be times when it is technically impractical to provide full compliance with the guidelines: for example, if clear space at the top of the ramp is obstructed by a building or the slope of a hill is so extreme as to prevent a reasonable slope for a ramp in both directions. The inventory process may not account for such situations and could show a high-priority rating when all practical actions have been taken.

Proposed Work Plan and Schedule						
Program Year	ADA Single Purpose Project Description				ADA Single Purpose Cost (M)	ADA Reg. Construction Project * Cost (M)
	Route	Begin Description	End Description	Miles		
20					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
20					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
20					\$	\$
					\$	\$
					\$	\$
					\$	\$
					\$	\$
TOTAL COST					\$ 0.00	\$ 0.00
<p><b>Note - The regular construction projects are listed for cost and program purposes only. The location description only pertains to the ADA single purpose project.</b></p> <p><b>Sidewalk Gaps –</b> The table above identities deficiencies in the existing sidewalk/multi-use path system deemed to be under the ADA compliance domain. It does not include additional pedestrian accommodation needs identified by the region, MPO partners and its transit operators. These needs will be identified as necessary with future program development as resources allow. The above work plan will be subject to further field verification and coordination.</p>						

## RESPONSIBLE INDIVIDUAL

The official responsible for the implementation of the *Municipality's* ADA Transition Plan for the pedestrian facilities in the public right-of-way is:

**Name:**

**Title:**

**Street Address:**

**City, NY Zip**

**Email:**

**Phone:**

**Fax:**

**TTY:**

## PUBLIC INPUT

The *Municipality* provides opportunities for individuals to comment on this Transition Plan, which includes:

- Document copies available and notices sent to *(e.g., local public libraries)* as follows:
- Document made available on *Municipality's* website at
- Open house and presentation at a public meeting on *Month, DD, YYYY*

The *Municipality* published legal notices in *(e.g., newspaper(s) of general circulation)* as follows: , starting on *MM/DD/YYYY*. The legal notices announced the availability of the Transition Plan draft at the *(e.g., local public library)* with easy public access. These notices also provided instructions regarding the timetable for comments and where to send them. Public comments were accepted for a period of no less than 30 days, ending *MM/DD/YYYY*. Public comment form is available on Attachment D. Formal adoption of the Transition Plan took place on *MM/DD/YYYY*. It will be available on the web and by written formal request to the ADA Coordinator.

# ATTACHMENT A

(ATTACH ADA GUIDELINES USED IN DETAILED EVALUATION)

## ADA GUIDELINES USED IN DETAILED EVALUATION

### Curb Ramps

In evaluating the accessibility of existing curb ramps, the following factors were considered:

1. Is there a curb ramp?
2. Is there a curb ramp where a sidewalk crosses a street?
3. What type of curb ramp?
  - a. Perpendicular curb ramp
  - b. Parallel curb ramp
  - c. Blended transitions
4. Is the width of the curb ramp at least 4 feet wide (excluding flares)?
5. Are there detectable warnings properly installed where a curb ramp or blended transition connects to a street?
6. Is the running slope greater than 5% but less than 8.3% (blended transition 5% maximum)?
7. Is the cross slope less than 2%?
8. Is the landing a minimum of 4 feet x 4 feet?
9. Is the surface of the curb ramp or blended transition firm, stable, and slip resistant and clear of gratings, access covers, and other appurtenances?
10. Is the grade break at the top and bottom of the ramp flush and not located on the surface of the curb ramp, landing, or gutter areas?
11. Is the sum between the curb ramp and the change of grade (counter slope) of the gutter or street at the foot of the curb ramp more than 11%?
12. Is the clear space beyond the curb face at least 4' x 4'?
13. If the curb ramp is perpendicular, is the slope of the flared sides\* less than 10% where a pedestrian path crosses the curb ramp?
14. Where the pedestrian access route begins at the street crossing, is there less than 0.25" vertical difference between flush curb and street?

**Note\*:** Flares are not needed if the sides are protected from travel by landscaping or street furnishing.

### Sidewalks

In evaluating the accessibility of existing sidewalks, the following factors were considered:

1. Is there a sidewalk at each corner?
2. Is there at least 4 feet of continuous and unobstructed clear width of a sidewalk (excluding the curb width)?
3. If the continuous width is less than 5 feet, are there passing spaces at least every 200 feet along the sidewalk that are 5 feet wide or greater for a distance of 5 feet?
4. Is the cross slope of the sidewalk less than 2%?
5. Where the sidewalk is adjacent to the street, does the grade of the sidewalk not exceed the general grade of the street?
6. Is the surface of the sidewalk firm, stable, and slip resistant?
7. Are any gaps in the surface less than 1/2 inch?
8. Is the sidewalk clear of obstacles? i.e., utility covers, grates etc.? If there is a grate:
  - a. are the openings no more than 1/2 inch wide and



- b. do the elongated openings run perpendicular to the direction of travel?
9. Is the sidewalk clear of overhanging or protruding objects? If there is a protruding object is:
  - a. the leading edge of that object less than 17 inch and more than 80 inch above the ground, or
  - b. the protrusion less than 4 inches into the travel path of the sidewalk, or
  - c. a barrier is provided no more than 17 inches from the ground where the vertical clearance is less than 80 inches.
10. Are any vertical differences in sidewalk surface less than 0.25"?

## **Crosswalks**

In evaluating the accessibility of existing crosswalks, the following factors were considered:

1. Is there a crosswalk that connects two sidewalks across a street?
2. Is the width of the marked crosswalk at least 6 feet?
3. Does the cross slope of the crosswalk meet the following guidelines:
  - a. If the crosswalk is crossing a street with a stop control, is the cross slope less than 2%?
  - b. If the crosswalk is crossing a street without a stop control, is the cross slope less than 5%?
4. Is the running slope of the crosswalk less than 5%?
5. If the crosswalk crosses a median, is the length of the median at least 6 feet and does it contain detectable warnings located at curb line or edge of the roadway?
6. If the intersection signalized, does it have a pedestrian signal, if so, does the pedestrian signal phase allow enough time for a walking speed of at least 3.5 ft/sec?

# ATTACHMENT B

- ATTACH ADA PRIORITIES MAP
- PRIORITY LISTING OF INTERSECTIONS\*

**NOTE:\*** SPONSORS MAY USE THE PROPOSED WORK PLAN SCHEDULE ON PAGES 20.

# ATTACHMENT C

- ATTACH RESOLUTION ADOPTING ADA DESIGN GUIDELINES
- ATTACH RESOLUTION APPOINTING ADA COORDINATOR
- ATTACH ADA GRIEVANCE PROCEDURE
- ATTACH RESOLUTION ADOPTING THE AMERICANS WITH DISABILITIES ACT
- ATTACH TRANSITION PLAN FOR PEDESTRIAN FACILITIES IN THE PUBLIC RIGHT-OF-WAY

# ATTACHMENT D

- PUBLIC COMMENT AND RESPONSE FORM  
(SEE SAMPLE FORM ON NEXT PAGE)

**PUBLIC COMMENT AND RESPONSE FORM**

**Date of Comment:**

**Name of Person:**

**Comment:**

**Response:**

# APPENDIX 13-4

## SAMPLE TITLE VI PLAN

# THE (Choose One) OF TITLE VI PLAN

Adopted: **Signed by:** \_\_\_\_\_

**Responsible Local Official (RLO) or Title VI Coordinator or Designee**

## **TABLE OF CONTENTS**

### **Introduction..... pg.**

Description of Title VI of the Civil Rights Act of 1964 and the Sponsor's responsibilities associated with the acceptance of receiving federal funds through the New York State Department of Transportation, (NYSDOT).

#### *Sample Introduction:*

*Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin. Related statutes, which prohibit discrimination based on sex, disability and age also, are covered in the Sponsor's programs, services and activities. A list of related statutes and federal executive orders is included as Appendix A.*

*When local governments accept federal aid funds/assistance through the New York State Department of Transportation (NYSDOT) to improve roads, bridges, transit or other public works all other operations of the local government including consultant services are required to abide by Title VI, of the Civil Rights Act of 1964. Additionally, the (Sponsor) includes the principles of Environmental Justice (EJ) into its programs, policies and activities to ensure that all appropriate steps have been taken to identify and address any disproportionately high and adverse human health or environmental effects on minority and low income populations.*

### **Policy Statement..... pg.**

Issue a policy statement, signed and dated by the Sponsor's head official (Responsible Local Official, RLO) which expresses commitment to the nondiscrimination provisions of Title VI. Circulate the policy statement throughout the Municipal's organization/department and to the general public. Publish such information where appropriate in languages other than English.

### **Organization Chart..... pg.**

Provide a copy of the Sponsor's organizational chart. Include the person to perform the duties of the Title VI Coordinator.

### **Title VI- Nondiscrimination Assurances..... pg.**

Include a copy of the Sponsor's signed Title VI assurances, including appendices.

### **Title VI Coordinator.....pg.**

Appoint someone in a position of authority as the Title VI Coordinator to be responsible for Title VI- Nondiscrimination activities, instructions, complaints and reports. The Title VI Coordinator should have easy access to the head of the organization, (RLO).

### **Complaint Procedure..... pg.**

Describe the process the Sponsor has in place to notify and inform the public of its right to file a discrimination complaint.



**Data Collection..... pg.**

Data should be collected and analyzed to ensure minority groups are not being discriminated against in the delivery of services that are federally funded. NYSDOT and its Sponsors are required to maintain racial and ethnic data showing the extent members of minority groups are beneficiaries of programs receiving federal financial assistance. Data collection can be helpful to identify:

1. Needs of all effected persons located within the boundaries of plans or projects.
2. Persons impacted and strategies to address impacts.
3. Persons to include in the decision-making process.
4. Strategies to disseminate information.

**Monitoring ..... pg.**

For each of the following major program areas, summarize how Title VI monitoring is accomplished by the Title VI Coordinator and program area personnel.

- |                        |                |
|------------------------|----------------|
| a. Planning            | d. Engineering |
| b. Project Development | e. Research    |
| c. Right-of-Way        |                |

**Training..... pg.**

Develop a schedule to provide Title VI training to Sponsor's employees and their consultants/contractors and sub-consultants/contractors. Maintain data on frequency of training, locations, number of participants and target audience.

**Public Participation..... pg.**

Sponsors are required to have in place effective ways to notify and inform the public of their rights under Title VI and describe how the information is made available. The notice should include information regarding how the public can request additional information and procedures to follow to file a complaint of discrimination.

**Limited English Proficiency Plan..... pg.**

Sponsors of federal funding are required to have a LEP Plan (**see LEP Plan template Attachment 1**) for providing access to activities and programs for persons with LEP. Sponsors should be able to demonstrate how they ensure meaningful access to their benefits, services and other important operations of its programs and activities for individuals who are LEP.

Note: If a Sponsor's activity will have an impact on an area where 5% or more of the individuals in that area speak a language other than English, materials advertising the activity should be translated into the language spoken in the affected area. Translators should be available to assist individuals at public meetings, hearings, etc. Reasonable efforts should apply even when less than 5% of the Sponsor affected population has LEP needs. Reasonable accommodations for persons with disabilities should be provided as appropriate on a case-by-case basis.

**Appendix A – Nondiscrimination Authorities ..... pg.**

Authorities and statues that maybe referenced to within the Title VI Plan.

**Note: Wherever the word *Sponsor* appears throughout this document, it refers to the Sponsor indicated on the Cover Page.**

# **Appendix A**

## **Nondiscrimination Authorities**

- Title VI- of the Civil Rights Act of 1964 (42 USC 2000d et seq);
- Section 162 (a) of the Federal-Aid Highway Act of 1973 (23 USC 324);
- Age Discrimination Act of 1975;
- Section 504 of the Rehabilitation Act of 1973;
- Americans With Disabilities Act of 1990;
- Civil Rights Restoration Act of 1987;
- 49 CFR Part 21;
- 23 CFR Part 200;
- USDOT Order 1050.2;
- Executive Order #12898 (Environmental Justice);
- Executive Order #13166 (Limited-English-Proficiency).

## **Attachment 1**

**Limited English Proficiency Plan**  
**SPONSOR NAME**

**EFFECTIVE DATE**

Signed by: \_\_\_\_\_

County Executive or Title VI Coordinator or Designee

ADDRESS  
PHONE NUMBER

## INTRODUCTION

This Limited English Proficiency Plan has been prepared to address the *(Sponsor's)* responsibilities as a recipient of federal financial assistance as they relate to the needs of individuals with limited English proficiency language skills. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin.

Executive Order 13166, titled ***Improving Access to Services for Persons with Limited English Proficiency***, indicates that differing treatment based upon a person's inability to speak, read, write or understand English is a type of national origin discrimination which is covered under Title VI. It directs each agency to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This order applies to all state and local agencies (Sponsors) which receive federal funds.

### Plan Summary

The *(Sponsor)* has developed this ***Limited English Proficiency Plan*** to help identify reasonable steps for providing language assistance to persons with limited English proficiency (LEP) who wish to access services provided. As defined Executive Order 13166, LEP persons are those who do not speak English as their primary language and have limited ability to read, speak, write or understand English. This plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP persons that assistance is available.

In order to prepare this plan, the *(Sponsor)* used the four-factor LEP analysis which considers the following factors:

1. The number or proportion of LEP persons in the service area who may be served by the *(Sponsor)*.
2. The frequency with which LEP persons come in contact with *(Sponsor)* services.
3. The nature and importance of services provided by the *(Sponsor)* to the LEP population.
4. The interpretation services available to the *(Sponsor)* and overall cost to provide LEP assistance. A summary of the results of the four-factor analysis is in the following section.

## MEANINGFUL ACCESS: FOUR-FACTOR ANALYSIS

**The number or proportion of LEP persons in the service area who may be served or are likely to require services.**

The \_\_\_\_\_ staff reviewed the 2006-2010 American Community Survey 5-Year Estimates for New York State and determined that \_\_\_\_\_ individuals in \_\_\_\_\_ service area \_\_\_\_\_% of the population] speak a language other than English. Of those, \_\_\_\_\_ individuals have limited English proficiency; that is; they speak English less than "very well" or "not at all." This is only 0

% of the overall population in the service area. In \_\_\_\_\_ service area, of those persons with limited English proficiency, 0% speaks **German**, 0% speaks **Spanish**, 0% speaks **African languages**, 0% speaks **Chinese**, 0% speaks **Serbo-Croatian**, 0% speaks **Scandinavian**, 0% speaks **Japanese**, 0% speaks **Russian**, 0% speaks **other Indic languages**, 0% speaks **Vietnamese**, 0% speaks **French**, 0% speaks **Tagalog**, 0% speaks **other Slavic languages**, 0% speaks **Arabic**, **Indo-European languages**, 0% speaks **Native North American Languages**, and 0% speaks all other languages.

**The frequency with which LEP persons come in contact with \_\_\_\_\_ services.** The staff reviewed the frequency with which their office staff and \_\_\_\_\_ department staff have, or could have, contact with LEP persons. This includes documenting phone inquiries or office visits. To date, the \_\_\_\_\_ has had \_\_\_\_\_ requests for interpreters and \_\_\_\_\_ requests for translated program documents as follows: \_\_\_\_\_. The \_\_\_\_\_ other staff have had very little contact with LEP persons.

**The nature and importance of services provided by the \_\_\_\_\_ to the LEP population.** There is no large geographic concentration of any type of LEP individuals in the service area for the \_\_\_\_\_. The overwhelming majority of the population, 0%, speak only English. As a result, there are few social, service, or professional and leadership organizations within the service area that focus on outreach to LEP individuals. The \_\_\_\_\_ staff are most likely to encounter LEP individuals through office visits, phone conversations, notifications from \_\_\_\_\_ department staff of impacts on service area services and attendance at meetings.

**The resources available to the \_\_\_\_\_ and overall costs to provide LEP assistance.** The \_\_\_\_\_ reviewed its available resources that could be used for providing LEP assistance, which of its documents would be most valuable to be translated if the need should arise, and contacted local citizens that would be willing to provide voluntary Spanish translation if needed within a reasonable time period. Other language translation if needed would be provided through bilingual staff or a telephone interpreter line for which the \_\_\_\_\_ would pay a fee.

## **LANGUAGE ASSISTANCE**

A person who does not speak English as their primary language and who has a limited ability to read, write, speak or understand English may be a Limited English Proficient person and may be entitled to language assistance with respect to \_\_\_\_\_ services. Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

How the \_\_\_\_\_ staff may identify an LEP person who needs language assistance:

- Post notice of LEP Plan and the availability of interpretation or translation services free of charge in languages LEP persons would understand.
- All \_\_\_\_\_ staff will be provided with language identification cards to assist in identifying the language interpretation needed if the occasion arises.
- All \_\_\_\_\_ staff will be informally surveyed periodically on their experience concerning any contacts with LEP persons during the previous year.
- When the \_\_\_\_\_ sponsors an informational meeting or event, a staff person may greet participants as they arrive. By informally engaging participants in conversation it is possible to gauge each attendee's ability to speak and understand English. Although

translation may not be able to be provided at the event it will help identify the need for future events.

### **Language Assistance Measures**

Although there is a very low percentage of LEP individuals in the \_\_\_\_\_ service area, that is, persons who speak English less than “very well” or “not at all”, it will strive to offer the following measures:

1. The \_\_\_\_\_ staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating English.
2. The following resources will be available to accommodate LEP persons:
  - Volunteer interpreters for the Spanish language are available and will be provided within a reasonable time period.
  - Language interpretation will be accessed for all other languages through a telephone interpretation service.

### **STAFF TRAINING**

The following training will be provided to all staff:

- Information on the Title VI-Nondiscrimination Policy and LEP responsibilities.
- Description of language assistance services offered to the public.
- Use of interpreter service provider’s language identification cards.
- Documentation of language assistance requests.
- How to handle a potential Title VI /LEP complaint.

**All contractors or subcontractors performing work for the \_\_\_\_\_ will be required to follow the Title VI /LEP guidelines.**

### **TRANSLATION OF DOCUMENTS**

The \_\_\_\_\_ weighed the cost and benefits of translating documents for potential LEP groups. Considering the expense of translating the documents, the likelihood of frequent changes in documents and other relevant factors, at this time it is an unnecessary burden to have any documents translated.

Due to the very small local LEP population, the \_\_\_\_\_ does not have a formal outreach procedure in place, as of **2014**. Translation resources have been identified and are limited in this region. However, when and if the need arises for LEP outreach, the \_\_\_\_\_ will consider the following options:

- When staff prepares a document, or schedules a meeting, for which the target audience is expected to include LEP individuals, then documents, meeting notices, flyers, and agendas will be printed in an alternative language based on the known LEP population.
- \_\_\_\_\_ will assess requests for translation of documents based on the possible impacts and known LEP population.

## MONITORING

**Monitoring and Updating the LEP Plan** – The \_\_\_\_\_ will update the LEP Plan as required. At a minimum, the plan will be reviewed and updated when data from the **2010 U.S. Census** is available, or when it is clear that higher concentrations of LEP individuals are present in the service area. Updates will include the following:

- The number of documented LEP person contacts encountered annually.
- How the needs of LEP persons have been addressed.
- Determination of the current LEP population in the service area.
- Determination as to whether the need for translation services has change
- Determine whether local language assistance programs have been effective and sufficient to meet the need.
- Determine whether the \_\_\_\_\_ financial resources are sufficient to fund language assistance resources needed.
- Determine whether the \_\_\_\_\_ fully complies with the goals of this LEP Plan.
- Determine whether complaints have been received concerning the agency's failure to meet the needs of LEP individuals.

## DISSEMINATION OF THE *(Sponsor)* LEP PLAN

- Choose from the following what you as a subrecipient will do:
- Post signs in \_\_\_\_\_ service area notifying LEP persons of the LEP Plan and how to access language services.
- State on agendas and public notices in the language that LEP persons would understand that documents are available in that language upon request at \_\_\_\_\_.
- Post on \_\_\_\_\_'s website the LEP Plan and how to access language services.
- Publish Press Release.
- Send copy of press release to advocacy groups and other agencies serving LEP populations.

**MWBE SCHEDULE OF UTILIZATION**  
**Part 1 - MBE Utilization**

<b>Contract No.</b>	<b>PIN</b>	<b>Project Sponsor</b>	
<b>County(ies):</b>			
<b>_____ Initial</b>	<b>_____ Amendment</b>	<b>Contractor Name</b>	
<b>Contract Bid Amount:</b>			
<b>Contract MBE Goal %:</b>	<b>Contractor Fed ID No.</b>		
<b>Contract MBE Goal \$:</b>			
<b>UTILIZATION INFORMATION</b>			
<b>MBE Name</b>	<b>Fed ID No.</b>	<b>Work Category</b>	<b>MBE Utilization</b>
		<b>Total Commitments:</b>	
		<b>Contract MBE Goal:</b>	
		<b>Difference:</b>	

<b>TO BE COMPLETED BY PROJECT SPONSOR</b>			
The Bidder _____ has _____ has not demonstrated good faith efforts to secure MBE utilization in satisfaction of the contract goal as required by the contract specification.			
<b>Signature</b>		<b>Date</b>	



**MWBE SCHEDULE OF UTILIZATION**  
**Part 2 - WBE Utilization**

<b>Contract No.</b>	<b>PIN</b>	<b>Project Sponsor</b>	
<b>County(ies):</b>			
<b>_____ Initial</b>	<b>_____ Amendment</b>	<b>Contractor Name</b>	
<b>Contract Bid Amount:</b>			
<b>Contract WBE Goal %:</b>	<b>Contractor Fed ID No.</b>		
<b>Contract WBE Goal \$:</b>			
<b>UTILIZATION INFORMATION</b>			
<b>WBE Name</b>	<b>Fed ID No.</b>	<b>Work Category</b>	<b>WBE Utilization</b>
		<b>Total Commitments:</b>	
		<b>Contract WBE Goal:</b>	
		<b>Difference:</b>	

<b>TO BE COMPLETED BY PROJECT SPONSOR</b>			
The Bidder _____ has _____ has not demonstrated good faith efforts to secure WBE utilization in satisfaction of the contract goal as required by the contract specification.			
<b>Signature</b>		<b>Date</b>	

## INSTRUCTIONS - AAP 19LL NYS

**Contract No:** Enter the Sponsor's contract number.  
**PIN:** Enter the Project Identification Number.  
**Project Sponsor:** Enter the name of the Sponsor who released the contract (e.g., Albany County).  
**County(ies):** Enter the name(s) of the county(ies) where the contract is located (e.g., Albany County).  
**Initial:** Place a check mark if this is the initial schedule for contract award.  
**Amendment:** Place a check mark if this is a schedule amending utilization after contract award.  
**Contractor Name:** Enter the business name for the prime contracting firm.  
**Contractor Fed ID No:** Enter the Federal Identification number associated with the prime contracting firm.  
**Contract Bid Amount:** Enter the contract's low bid amount in US dollars.  
**Contract MBE or WBE Goal %:** Enter the MBE or WBE goal that is assigned to this contract, expressed as a percentage.  
**Contract MBE or WBE Goal \$:** The MBE or WBE goal will be expressed in US dollars; *Excel will calculate and fill automatically.*

### UTILIZATION INFORMATION SECTION

**MBE or WBE Name:** Enter the business name for the MBE or WBE firm.  
**Fed ID No:** Enter the Federal Identification number associated with the MBE or WBE firm.  
**Work Category:** This field has a drop down menu; select one category from the list.  
**WBE Utilization:** Enter the total amount of the work assigned to the MBE or WBE in US dollars.  
**Total Commitments:** The MBE or WBE total utilization will be expressed in US dollars; *Excel will calculate and fill automatically.*  
**Contract MBE or WBE Goal:** The MBE or WBE goal will be expressed in US dollars; *Excel will copy from above section and fill automatically.*  
**Difference:** The difference between utilization and the goal expressed in US dollars; *Excel will calculate and fill automatically.*

## DBE UTILIZATION WORKSHEET

Contract No.	County(ies)			PIN		Project Sponsor		Date Submitted		
<b>CONTRACTOR INFORMATION</b>										
Name						Federal ID No.				
Address 1						Address 2				
City		State		Zip		Telephone No.				
<b>SUBCONTRACTOR INFORMATION</b>										
Name						Federal ID No.				
Address 1						Address 2				
City		State		Zip		Telephone No.				
Estimated Beginning Date					Estimated Completion Date					
<p>The Prime Contractor shall inform the Sponsor's Engineer-in-Charge (EIC) of the dates when the Subcontractor starts and completes all work under the subcontract. When the work performed by the Subcontractor is included in an estimate for payment, labor affidavits, copies of payrolls, etc., are to be submitted in the same manner and numbers as required of the Prime Contractor. This approval may be rescinded at any time in the progress of the work if work of the Subcontractor is determined unsatisfactory.</p> <p>No work may be assigned by the Subcontractor to a second tier Subcontractor. No work may be performed by a Subcontractor other than that specifically approved by the Sponsor. The signatories below agree that violations of the foregoing may result in no payment by the Sponsor for the related work.</p> <p>No work shall be started by the Subcontractor prior to filing the required insurances. The Contractor and Subcontractor hereby certify that the subcontract is in writing, and contains all the pertinent provisions of the prime contract in regard to Federal and State Laws and Regulations.</p>										
<b>Contractor Signature</b>					<b>Date</b>		<b>Subcontractor Signature</b>		<b>Date</b>	
<b>Item No.</b>	<b>Description</b>			<b>&lt; Less Than 100%</b>	<b>\$ Specialty</b>	<b>\$ Non-Specialty</b>	<b>Agreed Amount \$</b>	<b>% to Count</b>		
				<b>Totals</b>	\$0.00	\$0.00	\$0.00			
<p>The Subcontractor named above is approved for utilization under the provisions of the Sponsor's contract specifications. Approval of this worksheet conveys only the Sponsor's concurrence in the use of the named subcontractor for the items specified, and application of the DBE Agreed Amount to the participation goal of the contract. Sponsor approval of form AAPHC 20LL Part 2 is required prior to subletting or otherwise assigning any part of the contract.</p>										
<b>Approved For Sponsor By (Name)</b>							<b>Date Approved</b>			

## APPROVAL TO SUBCONTRACT

<b>Contract No.</b>	<b>County(ies)</b>	<b>PIN</b>	<b>Project Sponsor</b>	<b>Date Submitted</b>			
0	0	0	0	January 0, 1900			
<b>CONTRACTOR INFORMATION</b>							
<b>Name</b>	0		<b>Federal ID No.</b>	0			
<b>Address 1</b>	0		<b>Address 2</b>	0			
<b>City</b>	0	<b>State</b>	0	<b>Zip</b>	00000	<b>Telephone No.</b>	-
<b>SUBCONTRACTOR INFORMATION</b>							
<b>Name</b>	0		<b>Federal ID No.</b>	0			
<b>Address 1</b>	0		<b>Address 2</b>	0			
<b>City</b>	0	<b>State</b>	0	<b>Zip</b>	00000	<b>Telephone No.</b>	-
<b>Estimated Beginning Date</b>			1/0/00		<b>Estimated Completion Date</b>		1/0/00
The Prime Contractor shall inform the Sponsor's Engineer-in-Charge (EIC) of the dates when the Subcontractor starts and completes all work under the subcontract. When the work performed by the Subcontractor is included in an estimate for payment, labor affidavits, copies of payrolls, etc., are to be submitted in the same manner and numbers as required of the Prime Contractor. This approval may be rescinded at any time in the progress of the work if work of the Subcontractor is determined unsatisfactory.							
No work may be assigned by the Subcontractor to a second tier Subcontractor. No work may be performed by a Subcontractor other than that specifically approved by the Sponsor. The signators below agree that violations of the foregoing may result in no payment by the Sponsor for the related work.							
No work shall be started by the Subcontractor prior to filing the required insurances. The Contractor and Subcontractor hereby certify that the subcontract is in writing, and contains all the pertinent provisions of the prime contract in regard to Federal and State Laws and Regulations.							
<b>Contractor Signature</b>		<b>Date</b>		<b>Subcontractor Signature</b>		<b>Date</b>	
<b>Item No.</b>	<b>Name</b>	<b>&lt; Less Than 100%</b>	<b>\$ Specialty</b>	<b>\$ Non-Specialty</b>			
0	0	0	\$0.00	\$0.00			
0	0	0	\$0.00	\$0.00			
0	0	0	\$0.00	\$0.00			
0	0	0	\$0.00	\$0.00			
0	0	0	\$0.00	\$0.00			
0	0	0	\$0.00	\$0.00			
0	0	0	\$0.00	\$0.00			
0	0	0	\$0.00	\$0.00			
		<b>Totals</b>	\$0.00	\$0.00			
The Subcontractor named above is authorized to perform work on the above noted contract for the items listed herein; however, a subcontract shall be of no force or effect until approved below.							
<b>BELOW FOR PROJECT SPONSOR USE ONLY</b>							
<b>Original Total Contract Price (Less Specialty Items)</b>				<b>% Original Total Contract Price Approved This Date</b>			
<b>% Original Total Contract Price Previously Approved</b>				<b>% Original Total Contract Price Approved To Date</b>			
<b>Approved For Sponsor By (Name)</b>		Nassau County DPW			<b>Date Approved</b>	Contract No. H63029-16G PIN 0701.47	

**INSTRUCTIONS FOR COMPLETING FORM AAPHC 20LL  
DBE UTILIZATION WORKSHEET AND APPROVAL TO SUBCONTRACT**

The Sponsor's contract specifications require that, prior to contract award, Prime Contractors must obtain written consent of the Sponsor's CEO (or designee) to a utilization plan that identifies certified Disadvantaged Business Enterprises (DBEs) that have committed to perform work on a proposed contract. **The DBE Utilization Worksheet** (Part 1) is used to describe in item detail the utilization plan for each proposed DBE firm.

The Sponsor's contract specifications require Prime Contractors to obtain written consent of the Sponsor's CEO (or designee) prior to subletting or otherwise assigning any part of the contract. **The Approval to Subcontract** (Part 2) is used for that purpose.

The DBE Utilization Worksheet and Approval to Subcontract have been designed for use as a single package, form AAPHC 20LL. When submitting forms for firms included in the Contractor's Schedule of Utilization, prepare a signed, two part set of both pages, as described below. Entries made on the Utilization Worksheet will automatically provide data for an Approval to Subcontract except that item-level DBE agreed amounts will not be shown on the second page. When submitting forms for firms not included in the Contractor's Utilization Plan, only an Approval to Subcontract is to be completed. All **DBE Utilization Worksheets** (Part 1) are to be submitted as attachments to the Contractor's Schedule of Utilization, form AAP-19LL.

Approval of the Utilization Worksheet conveys only the Sponsor's concurrence in the use of the named subcontractor for the items specified, and application of the DBE Agreed Amount to the participation goals of the contract. THE SPONSOR'S APPROVAL TO SUBCONTRACT IS REQUIRED PRIOR TO SUBLETTING OR OTHERWISE ASSIGNING ANY PART OF THE CONTRACT.

**Parts One and Two:**

<b>Contract Number:</b>	Enter contract number
<b>County(ies):</b>	Enter county or counties in which the project is located
<b>PIN:</b>	Enter Project Identification Number
<b>Page No.:</b>	Enter page number of current AAPHC 20LL and total number of forms being submitted
<b>Project Sponsor:</b>	Enter name of municipality or agency that is letting the project
<b>Date Submitted:</b>	Enter date completed forms are submitted to the Sponsor. For firms included in the Contractor's Schedule of Utilization, the dates on both pages must agree. If they do not, the request will not be processed.
<b>Names/Addresses:</b>	Enter all contact information for the Contractor and Subcontractor, including Federal ID number and telephone number with area code
<b>Signatures &amp; Dates:</b>	Authorized representatives of the Contractor and Subcontractor must sign and date the form(s)
<b>Est. Beginning Date:</b>	Enter estimated date when Subcontractor will begin work
<b>Est. Completion Date:</b>	Enter estimated date when Subcontractor will complete work
<b>Item No. and Name:</b>	Enter each item by Specification number and name. If only part of an item is to be subcontracted, check the "Less Than 100%" box and attach a description of the specific work to be performed to both pages of this form.
<b>&lt; Less Than 100%:</b>	Place an X if the Subcontractor is performing less than the complete item of work
<b>\$ Specialty:</b>	If a specialty item per the Specification, enter the dollar amount here
<b>\$ Non-Specialty:</b>	If a non-specialty item per the Specification, enter the dollar amount here

**Part One:**

<b>Agreed Amount \$:</b>	Enter the amount to be paid to the DBE
<b>% To Count:</b>	Enter 100% for subcontracting, manufacturing, fabricating, professional or trucking services; 60% for material supply; or, the % fee or commission for brokering

AAP 33LL NYS		(8/2011)		EMPLOYMENT UTILIZATION REPORT																
Contract No.	PIN	Contractor	Prime	Sub	Composite	Federal EIN				County		Minority Goal		Female Goal		Date	Final Report?			
0	0	0				0				(choose county)		0		0						
EMPLOYMENT - THIS REPORTING PERIOD (MONTHLY)																				
Trade		WORK HOURS OF EMPLOYMENT												NUMBER OF EMPLOYEES						
		Total		Black		Hispanic		Asian or Pacific Islander		American Indian or Alaskan Native		Non- Minority		Minority	Female	TOTAL		TOTAL MINORITY		
		M	F	M	F	M	F	M	F	M	F	M	F	%	%	M	F	M	F	
Laborers	J	0	0												#DIV/0!	#DIV/0!				
	A/T	0	0												#DIV/0!	#DIV/0!				
Equipment Operators	J	0	0												#DIV/0!	#DIV/0!				
	A/T	0	0												#DIV/0!	#DIV/0!				
Surveyors	J	0	0												#DIV/0!	#DIV/0!				
	A/T	0	0												#DIV/0!	#DIV/0!				
Truck Drivers	J	0	0												#DIV/0!	#DIV/0!				
	A/T	0	0												#DIV/0!	#DIV/0!				
Ironworkers	J	0	0												#DIV/0!	#DIV/0!				
	A/T	0	0												#DIV/0!	#DIV/0!				
Carpenters	J	0	0												#DIV/0!	#DIV/0!				
	A/T	0	0												#DIV/0!	#DIV/0!				
Masons	J	0	0												#DIV/0!	#DIV/0!				
	A/T	0	0												#DIV/0!	#DIV/0!				
Painters	J	0	0												#DIV/0!	#DIV/0!				
	A/T	0	0												#DIV/0!	#DIV/0!				
Electricians	J	0	0												#DIV/0!	#DIV/0!				
	A/T	0	0												#DIV/0!	#DIV/0!				
Others	J	0	0												#DIV/0!	#DIV/0!				
	A/T	0	0												#DIV/0!	#DIV/0!				
Total - Workforce	J	0	0	0	0	0	0	0	0	0	0	0	0	0			0	0	0	0
	A/T	0	0	0	0	0	0	0	0	0	0	0	0	0	#DIV/0!	#DIV/0!	0	0	0	0
	TOT	0	0	0	0	0	0	0	0	0	0	0	0	0			0	0	0	0
Prepared by: (sign and date)	0						0						Project Sponsor:		0					
(enter name)	0						(Title)	0		(Date)	1/0/1900				0					

## Contractor Report of Contract Payments

<b>Final Report</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>PIN</b>  <b>Contract Number</b>	<b>County</b>	<b>Report Date</b>
<b>Contractor Name and Address</b>  		<b>Subcontractor/Vendor Name and Address</b>  <input type="checkbox"/> Check if firm is CERTIFIED MWBE	
<b>Contractor Federal Identification Number</b>		<b>Subcontractor/Vendor Federal Identification Number</b>	
<b>Total Payments Due to Date:</b> <b>- Retainage or Other Withholding to Date:</b> <hr/> <b>Total Payments to Date:</b>			
<b>Project Sponsor Name and Address</b>  			
<b>Comments</b>  			
<p align="center"><b>Certification</b></p> <p>Section 139-f of the State Finance Law requires the contractor to pay each of its subcontractors and/or materialmen the proceeds from the payment representing the value of work performed and/or materials furnished by the subcontractor and/or materialmen within 7 calendar days of the receipt of any payment from the public owner.</p>			
<p align="center"><b>FINAL PAYMENT CERTIFICATION</b></p> <p>As an officer of the Contractor identified above, and based on my personal knowledge, I certify that payment has been made by the Contractor to the Subcontractor/Vendor in the amount stated herein pursuant to the last AAP 20LL NYS/CONR 89LL NYSon file with the Project Sponsor and that said work/services/product was performed/supplied by said Subcontractor/Vendor and that there were no rebates, refunds, or offsets applied to any payments except as noted under "Comments" above and a copy of this form has been sent to the Subcontractor/Vendor.</p> <p><b>Signed:</b> _____</p> <p><b>Title:</b> _____          (For Contractor)</p>		<p align="center"><b>FINAL PAYMENT CERTIFICATION</b></p> <p>As an officer of the Subcontractor/Vendor identified above, and based on my personal knowledge, I certify that payment has been received in the amount stated herein pursuant to the last AAP 20LL/ NYSCONR 89LL NYSon file with the Project Sponsor and that said work/services/product was performed/supplied and supervised solely by the Subcontractor/Vendor and that there were no rebates, refunds, or offsets applied to any payments except as noted under "Comments" above.</p> <p><b>Signed:</b> _____</p> <p><b>Title:</b> _____          (For Subcontractor/Vendor)</p>	
<p align="center"><b>Notarization for Final AAP 21LL NYS</b></p>			
<p><b>Sworn to me this</b> _____</p> <p><b>Day of</b> _____</p> <p align="center">_____  <b>Notary Public</b></p>		<p><b>Sworn to me this</b> _____</p> <p><b>Day of</b> _____</p> <p align="center">_____  <b>Notary Public</b></p>	
<p>If this report is verified by an oath administered by a Notary Public in a foreign country other than Canada, it must be accompanied by a certificate authenticating the authority of the Notary who administered the oath.</p>			
<p>Any person who makes a false or fraudulent statement in connection with participation of a MWBE on any assisted program or otherwise violated applicable State and/or Federal statutes may be referred for prosecution under applicable State and/or Federal law.</p>			
<p><b>Note to Subcontractor:</b> If the Contractor has not paid your firm for the work completed and accepted by the Project Sponsor in accordance with the terms specified on this form, please contact the Engineer for the contract.</p>			

## AAP 21LLNYS Form Instructions:

**Subcontractor/Vendor:** Is defined as any subcontractor, materialmen, supplier or service provider with an AAP 20LLNYS / CONR 89LL on file for the contract.

**Final Report:** Check YES or NO, as appropriate, to indicate whether this will be the Final Report submitted for this vendor.

**Contract No:** Enter NYSDOT PIN (Project Identification Number) and Local Project contract number.

**County:** Enter the name of the county or counties this project is located in.

**Report Date:** Enter date (Month/Day/Year) through which payments due and made are reflective of.

**Contractor and Vendor Data:** Enter names, and addresses (including zip code), Telephone numbers (including area codes) and Federal Identification Numbers for both the Contractor and Vendor.

**Total Payments Due to Date:** Enter total of payments due to the Vendor to date.

**Retainage or Other Withholding to Date:** Enter amount due Vendor that has not been paid due to retainage or other withholding.

**Total Payment to Date:** Value of payments due to date less retainage or other withholding.

**Comments:** Amounts recorded as retainage or other withholding must be accompanied by a brief description of the circumstances necessitating the withholding along with item numbers involved (if any).

**Signatures:** Authorized representative of the Contractor must sign and date.

**Signatures on Final Report:** An authorized representative of both the Contractor and Vendor must sign and date.

**Notarization:** On the Final Report, or when directed by the Project Sponsor, Contractor and Vendor signatures must be notarized.

The AAP 21LL NYS is a cumulative to-date report of the total payments due a Vendor, total retainage or other withholdings, and total payments made to the Vendor. The AAP 21LL NYS is to be submitted by the fifteenth day of the month to the Project Sponsor, or when requested by that entity. The dollar values on this report should be accurate through the last day of the previous month. The Final AAP 21LL NYS must be signed and notarized by both parties. The Final AAP 21LL NYS should be submitted as soon as possible after the Vendor has completed/supplied all of the work/service/products for which it was utilized, but not later than 30 days after the Vendor has completed its commitment.

An AAP 21LL NYS is required for each Vendor due payment on the project.

The Contractor shall submit a copy of the AAP 21LL NYS, signed by an authorized representative of their firm, to the Project Sponsor and to each Vendor due payment on the project.

The Contractor shall inform the vendor of its responsibility to review the form for accuracy and to have the Vendor's signature on the Final AAP 21LL NYS notarized.

This report is a written instrument within the meaning of Section 175.00 of the Penal law. I am fully aware that it will be filed with the Project Sponsor and become a part of the records thereof, and that entering any false information hereon constitutes the crime of Offering a False instrument for filing in the first degree, which is a Class E Felony (Penal Law, Section 175.35).



## To Be Completed by Low Bidder

Regardless of the status of the CCA-2 questionnaire from the Lowest Bidder with the NY State Contract Management Bureau, provide a copy of Attachment(s) A and B to NYSDOT Regional Local Projects Construction Monitor for the files and their review as part of the contract award package.

## NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT CONSTRUCTION (CCA-2)

You have selected the For-Profit Construction questionnaire, commonly known as the “CCA-2,” which may be printed and completed in this format or, **for your convenience, may be completed online using the [New York State VendRep System](#).**

### COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor’s business and operations. An owner or official must certify the questionnaire and the signature must be notarized.

### NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the IT Service Desk at [ITServiceDesk@osc.state.ny.us](mailto:ITServiceDesk@osc.state.ny.us) or call 866-370-4672.

### DEFINITIONS

All underlined terms are defined in the “New York State Vendor Responsibility Definitions List,” found at <http://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf>. These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

### RESPONSES

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected or overturned, and/or was withdrawn by the issuing government entity, is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

## NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT CONSTRUCTION (CCA-2)

### BUSINESS ENTITY INFORMATION

<u>Legal Business Name</u>		<u>EIN</u> _____		
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		<u>New York State Vendor Identification Number</u>		
		Telephone ext.	Fax	
		Website		
Authorized Contact for this Questionnaire				
Name		Telephone ext.	Fax	
Title		Email		
Additional <u>Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years, the state or county where filed and the status (active or inactive).				
Type	Name	EIN	State or County where filed	Status

### I. BUSINESS CHARACTERISTICS

1.0 <u>Business Entity</u> Type – Check appropriate box and provide additional information:			
a) <input type="checkbox"/> <u>Corporation</u> (including <u>PC</u> )	Date of Incorporation		
b) <input type="checkbox"/> <u>Limited Liability Company</u> (LLC or PLLC)	Date Organized		
c) <input type="checkbox"/> <u>Limited Liability Partnership</u>	Date of Registration		
d) <input type="checkbox"/> <u>Limited Partnership</u>	Date Established		
e) <input type="checkbox"/> <u>General Partnership</u>	Date Established	County (if formed in NYS)	
f) <input type="checkbox"/> <u>Sole Proprietor</u>	How many years in business?		
g) <input type="checkbox"/> Other	Date Established		
If Other, explain:			
1.1 Was the <u>Business Entity</u> formed in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If “No,” indicate jurisdiction where the <u>Business Entity</u> was formed:			
<input type="checkbox"/> United States	State		
<input type="checkbox"/> Other	Country		

## NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT CONSTRUCTION (CCA-2)

I. BUSINESS CHARACTERISTICS			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," provide the <u>CIK code</u> or Ticker Symbol:			
1.3 Is the <u>Business Entity</u> currently <u>registered to do business in New York State</u> ?			<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Note: Select "Not Required" if the Business Entity is a Sole Proprietor or General Partnership</i>			<input type="checkbox"/> Not Required
If "No," explain why the <u>Business Entity</u> is not required to be <u>registered to do business in New York State</u> :			
1.4 Is the responding <u>Business Entity</u> a <u>Joint Venture</u> ? Note: If the submitting <u>Business Entity</u> is a <u>Joint Venture</u> , also submit a separate questionnaire for each <u>Business Entity</u> comprising the <u>Joint Venture</u> .			<input type="checkbox"/> Yes <input type="checkbox"/> No
1.5 If the <u>Business Entity's</u> <u>Principal Place of Business</u> is not in New York State, does the <u>Business Entity</u> maintain an office in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>(Select "N/A" if <u>Principal Place of Business</u> is in New York State.)</i>			<input type="checkbox"/> N/A
If "Yes," provide the address and telephone number for one office located in New York State.			
1.6 Is the Business Entity a New York State certified <u>Minority-Owned Business Enterprise</u> , or <u>Women-Owned Business Enterprise</u> , or <u>New York State Small Business</u> , or federally certified <u>Disadvantaged Business Enterprise</u> ?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," check all that apply: <input type="checkbox"/> New York State certified <u>Minority-Owned Business Enterprise</u> (MBE) <input type="checkbox"/> New York State certified <u>Women-Owned Business Enterprise</u> (WBE) <input type="checkbox"/> <u>New York State Small Business</u> <input type="checkbox"/> Federally certified <u>Disadvantaged Business Enterprise</u> (DBE)			
1.7 Identify each person or business entity that is, or has been within the past five (5) years, <u>Principal Owner</u> of 5.0% or more of the firm's shares; a Business Entity Official; or one of the five largest shareholders, if applicable. <i>(Attach additional pages if necessary.)</i> <u>Joint Ventures</u> : Provide information for all firms involved.			
Name <i>(For each person, include middle initial)</i>	Title	Percentage of ownership (Enter 0%, if not applicable)	Employment status with the firm
			<input type="checkbox"/> Current <input type="checkbox"/> Former
			<input type="checkbox"/> Current <input type="checkbox"/> Former
			<input type="checkbox"/> Current <input type="checkbox"/> Former
			<input type="checkbox"/> Current <input type="checkbox"/> Former

## NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT CONSTRUCTION (CCA-2)

### II. AFFILIATE and JOINT VENTURE RELATIONSHIPS

2.0 Are there any other construction-related firms in which, now or in the past five years, the submitting Business Entity or any of the individuals or business entities listed in question 1.7 either owned or owns 5.0% or more of the shares of, or was or is one of the five largest shareholders or a director, officer, partner or proprietor of said other firm? *(Attach additional pages if necessary.)* ☐ Yes ☐ No

Firm/Company Name	Firm/Company EIN (If available)	Firm/Company's Primary Business Activity

Firm/Company Address

Explain relationship with the firm and indicate percent of ownership, if applicable (enter N/A, if not applicable):

Are there any shareholders, directors, officers, owners, partners or proprietors that the submitting Business Entity has in common with this firm? ☐ Yes ☐ No

Individual's Name <i>(Include middle initial)</i>	Position/Title with Firm/Company
---	----------------------------------

2.1 Does the Business Entity have any construction-related affiliates not identified in the response to question 2.0 above? *(Attach additional pages if necessary.)* ☐ Yes ☐ No

Affiliate Name	Affiliate EIN (If available)	Affiliate's Primary Business Activity
----------------	------------------------------	---------------------------------------

Affiliate Address

Explain relationship with the affiliate and indicate percent of ownership, if applicable *(enter N/A, if not applicable)*:

Are there any shareholders, directors, officers, owners, partners or proprietors that the submitting Business Entity has in common with this affiliate? ☐ Yes ☐ No

Individual's Name <i>(Include middle initial)</i>	Position/Title with Firm/Company
---	----------------------------------

2.2 Has the Business Entity participated in any construction-related Joint Ventures within the past three (3) years? *(Attach additional pages if necessary.)* ☐ Yes ☐ No

Joint Venture Name	Joint Venture EIN (If available)	Identify parties to the Joint Venture
--------------------	----------------------------------	---------------------------------------

## NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT CONSTRUCTION (CCA-2)

### III. CONTRACT HISTORY

3.0 Has the Business Entity completed any construction contracts? ☐ Yes ☐ No

*If "Yes," list the ten most recent construction contracts the Business Entity has completed using Attachment A – Completed Construction Contracts, found at [www.osc.state.ny.us/vendrep/documents/questionnaire/ac3294s.doc](http://www.osc.state.ny.us/vendrep/documents/questionnaire/ac3294s.doc).*

*If less than ten, include most recent subcontracts on projects up to that number.*

3.1 Does the Business Entity currently have uncompleted construction contracts? ☐ Yes ☐ No

*If "Yes," list all current uncompleted construction contracts by using Attachment B – Uncompleted Construction Contracts, found at [www.osc.state.ny.us/vendrep/documents/questionnaire/ac3295s.doc](http://www.osc.state.ny.us/vendrep/documents/questionnaire/ac3295s.doc).*

*Note: Ongoing projects must be included.*

### IV. INTEGRITY – CONTRACT BIDDING

***Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:***

4.0 Been suspended or debarred from any government contracting process or been disqualified on any government procurement? ☐ Yes ☐ No

4.1 Been subject to a denial or revocation of a government prequalification? ☐ Yes ☐ No

4.2 Had any bid rejected by a government entity for lack of qualifications, responsibility or because of the submission of an informal, non-responsive or incomplete bid? ☐ Yes ☐ No

4.3 Had a proposed subcontract rejected by a government entity for lack of qualifications, responsibility or because of the submission of an informal, non-responsive or incomplete bid? ☐ Yes ☐ No

4.4 Had a low bid rejected on a government contract for failure to make good faith efforts on any Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise goal or statutory affirmative action requirements on a previously held contract? ☐ Yes ☐ No

4.5 Agreed to a voluntary exclusion from bidding/contracting with a government entity? ☐ Yes ☐ No

4.6 Initiated a request to withdraw a bid submitted to a government entity or made any claim of an error on a bid submitted to a government entity? ☐ Yes ☐ No

*For each "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, project(s), relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.*

### V. INTEGRITY – CONTRACT AWARD

***Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:***

5.0 Defaulted on or been suspended, cancelled or terminated for cause on any contract? ☐ Yes ☐ No

5.1 Been subject to an administrative proceeding or civil action seeking specific performance or restitution (except any disputed work proceeding) in connection with any government contract? ☐ Yes ☐ No

5.2 Entered into a formal monitoring agreement, consent decree or stipulation settlement as specified by, or agreed to with, any government entity? ☐ Yes ☐ No

5.3 Had its surety called upon to complete any contract whether government or private sector? ☐ Yes ☐ No

5.4 Forfeited all or part of a standby letter of credit in connection with any government contract? ☐ Yes ☐ No

## NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT CONSTRUCTION (CCA-2)

### V. INTEGRITY – CONTRACT AWARD

***Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:***

*For each “Yes,” provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity/owners involved, project(s), contract number(s), relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.*

### VI. CERTIFICATIONS/LICENSES

***Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:***

- |  |  |
|--|--|
| 6.0 Had a revocation or <u>suspension</u> of any business or professional permit and/or license?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or a federal certification of <u>Disadvantaged Business Enterprise</u> status, for other than a change of ownership? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

*For each “Yes,” provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.*

### VII. LEGAL PROCEEDINGS/GOVERNMENT INVESTIGATIONS

***Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:***

- |  |  |
|--|--|
| 7.0 Been the subject of a criminal <u>investigation</u> , whether open or closed, or an indictment for any business-related conduct constituting a crime under local, state or <u>federal</u> law?   | <input type="checkbox"/> Yes <input type="checkbox"/> No   |
| 7.1 Been the subject of:<br>(i.) An indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime; or<br>(ii.) Any criminal <u>investigation</u> , felony indictment or conviction concerning the formation of, or any business association with, an allegedly false or fraudulent <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> , or a <u>Disadvantaged Business Enterprise</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No<br><br><input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.2 Received any <u>OSHA</u> citation, which resulted in a final determination classified as <u>serious</u> or <u>willful</u> ?  | <input type="checkbox"/> Yes <input type="checkbox"/> No   |
| 7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation?   | <input type="checkbox"/> Yes <input type="checkbox"/> No   |
| 7.4 Had a New York State Labor Law violation deemed willful?   | <input type="checkbox"/> Yes <input type="checkbox"/> No   |
| 7.5 Entered into a consent order with the New York State Department of Environmental Conservation, or a <u>federal</u> , state or local government enforcement determination involving a violation of <u>federal</u> , state or local environmental laws?  | <input type="checkbox"/> Yes <input type="checkbox"/> No   |

## NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT CONSTRUCTION (CCA-2)

### VII. LEGAL PROCEEDINGS/GOVERNMENT INVESTIGATIONS

***Within the past five (5) years, has the Business Entity, an affiliate, or any predecessor company or entity:***

<p>7.6 Other than previously disclosed, been the subject of any <u>citations</u>, notices or violation orders; a pending administrative hearing, proceeding or determination of a violation of:</p> <ul style="list-style-type: none"> <li>• <u>Federal</u>, state or local health laws, rules or regulations;</li> <li>• <u>Federal</u>, state or local environmental laws, rules or regulations;</li> <li>• Unemployment insurance or workers compensation coverage or <u>claim</u> requirements;</li> <li>• Any labor law or regulation, which was deemed willful;</li> <li>• Employee Retirement Income Security Act (ERISA);</li> <li>• <u>Federal</u>, state or local human rights laws;</li> <li>• <u>Federal</u>, state or local security laws?</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

*For each "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.*

*Note: Information regarding a determination or finding made in error, which was subsequently corrected or overturned, and/or was withdrawn by the issuing government entity, is not required.*

### VIII. LEADERSHIP INTEGRITY

***If the Business Entity is a Joint Venture Entity, answer "N/A - Not Applicable" to questions in this section.***

***Within the past five (5) years has any individual previously identified or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the Business Entity with any government entity been:***

<p>8.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<p>8.1 <u>Suspended</u>, <u>debarred</u> or <u>disqualified</u> from any <u>government contracting process</u>?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<p>8.2 The subject of a criminal <u>investigation</u>, whether open or closed, or an indictment for any business-related conduct constituting a crime under local, state or <u>federal</u> law?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<p>8.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a judgment for:</p> <ul style="list-style-type: none"> <li>(i.) Any business-related activity, including but not limited to fraud, coercion, extortion, bribe or bribe-receiving, giving or accepting unlawful gratuities, immigration or tax fraud, racketeering, mail fraud, wire fraud, price-fixing or collusive bidding; or</li> <li>(ii.) Any crime, whether or not business-related, the underlying conduct of which related to truthfulness, including but not limited to the filing of false documents or false sworn statements, perjury or larceny</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

*For each "Yes," provide an explanation of the issue(s), the individual involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer(s) below or attach additional sheets with numbered responses.*



## NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT CONSTRUCTION (CCA-2)

### IX. FINANCIAL AND ORGANIZATIONAL CAPACITY

9.0 Within the past five (5) years, has the Business Entity or any affiliate received any formal unsatisfactory performance assessment(s) from any government entity on any contract? ☐ Yes ☐ No

*If "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, the government entity involved, relevant dates, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.*

9.1 Within the past five (5) years, has the Business Entity or any affiliate had any liquidated damages assessed over \$25,000? ☐ Yes ☐ No

*If "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, relevant dates, the contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.*

9.2 Within the past five (5) years, has the Business Entity or any affiliate had any liens, claims or judgments over \$25,000 filed against the Business Entity which remain undischarged or were unsatisfied for more than 90 days? (Note: Including but not limited to tax warrants or liens. Do not include UCC filings.) ☐ Yes ☐ No

*If "Yes," provide an explanation of the issue(s), the Business Entity involved, the relationship to the submitting Business Entity, relevant dates, the Lien holder or Claimants' name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.*

9.3 In the last seven (7) years, has the Business Entity or any affiliate initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending? ☐ Yes ☐ No

*If "Yes," provide the Business Entity involved, the relationship to the submitting Business Entity, the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "Initiated," "Pending" or "Closed." Provide answer below or attach additional sheets with numbered responses.*

9.4 What is the Business Entity's Bonding Capacity?

a. Single Project

b. Aggregate (All Projects)

9.5 List Business Entity's Gross Sales for the previous three (3) Fiscal Years:

1st Year (Indicate year )  
Gross Sales

2nd Year (Indicate year )  
Gross Sales

3rd Year (Indicate year )  
Gross Sales

9.6 List Business Entity's Average Backlog for the previous three (3) fiscal years:  
(Estimated total value of uncompleted work on outstanding contracts)

1st Year (Indicate year )  
Amount

2nd Year (Indicate year )  
Amount

3rd Year (Indicate year )  
Amount

9.7 Attach Business Entity's most recent annual financial statement and accompanying notes or complete Attachment C – Financial Information, found at [www.osc.state.ny.us/vendrep/documents/questionnaire/ac3296s.xls](http://www.osc.state.ny.us/vendrep/documents/questionnaire/ac3296s.xls).  
(This information must be attached.)

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT CONSTRUCTION (CCA-2)**

**X. FREEDOM OF INFORMATION LAW (FOIL)**

10.0 Indicate whether any information provided herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL).

☐ Yes ☐ No

*Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL. Attach additional pages if necessary.*

*If "Yes," indicate the question number(s) and explain the basis for the claim.*

## NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT CONSTRUCTION (CCA-2)

### Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State government entities (including the Office of the State Comptroller (OSC)) in making responsibility determinations regarding award or approval of a contract or subcontract and that such government entities will rely on information disclosed in the questionnaire in making responsibility determinations; (2) acknowledges that the New York State government entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (3) acknowledges that intentional submission of false or misleading information may result in criminal penalties under State and/or Federal Law, as well as a finding of non-responsibility, contract suspension or contract termination.

#### The undersigned certifies that he/she:

- is knowledgeable about the submitting Business Entity's business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Business Entity's responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State government entities will rely on the information disclosed in the questionnaire when entering into a contract with the Business Entity; and
- is under an obligation to update the information provided herein to include any material changes to the Business Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State government entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Official \_\_\_\_\_

Printed Name of Signatory \_\_\_\_\_

Title \_\_\_\_\_

Name of Business \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;

\_\_\_\_\_ Notary Public

**Vendor Name:**

**NYS Vendor ID:**

**Question 3.0: List the ten most recent construction contracts the Business Entity has completed. If less than ten, include most recent subcontracts on projects up to that number:**

1.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
2.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
3.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
4.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
5.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable

**Vendor Name:**

**NYS Vendor ID:**

**Question 3.0: List the ten most recent construction contracts the Business Entity has completed. If less than ten, include most recent subcontracts on projects up to that number:**

6.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
7.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
8.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
9.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable
10.	Agency/Owner			Award Date	Amount	Date Completed
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer		
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable

**Vendor Name:**

**NYS Vendor ID:**

**Question 3.1: List all current uncompleted construction contracts:**

1.	Agency/Owner					Award Date		Completion Date		
	Contact Person			Telephone No.		Designer Architect and /or Design Engineer				
	Contract No.		Prime or Sub		Joint Venture (JV) Name, if applicable				EIN of JV, if applicable	
					Total Contract Amount		Amount Sublet to others		Uncompleted Amount	
2.	Agency/Owner					Award Date		Completion Date		
	Contact Person			Telephone No.		Designer Architect and /or Design Engineer				
	Contract No.		Prime or Sub		Joint Venture (JV) Name, if applicable				EIN of JV, if applicable	
					Total Contract Amount		Amount Sublet to others		Uncompleted Amount	
3.	Agency/Owner					Award Date		Completion Date		
	Contact Person			Telephone No.		Designer Architect and /or Design Engineer				
	Contract No.		Prime or Sub		Joint Venture (JV) Name, if applicable				EIN of JV, if applicable	
					Total Contract Amount		Amount Sublet to others		Uncompleted Amount	
4.	Agency/Owner					Award Date		Completion Date		
	Contact Person			Telephone No.		Designer Architect and /or Design Engineer				
	Contract No.		Prime or Sub		Joint Venture (JV) Name, if applicable				EIN of JV, if applicable	
					Total Contract Amount		Amount Sublet to others		Uncompleted Amount	

**Vendor Name:**

**NYS Vendor ID:**

**Question 3.1: List all current uncompleted construction contracts:**

5.	Agency/Owner					Award Date	Completion Date
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable	
			Total Contract Amount	Amount Sublet to others	Uncompleted Amount		
6.	Agency/Owner					Award Date	Completion Date
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable	
			Total Contract Amount	Amount Sublet to others	Uncompleted Amount		
7.	Agency/Owner					Award Date	Completion Date
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable	
			Total Contract Amount	Amount Sublet to others	Uncompleted Amount		
8.	Agency/Owner					Award Date	Completion Date
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer			
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable			EIN of JV, if applicable	
			Total Contract Amount	Amount Sublet to others	Uncompleted Amount		

**Vendor Name:**

**NYS Vendor ID:**

**Question 3.1: List all current uncompleted construction contracts:**

9.	Agency/Owner				Award Date		Completion Date	
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer				
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable				EIN of JV, if applicable	
				Total Contract Amount		Amount Sublet to others		Uncompleted Amount
10.	Agency/Owner				Award Date		Completion Date	
	Contact Person		Telephone No.	Designer Architect and /or Design Engineer				
	Contract No.	Prime or Sub	Joint Venture (JV) Name, if applicable				EIN of JV, if applicable	
				Total Contract Amount		Amount Sublet to others		Uncompleted Amount

<b>Grand Total All Uncompleted Contracts</b>		<b>\$0.00</b>
--	--	---------------



**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE**  
**ATTACHMENT C - FINANCIAL INFORMATION**

NYS Vendor ID: \_\_\_\_\_

As of Date: \_\_\_\_\_

**ASSETS**

Current Assets

1. Cash		\$	_____	-
2. Accounts receivable - less allowance for doubtful accounts	\$	_____	-	
Retainers included in accounts receivable	\$	_____	-	
Claims included in accounts receivable not yet approved or in litigation	\$	_____	-	
Total Accounts Receivable		\$	_____	-
3. Notes receivable - due within one year		\$	_____	-
4. Inventory - materials		\$	_____	-
5. Contract costs in excess of billings on uncompleted contracts		\$	_____	-
6. Accrued income receivable				
Interest	\$	_____	-	
Other (list) _____	\$	_____	-	
_____	\$	_____	-	
Total Accrued Income Receivable		\$	_____	-
7. Deposits				
Bid and Plan _____	\$	_____	-	
Other (list) _____	\$	_____	-	
_____	\$	_____	-	
Total Deposits		\$	_____	-
8. Prepaid Expenses				
Income Taxes	\$	_____	-	
Insurance	\$	_____	-	
Other (list) _____	\$	_____	-	
_____	\$	_____	-	
Total Prepaid Expenses		\$	_____	-
9. Other Current Assets				
Other (list) _____	\$	_____	-	
_____	\$	_____	-	
Total Other Current Assets		\$	_____	-
10. Total Current Assets				\$ _____ -
11. Investments				
Listed securities-present market value	\$	_____	-	
Unlisted securities-present value	\$	_____	-	
Total Investments				\$ _____ -

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE**  
**ATTACHMENT C - FINANCIAL INFORMATION**

NYS Vendor ID: \_\_\_\_\_

12. Fixed Assets

Land	\$	-	
Building and improvements	\$	-	
Leasehold improvements	\$	-	
Machinery and equipment	\$	-	
Automotive equipment	\$	-	
Office furniture and fixtures	\$	-	
Other (list) _____	\$	-	
_____	\$	-	
Total		\$	-
Less: Accumulated depreciation		\$	-
Total Fixed Assets - Net			\$ -

13. Other Assets

Loans receivable			
Officers	\$	-	
Employees	\$	-	
Shareholders	\$	-	
Cash surrender value of officers' life insurance	\$	-	
Organization expense – net of amortization	\$	-	
Notes receivable - due after one year	\$	-	
Other (list) _____	\$	-	
_____	\$	-	
Total Other Assets			\$ -

14. TOTAL ASSETS

\$ -  
\$ -

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE**  
**ATTACHMENT C - FINANCIAL INFORMATION**

NYS Vendor ID: \_\_\_\_\_

**LIABILITIES**

Current Liabilities

15. Accounts payable	\$	-
16 a. Loans from shareholders - due within one year	\$	-
16 b. Other Loans - due within one year	\$	-
17. Notes payable - due within one year	\$	-
18. Mortgage payable - due within one year	\$	-
19. Other payables - due within one year		
Other (list) _____	\$	-
_____	\$	-
_____		
Total Other Payables - due within one year	\$	-
20. Billings in excess of costs and estimated earnings	\$	-
21. Accrued expenses payable		
Salaries and wages	\$	-
Payroll taxes	\$	-
Employees' benefits	\$	-
Insurance	\$	-
Other	\$	-
Total Accrued Expenses Payable	\$	-
22. Dividends payable	\$	-
23. Income taxes payable		
State	\$	-
Federal	\$	-
Other	\$	-
Total Income Taxes Payable	\$	-
24. Total current liabilities	\$	-
25. Deferred income taxes payable		
State	\$	-
Federal	\$	-
Other	\$	-
Total Deferred Income Taxes	\$	-
26. Long Term Liabilities		
Loans from shareholders - due after one year	\$	-
Other Loans - due within one year		
Principle	\$	-
Interest	\$	-
Notes payable - due after one year	\$	-
Mortgage - due after one year	\$	-
Other payables - due after one year	\$	-
Other (list) _____	\$	-
_____	\$	-
Total Long Term Liabilities	\$	-

**NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE  
ATTACHMENT C - FINANCIAL INFORMATION**

NYS Vendor ID: \_\_\_\_\_

27. Other Liabilities

Other (list) _____	\$ _____
_____	\$ _____
_____	_____

Total Other Liabilities

\$ \_\_\_\_\_

28. TOTAL LIABILITIES

\$ \_\_\_\_\_

**NET WORTH**

29. Net Worth (if proprietorship or partnership)

\$ \_\_\_\_\_

30. Stockholders' Equity

Common stock issued and outstanding	\$ _____
-------------------------------------	----------

Preferred stock issued and outstanding	\$ _____
--	----------

Retained earnings	\$ _____
-------------------	----------

Total	\$ _____
-------	----------

Less: Treasury stock	\$ _____
----------------------	----------

31. TOTAL STOCKHOLDERS' EQUITY

\$ \_\_\_\_\_

32. TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY

\$ \_\_\_\_\_

# LPM

## CHAPTER 14

# ADVERTISEMENT, CONTRACT LETTING AND AWARD

## **CONTENTS**

<b><u>Section</u></b>	<b><u>Title</u></b>	<b><u>Page</u></b>
Appendices.....		3
14.1	INTRODUCTION.....	4
14.2	ADVERTISING.....	4
14.2.1	New York State Contract Reporter (NYSCR) .....	4
14.2.2	Instructions to Bidders Regarding Proposed DBE Participation.....	5
14.3	AMENDMENTS .....	5
14.4	BID LETTING AND BID ANALYSIS .....	6
14.4.1	Bidder Responsibility.....	6
14.4.2	Bid Analysis .....	7
14.4.3	Reasonableness Justification.....	8
14.4.4	Single Bid Analysis.....	9
14.4.5	Rejection of All Bids .....	9
14.4.6	Bidder Error.....	9
14.4.7	Move to Second Bidder .....	10
14.5	PRE-AWARD CIVIL RIGHTS RESPONSIBILITIES.....	10
14.5.1	Equitable Business Opportunities (EBO) .....	11
14.5.2	Good Faith Efforts (GFE) .....	12
14.6	BRIDGE CONSTRUCTION UNIT COST DATA (if applicable) .....	13
14.7	AWARD PACKAGE .....	14
14.8	CONTRACT AWARD.....	15
14.9	REFERENCES .....	16

**NOTE: This Chapter has associated appendices and forms which can be found at:**

**<https://www.dot.ny.gov/plafap>**

**Highlighted hyperlink words referenced throughout the Chapter are on the last page under REFERENCE, Web Addresses.**

## **Appendices**

### **Appendix**

- 14-1 BID OPENING, VERIFICATION, AND SPONSOR RECOMMENDATION LETTER**
- 14-2 BRIDGE CONSTRUCTION UNIT COST DATA**
- 14-3 LOCALLY ADMINISTERED FEDERAL AID PROJECT CONTRACT AWARD CHECKLIST**
- 14-4 TABULATION OF BIDS (SAMPLE)**
- 14-5 LETTING TO AWARD PROCESS FLOWCHART**
- 14-6 AFTER LETTING CHECKLIST FOR SPONSOR**
- 14-7 CONSTRUCTION ADVERTISEMENT CHECKLIST**
- 14-8 NOTICE TO BIDDERS – ADVERTISEMENT TO BID**
- 14-9 PROPOSED DBE COMMITMENT**

## 14.1 INTRODUCTION

This chapter describes the various phases of the contracting process including solicitation of bidders (advertising), bid opening, bid analysis to identify the lowest bidder, and contract award and documentation for locally administered federal aid transportation construction contracts. The Sponsor must have an approved *Construction Management Plan* (CMP) prior to contract award, appropriately revised to reflect project staffing and be signed by the NYSDOT Regional Local Project Liaison (RLPL), or appropriate designee (see Chapter 12, Section 12.2.2 and Appendix 12-3 of this manual).

The following federal regulations apply to **ALL** projects:

- *Advertising for bids and proposals* (**23 CFR 635.112**);
- *Method of Construction* (**23 CFR 635.104**);
- *Participation by Disadvantaged Business Enterprises in US Department of Transportation Financial Assistance Programs* (**49 CFR 26**); and
- *Equal Employment Opportunity (EEO) on Federal and Federal-Aid Construction Contracts (Including Supportive Services)* (**23 CFR 230**)

When a discrepancy exists between federal, state and municipal laws, rules and regulations, federal law prevails; with the exception when State and municipal laws, rules, and regulations may be stricter and therefore have precedence.

## 14.2 ADVERTISING

Advertising for all federal aid construction contracts must meet federal requirements and foster widespread competitive bidding. When the contract bid documents, including Plans, Specifications, and Estimate of quantities (PS&E), have been assembled, approved by the RLPL and the Sponsor receives Federal Authorization to Proceed<sup>1</sup> from the RLPL, the Sponsor is required to advertise the contract for bidding in accordance with **23 CFR 635.112**.

New York State requires the publication of the solicitation of bids for a construction contract to be advertised in [The New York State Contract Reporter](#) (NYSCR) for at least three weeks (15 business days) before the opening of the bids. Additionally, the Sponsor is encouraged to place additional advertisements in other appropriate publications (e.g. local newspapers, trade journals). The use of several forms of advertising publications will help avoid a single bidder, as well as, give more opportunities to fulfill both Disadvantaged Business Enterprises (DBE) and Equal Employment Opportunity (EEO) requirements. Advertising costs should be charged to the construction phase. A Construction Advertisement Checklist and a sample Notice to Bidder – Advertisement to Bid indicates the information to be included in an advertisement (see Appendix 14-7 and Appendix 14-8).

The advertisement must identify the EEO goals for women and minorities in every contract regardless of fund source. The advertisement must identify DBE contract goals (federal funds), if applicable. If a 0% DBE goal is established, NYSDOT strongly encourages the use of DBE contractors wherever possible. If the contract is state-funded (non-federal funds) the advertisement must identify Minority/Women-Owned Business Enterprise (M/WBE) goals.

### 14.2.1 New York State Contract Reporter (NYSCR)

The NYSCR is an exclusively online publication requiring electronic submission of advertising content. To comply with federal requirements, **all contracts with New York State** (including locally administered

<sup>1</sup> The Sponsor could forfeit federal reimbursement if the advertisement of a contract takes place before receiving a Notification to Proceed.



federal aid transportation projects) for the procurement of goods and services must be published in the NYSCR. There is no fee for advertising or for viewing ads on the site. Sponsors must be registered before submitting advertisements and may do so from the [NYSCR registration website](#).

Once a Sponsor is granted access, they will receive a password and instructions by email for the ad submission. The NYSCR can accept bid specification documents in Word, Excel, PowerPoint or PDF formats as attachments (up to 50 MB) to be published with the advertisement. When an advertisement is successfully submitted, an ad number is assigned. The Sponsor is notified via email of the issue in which the ad will appear. A confirmation page confirming the details of the submission can be printed. Additionally, the NYSCR can capture and provide in an Excel format, a list of registered users who viewed, bookmarked, opened bid documents or opted to receive bid update notifications for the advertisement, including their contact information. All information exchanges with the NYSCR (email confirmations, downloaded spreadsheets, screen captures of advertisements, etc.) should be printed and kept in the project file.

The NYSCR is published weekdays and new solicitations appear every morning. Any advertisement submitted successfully to the NYSCR on a given day appears the following business day. Advertisements submitted Friday, Saturday or Sunday appear on Monday, if it is not a legal holiday.

The earliest bid due date allowed in the ad insertion form shall be 15 business days (Monday-Friday) after the advertisement is published. The insertion, publication, and earliest due dates can be calculated by using the Publication Calculator Tool on the NYSCR's website. If an earlier bid due date becomes necessary, the Sponsor must get approval from the RLPL, with help from the NYSCR, which can be sought through the [Contact Us](#).

As noted previously, any questions or requests for assistance can be made online through the **Contact Us** link or by calling Empire State Development, Procurement Assistance Services/NYSCR at (518) 292-5266.

Contracts to be awarded on a sole source<sup>2</sup> or single source<sup>3</sup> basis must have prior approval from the Main Office Local Programs Bureau (LPB). If approved, they will also need to be advertised.

#### **14.2.2 Instructions to Bidders Regarding Proposed DBE Participation**

Revision to ***NYSDOT Standard Specification Section 102-12***, participation indicates that the bidder shall submit DBE commitments with its proposal, including DBE name, address, work category, a brief description of work, and estimated commitment amount. To assist the Sponsor with collecting this information, see Appendix 14-9, Proposed DBE Commitment. (This form will be moved to Chapter 12 in the future.)

#### **14.3 AMENDMENTS**

An amendment is a formal modification of a proposed contract, issued after the advertisement publication date, and prior to the opening of bids. The Sponsor **shall have a process in place** to ensure all plan holders and NYSDOT receive amendments when issued. The following should be considered when a Sponsor is contemplating amending a contract:

<sup>2</sup> Sole source is a situation in which only one contractor can supply the goods or services.

<sup>3</sup> Single source is when two or more contractors can supply the goods or services, but one is selected over the others because of distinguishable expertise, previous experience with similar contracts, etc.

- If significant changes to the scope or scale are necessary, **the Sponsor should seek advice from the RLPL (changes may require FHWA approval if the project is on the NHS or a Project of Division Interest)**. If the changes are not allowed or appropriate to be incorporated by amendment the Sponsor should cancel the advertisement, redesign the project and then re-let the project.
- An amendment should be issued when the following errors are discovered:
  - a. Any contract pay item quantity change of  $\pm 20\%$  in Engineer's Estimate.
  - b. Any contract pay item quantity change, multiplied by the estimated unit price (or change in a lump sum item), which alters the total engineer's estimate by more than  $\pm 1\%$ .
  - c. DBE goal incorrectly stated in the contract.
  - d. EEO goals incorrectly stated in the contract.

#### 14.4 BID LETTING AND BID ANALYSIS

Per **23 CFR 635.113(a)**, *"All bids received in accordance with the terms of the advertisement shall be publicly opened and announced either item by item or by total amount. If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the letting."*

If the proposal includes alternate bidding procedures, the contract budget and alternate bidding award procedures must be declared before opening bids and the announcement of the apparent low bidder (see Section 12.5.9). After all bid totals have been read aloud, the apparent low bidder is announced, and all bidders informed that award is pending a complete bid analysis including mathematical verification and affirmation that the low bidder is responsible. The Bid Analysis shall be concluded, and Contract Award shall be made within 45 days as noted in **New York State Finance Law Section 140** and **NYS General Municipal Law Section 105**. If the award is not completed within 45 days, the contractor may withdraw their bid from consideration.

Negotiation with any bidder (i.e., adjusting quantities, changing unit prices, adding and subtracting work, etc.) before contract award is prohibited per **23 CFR 635.113(a)**.

##### 14.4.1 Bidder Responsibility

For all federal aid contracts, determination of whether or not a business entity is a "responsible bidder" is made using the guidelines established by **9 NYCRR 4.170** whereby a contractor/vendor may be deemed "not responsible".

The following must be verified as part of the bidder responsibility review by the Sponsor:

- For all contracts, the *New York State Uniform Contracting Questionnaire* (CCA-2) is used in the qualification of an entity as a "responsible bidder."
  - The NYSDOT Contract Management Bureau is responsible for reviewing and approving the CCA-2 questionnaire. After the low bidder is determined, the Sponsor should contact the RLPL as soon as possible to see if a CCA-2 is on file for the bidder. If not, a questionnaire shall be completed by the low bidder and submitted to the Contract Management Bureau as instructed. A link to the CCA-2 questionnaire is on NYSDOT's [website](#). Similar checks must be conducted on subcontractors (see LPM Chapter 15). RLPLs should access the "AASHTOWare Project Preconstruction" database to confirm that a vendor (contractor and subcontractors) has an approved CCA-2 on file.
- The United States General Services Administration's [List of Debarred, Suspended, or Voluntarily Excluded Firms Ineligible for Federal Aid](#).
- NYS Department of Labor's monthly [List of Employers Ineligible to Bid on or be Awarded any Public Work Contract](#).

- NYS Department of State's [Corporation/Business Entity Database](#) to ensure that Corporations, Professional Corporations, Limited Liability Companies, and Limited Liability Partnerships have the proper authority to conduct business in New York State.
  - The Sponsor should print out the result of their search of the above databases and keep in the project files. Acknowledgment of certification is noted in the "Bid Opening, Verification and Sponsor Recommendation" letter (Appendix 14-1) to be provided with the Award Package as noted in Section 14.7.
- Office of Safety and Health Administration (OSHA) website for [safety violations for a given firm](#).
  - In the event, there is an OSHA violation against the low bidder, it should not be an automatic disqualification. Provide a discussion indicating the violation, if it has been addressed or is being addressed as a statement to be provided with the Award Package as noted in Section 14.7.

#### 14.4.2 Bid Analysis

The Sponsor must conduct a bid analysis to ensure that the apparent low bid is responsible and reasonable and that the contract award will best promote the public interest. The preparation of a Tabulation of Bids (see Appendix 14-4) should be completed to include all bidders. A bid analysis generally consists of a comparative review between the Engineer's Estimate and the apparent low bidder's bid to determine if item quantities and prices are accurate and if assumptions made during the estimate process were valid. Information relative to the other bidders in the Tabulation of Bids is of value during the bid analysis if significant variations become apparent between the apparent low bid and the Engineer's Estimate.

The following steps must be performed for each contract as part of the bid analysis:

1. Review the bid items that are 25% over or under the Engineer's Estimate and look for potential errors.

A significant difference between the Engineer's Estimate and the total contract or item bid price by the apparent low bidder may indicate issues with commodity prices or regional work volume in the construction market. The distribution of bidders may indicate market conditions and competition relative to an individual project. A low total contract bid price by a bidder relative to other bidders closer to the Engineer's Estimate may suggest a misinterpretation of the bid documents by the Low Bidder; or simply that the Low Bidder has limited work and is bidding work closer to cost.

Evaluate items with high bid costs to determine if there is an omission or error in the plans or specifications. If something unusual is found, review the quantity to determine if there is a possibility there is an error in the quantity or in the unit price used in the Engineer's Estimate. If the item appears to be in question, contact the Project Designer/Engineer of Record.

Evaluate high bid items where the quantity is relatively small, the item may be a low productivity item and may, therefore, cost more than a typical weighted average or estimated price. The item should be compared with the other bidder's prices and if it still seems unusual, further analysis is necessary.

Note circumstances where quantity changes could affect the ranking of the bidders if corrections/changes are made to the quantities. If post-award changes are anticipated that would change the ranking of the bidders, it should be recommended that all bids be rejected.

2. Evaluate bids with significant variations from the Engineer's Estimate, among the bidders, or noted in Step 1, review the items having the largest dollar amount differential for jobs with overall bids 15% higher or lower than the Engineer's Estimate. Include in the review, the analysis of the B

portion of an A+B Contract when the difference is more than 50%. For contracts with multiple B time periods, evaluate any B time period that is more than 50% below the Engineer's Estimate.

Determine if any bid prices are obviously unbalanced to the potential detriment of the Sponsor and contract execution. (For example, if the obviously unbalanced bid prices are all for items which will occur at the beginning of the contract, and the Contractor defaulted, the Sponsor may be in a difficult position to recover payments made.) Base the analysis on verification of quantities, discussions with the apparent low bidder about whether the general location of the contract is convenient for the apparent low bidder and whether the apparent low bidder will ultimately yield the lowest cost.

Any discussion with the apparent low bidder during procurement is subject to [New York State Procurement Guidelines](#), as stated in Article 11 of New York State Finance Law. Negotiations with contractors, during the period following the opening of bids and before the award of the contract, shall not be permitted per **23 CFR 635.113(a)**. Discussions should be factual without discussion of the other bids or the Sponsor's contract award intentions. Contacting the apparent low bidder should not be a routine practice. If the low bidder cannot justify the unbalanced item(s), the contract should be considered for rejection. It may be very difficult to justify the removal of the low bidder with a recommendation to award to the second bidder if items are not significantly unbalanced. Once an award recommendation is reached, detailed justification must be provided to the RLPL. Though the bid may not be desirable, it may be acceptable.

When the Sponsor has some objection to the apparent low bidder or needs more time to evaluate qualifications of the apparent low bidder, the RLPL must be notified as soon as possible of the objection with a summary of the justifiable reasons. The RLPL will then notify the NYSDOT MO-Local Programs Bureau ([MO-LocalProgramsBureau@dot.ny.gov](mailto:MO-LocalProgramsBureau@dot.ny.gov)). If the Sponsor has concerns with an apparent low bidder, documentation supporting the concerns should be provided to NYSDOT.

#### 14.4.3 Reasonableness Justification

When the apparent low bid is more than 15% higher or lower than the Engineers Estimate a reasonable justification is to be included in the bid analysis. Where the bid is 15% higher, the justification should focus on notable differences between the low bid and Engineer's Estimate for specific items and should discuss the apparent reasons such differences exist and any inherent risks. Where lower, the justification should focus on the experience of the apparent low bidder and its ability to complete the contract according to **9 NYCRR 4.170**. If it is determined that changes to the Engineer's Estimate would be appropriate based on bid analysis findings, provide descriptions of the revisions to prices for each item that is revised and a revised total of the Engineer's Estimate. All revision descriptions must include dollar amounts and not general statements.

A reasonableness justification shall include all of the following:

1. Consider the structural assessment review performed by the structural designer, if applicable. Justify if the determination does not coincide with the "recommendation to award" by the structural designer.
2. Determine whether the contract can be divided into smaller segments or stages of construction, combined with work in a larger contract, or if there are changes in the contract requirements that can be made to reduce the cost of work or produce more competition.
3. Determine whether a contract is essential and whether the delay resulting from canceling and re-letting would not be in the best public interest. Contracts considered essential include, but are not

necessarily limited to safety contracts, which are to correct hazardous conditions to the traveling public, emergency repairs or replacement of damaged facilities.

4. Determine whether a timely award is required to complete staged construction, order materials, coordinate with and to allow other contracts (including other governmental and private contracts) to proceed, meet commitments made by the Sponsor, or to complete a facility in its entirety.
5. Determine if a delay would result in a substantial impact on the contract completion date or extend the contract beyond the contract completion date, over the winter and into the next construction season, thereby increasing the contract cost.
6. Determine whether the general location of the contract is saturated with similar types of construction contracts, thus tending to reduce competition.
7. Determine whether a shortage of construction labor, equipment or specialty capability and experience exists in the contract area, resulting in a general increase in bid prices.
8. Make a recommendation as to whether to award the contract.

#### 14.4.4 Single Bid Analysis

For all contracts where only one bid has been received, the Sponsor should ascertain the potential for increased bidding if the contract were rebid, by examining the list of plan buyers for other potential bidders. Potential bidders should be contacted for their reasons for not bidding. Based on such discussion, determine whether revisions to the contract requirements could result in lower bids through increased competition or clarification of ambiguities. The Sponsor should determine whether the contract is essential and the potential for increased bidding if the contract were to be rebid. The Sponsor will provide the RLPL with the analysis and their determination on how they plan to proceed. The RLPL will review the analysis and provide the Sponsor with an acknowledgment and what steps are necessary. If the Sponsor has proposed to rebid the project, then the RLPL will acknowledge indicating that the Sponsor will need to provide a modified contract bid documents as outlined in Chapter 12 of the LPM before receiving authorization to re-advertise the project. If the Sponsor has proposed to not rebid based on their analysis and concurrence with the RLPL, the Sponsor will proceed with the award process.

#### 14.4.5 Rejection of All Bids

It may be necessary to reject all bids. Reasons to reject all bids are:

- inadequate competition due to a limited number of bidders;
- high bids due to unclear requirements;
- bids where additional costs could not be justified; or
- other circumstances such as permits not being received.

A written discussion provided to the RLPL should include reasons why the Sponsor believes that they will receive better bids if the contract is re-let, or what changes will be made to secure more competitive bid prices, such as the bidding environment or time of the year when the job will be let. If after consultation and written concurrence with NYSDOT, all bids are rejected by the Sponsor, the Sponsor must notify ***all bidders***.

#### 14.4.6 Bidder Error

Occasionally a bidder will inadvertently err so severely that it is not reasonable to expect contract fulfillment. ***General Municipal Law 103(11)*** ("Advertising for bids; letting of contracts; criminal

conspiracies”) sets forth requirements to excuse a bidder for an error in bidding and to proceed to the next lowest responsible bidder:

*Bid mistake; public projects. (a) In all contracts governed by this section, where a unilateral error or mistake is discovered in a bid, such bid may be withdrawn after a showing of the following: (1) the mistake is known or made known to the awarding officer, board or agency prior to the awarding of the contract or within three days after the opening of the bid, whichever period is shorter; and (2) the price bid was based on an error of such magnitude that enforcement would be unconscionable; and (3) the bid was submitted in good faith and the bidder submits credible evidence that the mistake was a clerical error as opposed to a judgment error; and (4) the error in the bid is actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, material, goods or services made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work paper, documents or materials used in the preparation of the bid sought to be withdrawn; and (5) it is possible to place the public agency, board, officer or subdivision in status quo ante. (b) Unless otherwise required by law, the sole remedy for a bid mistake in accordance with this section shall be withdrawal of that bid and the return of the bid bond or other security, if any, to the bidder. Thereafter, the awarding officer, board or agency may, in its discretion, award the contract to the next lowest responsible bidder or rebid the contract. Any amendment to or reformation of a bid or a contract to rectify such an error or mistake therein is strictly prohibited.*

#### **14.4.7 Move to Second Bidder**

On occasion, the Sponsor will proceed to the Second Bidder. These occasions are:

- Bidder Error as noted in Section 14.4.6.
- Verified documentation determining that the apparent low bidder is not a ‘responsible bidder’.
- Documented justification of objection to the apparent low bidder by Sponsor.
- Failure of the apparent low bidder to provide adequate and timely documentation to a Good Faith Effort.
- Failure of the apparent low bidder to provide adequate justification to a significantly unbalanced bid proposal.

If the Sponsor moves to the apparent second low bidder, the Sponsor must complete the bidder responsibility and analysis (Sections 14.4.1 thru. 14.4.1.3) for the second bidder. Documentation concurring with the move to the second bidder should be provided with the Award package.

#### **14.5 PRE-AWARD CIVIL RIGHTS RESPONSIBILITIES**

The Sponsor must monitor and report on the contract’s DBE participation. There are three distinct stages of DBE participation: goals, commitments, and attainments. Goals are established prior to letting in the contract documents as a percentage of the contract bid price. After contract letting, the goal is expressed as a dollar amount. During the pre-award process, the apparent low bidder provided their agreed-upon DBE commitment as a dollar amount. After the contract award, attainment is measured after completion of the work in dollars paid to certified DBEs.

To comply with Federal Aid Civil Rights requirements, NYSDOT utilizes the Civil Rights monitoring and reporting software, Equitable Business Opportunities Solutions (EBO). It is the Sponsor’s responsibility during pre-award to confirm that the apparent low bidder has committed to meeting the DBE participation goal or has demonstrated good faith efforts to do so. If the apparent low bidder has not met the goal, review of good faith efforts (GFE) and concurrence from the RLPL and NYSDOT’s Main Office Local Programs Bureau is required. If the apparent low bidder fails to provide DBE commitment or provide a GFE pre-award, the Sponsor can move to the second low bidder.



Sponsors should note that in accordance with ***NYSDOT Standard Specifications 105-21*** (Civil Rights Monitoring and Reporting), the Contractor must submit timely, accurate and complete data using EBO.

#### **14.5.1 Equitable Business Opportunities (EBO)**

Project entry into EBO is required during pre-award once the low bidder has been identified. The following steps are to be completed before the submittal of the Award Package to the RLPL and **before** award of the contract:

1. After the identification of the apparent low bidder, the Sponsor will immediately submit the "Contract Template" (contract's items, quantities, low bid prices, and apparent low bidder information) to the RLPL, utilizing the "[FA DBE EBO Template Construction](#)" and confirm the correct Units of Measure for a seamless upload into the Civil Rights reporting software, EBO.
2. The RLPL will perform a Quality Assurance review on the Template to determine if the header information has been completed and that the units of measure being used are correct. If there are errors, the RLPL will return the template to the Sponsor for correction. The RLPL will submit the completed Template to [localprograms.ebo@dot.ny.gov](mailto:localprograms.ebo@dot.ny.gov) for upload into EBO.
3. Main Office Local Programs Bureau will notify the RLPL; who will then notify the Sponsor that the Template has been successfully loaded into EBO.
4. The Sponsor will notify the apparent low bidder that the contract has been initialized in EBO.
5. The low bidder must enter their complete DBE participation package in EBO within 5 (five) calendar days from the date of the **bid opening**, or risk having their bid declared non-responsive.
6. The Sponsor and RLPL must review the pre-award participation data in EBO to confirm that the DBE goal is met.
7. If the DBE goal is not met, the low bidder must provide documentation of Good Faith Efforts (GFE) to the Sponsor. The Sponsor will forward copies and any other additional information, to the RLPL for concurrence with NYSDOT's Main Office of Civil Rights as detailed in section 14.5.2 titled "Good Faith Efforts (GFE)."

The following pre-award participation data in EBO must be reviewed for completeness and accuracy by the Sponsor:

- All proposed DBEs are listed in the New York State Unified Certification Program (UCP) Directory located at <https://nysucp.newnycontracts.com/>.
- All proposed DBEs are listed in the UCP Directory to perform the work that they are being proposed to perform (NOTE: If there are no NYSDOT Work codes indicated on the DBE's Certification, if NYSDOT work codes do not match the contract pay items, or if they are not being used, then the NAICS codes should be reviewed against the proposed work.)
- All proposed DBE participation is identified with the correct work type such as construction, material supplier, professional services, etc.
- A completed *AAP22 DBE Material Supplier Commitment Information* form is submitted for each proposed DBE material supplier as part of the award package; this form can be found at [NYSDOT's Office of Construction - Forms](#). Information should be entered into EBO.
- A completed *AAP23 DBE Trucking Commitment Information* form is submitted for each proposed DBE trucking firm as part of the award package; this form can be found at the above website. Information should be entered into EBO.
- All proposed trucking utilization is supported by trucking data entered in EBO.
- All partial items are explained in writing and submitted to RLPL.

- All proposed DBEs acknowledged their respective proposed participation in EBO.

#### 14.5.2 Good Faith Efforts (GFE)

If the apparent low bidder does not meet the DBE goal, the apparent low bidder must document that it conducted adequate Good Faith Efforts (GFE) to achieve the goal.

Once the apparent low bidder has supplied the GFE documentation, the Sponsor will forward copies and any other additional information, to the RLPL for concurrence by NYSDOT's Main Office of Civil Rights. Once NYSDOT's review is complete and the Sponsor notified, the Sponsor shall approve the pre-award DBE participation in EBO and will proceed with its award process.

**The Sponsor shall not award the project to the apparent low bidder until concurrence is received from NYSDOT of both the GFE and Award Package.** Notice to Proceed issued by the Sponsor to the apparent low bidder prior to NYSDOT issuing Authorization to Proceed without NYSDOT review and concurrence may result in a loss of federal aid.

The apparent low bidder should provide a comprehensive GFE package to the Sponsor. The GFE supporting documentation includes, but is not limited to, the following:

- *Form AAP-10 D/M/WBE Solicitation Log* this form can be found at [NYSDOT's Office of Construction - Forms](#).
- Copies of correspondence, faxes, and e-mails sent to prospective DBEs;
- Copies of advertisements (e.g., newspaper ads);
- Copies of quotes from non-selected DBEs as well as quotes from the selected non-DBEs.

At a minimum, the Sponsor should perform the following analysis for GFE and provide a summary when transmitting to the RLPL:

- Check the DBE certification status of each firm contacted.
- If the firm cannot be found in the UCP Directory, confirm the certification status with the certifying agency responsible for the firm. Never accept copies, faxes, or scans of certification letters.

Compare the work in the contract against:

- Work for which DBEs were solicited.
- Work that the DBEs are listed to perform.
- Compare the location of each DBE firm to ensure an exhaustive search was performed for each item, within an appropriate radius of the project in accordance with NYSDOT Standard Specification §102-12(G).
- Identify available participation opportunities and compare them against the type of work solicited.
- Ensure all types of DBE firms were solicited including, material supply, manufacturing, fabrication, professional services, etc.
- Cross-reference letters, faxes, AAP-10, etc.

Compare the DBE's price against:

- Engineer's Estimate;
- Bid price;
- [Weighted Average Item Price Report data](#);
- Where does the DBE's price fall in comparison to all the above;
- Contact a sample of the firms listed on the AAP-10 to verify solicitation effort stated in the solicitation log and other documents:
  - When contacted;



- By whom;
- By what method(s);
- How many times;
- For what work;
- Was quote/bid submitted;
- Were plans provided/made available – how and when?
- Low bidder's follow-through;
- Compare all efforts against Appendix A, Standard Clauses for NYS Contracts to **49 CFR 26**.

The Sponsor should discuss any document deficiencies with the apparent low bidder. If the Sponsor is satisfied, the documentation is provided to the RLPL for concurrence with the Office of Civil Rights.

If the Sponsor determines that the low bidder did not conduct adequate GFE, it should present its recommendation with this analysis and supporting documentation to its management as well as to the RLPL in a narrative which should include:

- State the specific non-compliance actions.
- Cite the specification and regulation for each non-compliance action or class of actions.
- Provide calculations of the amount achieved toward the DBE goal and the difference.
- Provide an analysis of the feasibility of the DBE goal.
- Provide a timeline or chronology of events.
- Calculations of the difference between the first and second low bidders.
- Any other relevant information.

The Sponsor must follow its administrative process and document its steps and actions. If it is determined that the low bidder did not conduct adequate GFE, the Sponsor may disqualify the low bidder and request from the RLPL concurrence to award to the second low bidder who has successfully met the DBE goal or has submitted sufficient GFE.

The DBE goal is in effect for the duration of the contract. If the DBE goal is not met at the time of award and was awarded based on a GFE, then the **Sponsor** must ensure Good Faith Efforts are made throughout the life of the contract. The contractor will be required to continue to solicit DBE firms for participation in the contract and document those efforts. The Sponsor will continue collecting the additional GFE documentation from the contractor throughout the duration of the contract, or until the DBE goal is met.

The DBE Attainment Report from EBO shall be submitted with the Sponsor's request(s) for reimbursement. See LPM Chapter 5 for reimbursement instructions.

#### **14.6 BRIDGE CONSTRUCTION UNIT COST DATA (if applicable)**

Annually, all states are required to submit to FHWA bridge construction unit costs for all new and replacement bridges constructed using any federal funds. The FHWA requirement does not pertain to bridge rehabilitations, superstructure replacements, or pedestrian bridges.

The Sponsor must provide to the RLPL an itemized bridge share of the construction costs (as submitted by the successful bidder). A separate itemized share is required for each bridge, and only bridge items shall be included. The Engineer's Estimate and other bidder's unit costs should not be included. This data must be provided to NYSDOT when the contract is awarded.

The Bridge Construction Unit Cost Datasheet (see Appendix 14-2 for a sample) must be provided to the RLPL, who forwards them to NYSDOT's Main Office. The collected data is provided to FHWA for their program analysis.

## 14.7 AWARD PACKAGE

NYSDOT delegated oversight authority by FHWA, is responsible for the construction of all Federal-aid projects. When the project is not on the NHS or State Highway System, NYSDOT is not relieved of overall project responsibility, thus the Sponsor must submit a Contract Award Package to the RLPL requesting a Concurrence in Award letter.

The following items are to be included in the Contract Award Package (see Appendix 14-3 for the Contract Award Checklist):

- Bid Opening, Verification, and Sponsor Recommendation Letter (see Appendix 14-1) and attachments.
- Proof of Advertising which consists of the ad from the Contract Reporter, local newspaper, and copies of any other advertisements placed, whether in hard copy or electronic media. (see section 14.2 – “Advertising”).
- Copy of all amendments issued:
  - Amendments distribution records showing that all amendments were sent to all plan buyers.
  - A record showing receipt of amendments by plan holders/bidders.
- A list of plan holders.
- Copy of notarized and signed proposal of the verified apparent low bidder.
- Copy of Certificate of Insurances – Workers Compensation and Disability Benefits (see Chapter 12.3.8).
- Copy of bond and/or bid deposit.
- Signed Non-Collusive Bidding Certification (see Appendix 12-1.14).
- Signed Disclosure of Lobbying Activities Forms (see Appendix 12-1.7).
- Copy of the confirmation of an approved CCA-2 *New York State Uniform Contracting Questionnaire*.
- Certification of apparent low bidder responsibility (see Section 14.4.1 – “Bidder Responsibility”).
- Bid analysis completed by Sponsor (see Section 14.4.2).
- Description from the Sponsor concerning how it intends to inspect and provide QA/QC, as noted in the approved CMP.
- Bridge Construction Unit Cost Data (required for all projects with new or replacement bridges, (see Appendix 14-2).
- Documentation demonstrating that the low bidder met their responsibility for Equal Employment Opportunity (EEO) participation (AAP33 from EBO).
- DBE participation – EBO utilized and DBEs have acknowledged work. The Concurrence of proposed DBE participation by the RLPL prior to award.
- GFE documentation, if the DBE goal appears - the Sponsor **cannot award** the contract until NYSDOT's Office of Civil Rights concurs with the GFE.
- DBE trucking information in EBO if trucking is utilized from EBO.
- DBE Material Supplier Commitment Information (AAP22), if DBE material suppliers are utilized.
- DBE Trucking Commitment Information (AAP23), if DBE trucking firms are utilized
- Identification of Affirmative Action Representatives in EBO (not required for suppliers)

- Documentation demonstrating that the low bidder met their responsibility for DBE participation when goals were established. See [NYSDOT Contract Administration Manual \(CAM\) §102-12](#) and Chapter 13 Civil Rights Requirements.

Sponsors must submit the Award Package for review prior to the award of the contract in order for the RLPL to conduct their review. RLPL will review and issue a Concurrence in Award letter when all questions and comments have been addressed.

#### **14.8 CONTRACT AWARD**

Federal aid contracts shall be awarded only based on the lowest responsive bid submitted by a bidder meeting the criteria of responsibility established by NYSDOT, in accordance with “Licensing and qualification of contractors per **23 CFR 635.114(a)**. If the award is not completed within 45 days, the contractor may withdraw their bid from consideration as noted in **140 of the State Finance Law** and **Section 105 NYS General Municipal Law**.

The Sponsor must certify in writing that all items in the award documentation package have been addressed and request a Concurrence in Award letter from the RLPL. In support of the Sponsor’s request, the Sponsor must summarize the results of their bid analysis and highlight any irregularities that may have been identified using the Tabulation of Bids (see Appendix 14-5). The summary must include the bid tabulations of the project, showing bid item details for at least the low three acceptable bids and the total amounts of all other acceptable bids. After receiving the Concurrence in Award letter from the RLPL, the Sponsor may award the contract, provide notification of the award to the RLPL, and schedule a Pre-Construction Kick-off meeting to which the RLPL needs to attend.

For projects on the NHS System, Sponsors must contact the RLPL for additional requirements. See [PDM Chapter 4, Table 4-3](#). Concurrence in the award is a prerequisite to federal participation in construction costs and, unless specifically stated otherwise, constitutes authority to proceed with construction **23 CFR 635.114(b)**. The Concurrence in Award Letter must be retained as part of the project record by both the Sponsor and the RLPL.

## 14.9 REFERENCES

### Federal Regulations

[23 CFR 230](#) Subpart A—Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supportive Services)  
[23 CFR 635.104](#) Method of Construction  
[23 CFR 635.105](#) Supervising agency (NYSDOT)  
[23 CFR 635.112](#) Advertising for bids and proposals  
[23 CFR 635.113\(a\)](#) Bid opening and bid tabulations  
[23 CFR 635.114\(a\)\(b\)](#) Award of contract and concurrence in award  
[49 CFR 26](#) Participation by Disadvantaged Business Enterprises (DBEs)

### State Laws, Regulations, and Guidance

[9 NYCRR 4.170](#) Establishing Uniform Guidelines for Determining the Responsibility of Bidders  
[NYS Finance Law – Section 140](#) Disposition of deposit accompanying bid  
[NYS General Municipal Law, Section 103, Subdivision 11](#) Advertising for bids and offers; letting of contracts; criminal conspiracies  
[NYS General Municipal Law Section 105](#) Disposition of deposit accompanying bid  
[NYS Procurement Guidelines](#)  
[NYSDOT Civil Rights Forms – Not in Equitable Business Opportunities \(EBO\)](#)  
[NYSDOT Contract Administration Manual §102-12](#)  
[NYSDOT Office of Construction - Forms](#)  
[NYSDOT Standard Specifications §101-02](#)  
[NYSDOT Standard Specifications §102-12](#)  
[NYSDOT Standard Specifications §105-21](#)  
[PDM Chapter 4, Table 4-3](#)

### Web addresses

Corporation/Business Entity Database  
<https://www.dos.ny.gov/corps/>  
List of Debarred, Suspended, or Voluntarily Excluded Firms Ineligible for Federal Aid  
[https://uscontractorregistration.com/?qclid=EAlaIQobChMIqsz--LHv2wIVVImGCh2qug\\_pEAYASAAEgLB-fD\\_BwE](https://uscontractorregistration.com/?qclid=EAlaIQobChMIqsz--LHv2wIVVImGCh2qug_pEAYASAAEgLB-fD_BwE)  
List of Employers Ineligible to Bid on or be Awarded any Public Work Contract  
<https://apps.labor.ny.gov/EDList/searchPage.do>  
NYSCR Contract Us  
<https://www.nyscr.ny.gov/contactUs.cfm>  
NYSCR Registration  
<https://www.nyscr.ny.gov/register.cfm>  
New York State Unified Certification Program (UCP) Directory  
<https://nysucp.newnycontracts.com/>  
Office of Safety and Health Administration (OSHA)  
<https://www.osha.gov/pls/imis/establishment.html>  
The New York State Contract Reporter  
<https://www.nyscr.ny.gov/>  
Weighted Average Item Price Report data  
<https://www.dot.ny.gov/divisions/engineering/design/dqab/waipr>

# LPM

## APPENDICES

### CHAPTER 14

## CONTENTS

<u>Appendix</u>	<u>Page</u>
14-1 BID OPENING, VERIFICATION AND SPONSOR RECOMMENDATION LETTER	3
14-2 BRIDGE CONSTRUCTION UNIT COST DATA	5
14-3 LOCALLY ADMINISTERED FEDERAL AID PROJECT CONTRACT AWARD CHECKLIST	6
14-4 TABULATION OF BIDS (SAMPLE)	10
14-5 LETTING TO AWARD PROCESS FLOW CHART	11
14-6 AFTER LETTING CHECKLIST FOR SPONSOR	12
14-7 CONSTRUCTION ADVERTISEMENT CHECKLIST	14
14-8 NOTICE TO BIDDERS-ADVERTISEMENT TO BID	15
14-9 PROPOSED DBE COMMITMENT	17

**Appendix 14-1**  
**BID OPENING, VERIFICATION AND SPONSOR RECOMMENDATION LETTER**  
**Support for Concurrence in Award**

(Sponsor's Letterhead)

[DATE]

[RLPL NAME]

[RLPL ADDRESS]

**RE: AWARD DOCUMENTATION**  
**[PIN, PROJECT NAME]**  
**BID OPENING, ANALYSIS, CERTIFICATION, AND RECOMMENDATION**

Dear [RLPL Name]:

In accordance with Chapter 14 of NYSDOT's Local Projects Manual (LPM), the [Sponsor] has advertised, accepted bids, and completed the award process for the construction contract for the above-referenced locally administered federal aid project including:

- Advertised, at least 15 business days before the bid opening in the NYS Contract Reporter;
- Indicated the Disadvantaged Business Enterprise (DBE) [ or Minority/Women Business Enterprise (M/WBE)] goals in the ad;
- Opened bids and read them aloud in a public forum in accordance with standard competitive bidding procedures and requirements;
- Mathematically verified bids and determined if bids are responsive;
- Provided a tabulation of all bids received at a public bid opening (attached);
- Determined low bidder and, if applicable, the low bidder in accordance with approved alternate bidding procedures, if used;
- Evaluated responsibility of the low bidder in accordance with Section 14.4.1 of the LPM;
- Analyzed bids in accordance with Section 14.4.2 of the LPM (attached);
- Evaluated and ensured appropriate DBE [ or M/WBE] participation by DBE [ or M/WBE] firms listed on NYSDOT registry prior to award;
- Completed all outstanding items, if any, which were incomplete at the time Authorization to Proceed with Advertisement was issued (Right-of-Way, permits, Construction Management Plan, etc.);
- Submitted the Contract Award Documentation Package with the checklist, described in Section 14.7 of the LPM to the RLPL;
- All environmental permits and approvals have been secured except those identified in the contract documents as needing to be obtained and secured by the contractor;
- Justification for rejection of all bids (if applicable);

**AWARD DOCUMENTATION****-2-****[PIN]**

The following information is provided:

- Project authorized for advertising by NYSDOT on **[date]**;
- Project advertised for **[days]** business days beginning on **[date]**;
- Bid Opening was **[date]**;
- Contract Number is **[LD OSC Contract Number]**;
- **[#]** of bids were received;
- **[#]** of plan holders;
- The computation of bids was verified by: **[name of firm, individual]** on: **[date]**
- The construction is being inspected by: **[name of firm]**

Engineer's Estimate: \$ **xxx, xxx.xx** DBE or [M/WBE] Goal %

Bidders in rank order:

<u>Rank</u>	<u>Bidder Name</u>	<u>Bid Amount</u>	<u>Contract Goal %</u>
1	<b>[Const. Co. A]</b>	<b>[\$ xxx, xxx.xx]</b>	<b>%</b>
2	<b>Const. Co. B</b>	<b>\$ xxx, xxx.xx</b>	<b>%</b>
3	<b>Const. Co. C</b>	<b>\$ xxx, xxx.xx</b>	<b>%</b>
4	<b>Const. Co. D</b>	<b>\$ xxx, xxx.xx</b>	<b>%</b>
5	<b>Const. Co. E</b>	<b>\$ xxx, xxx.xx</b>	<b>%</b>

The following irregularities were found: **[note irregularities or indicate n/a]**

The Lowest Responsible Bidder: **[Const. Co. A]** Low Bid: **[\$ xxx, xxx.xx]**

Total Bid	
Federal Share is	<b>\$xxx, xxx.xx</b>
State share (if applicable) is	<b>\$xxx, xxx.xx</b>
Local share (if applicable) is	<b>\$xxx, xxx.xx</b>

( ) I recommend the award of the above contract to the lowest responsible bidder.

( ) I recommend the rejection of all bids.

Sincerely,

**[RLO – name, title]**

**[Sponsor]**

Attachments:

Appendix 14-3, Locally Administered Project Contract Award Checklist and documents

Appendix 14-4, Tabulation of Bids

Bid Analysis



### Appendix 14-2 BRIDGE CONSTRUCTION UNIT COST DATA (Sponsor Sample)

[illegible]

INSTRUCTIONS on completing the Bridge Construction Unit Cost Data sheet.

The Sponsor must provide to the RLPL an itemized bridge share of the construction costs (as submitted by the successful bidder). A separate itemized share is required for each bridge, for all new and replacement bridges constructed using federal funds and only bridge items shall be included. The Engineer's Estimate and other bidder's unit costs should not be included.

Do not complete this form for bridge rehabilitations, superstructure replacements or pedestrian bridges.

Description: Short Description of the Project.

Letting Date: Indicate date project was let on.

Contract No: LD (Office of the State Comptroller Number from the State/Local Agreement.)

County: Location of the bridge.

BIN: Bridge Identification Number.

PIN: Indicate the 6-digit project identification number.

Structure Type: Slab; Stringer/Multi-Beam; Girder; Tee Beam; Box Beam; Box Girder; Frame; Culvert; Truss, Deck; Truss, Thru; Arch, Deck; Arch, Thru; Suspension; Stayed Girder; Movable Lift; Tunnel.

Deck Area (Sqft) Indicate the square footage of the deck area of the bridge.

Items: Indicate only those items in the bridge share of the project.

Description: Provide a short description of the item

Unit: EA - Each; SF - Square feet; LF - Linear feet; LS - Lump sum

Cost/Unit Cost per Unit.

Quantity Indicate quantity.

Low Bid Total cost per low bid per item. Column will automatically calculate.

**Appendix 14-3**  
**Locally Administered Project Contract Award Checklist**

PIN: <span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span> _____ Project: <span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span> _____ Sponsor: <span style="background-color: #cccccc; display: inline-block; width: 50px; height: 15px;"></span> _____ Federal Aid Project <input type="checkbox"/> Non-Federal Aid Project <input type="checkbox"/>	Award Package Received by RLPL: <u>    /    /    </u> Start Review on: <u>    /    /    </u> Finish Review by: <u>    /    /    </u> Project on NHS or State Highway? Y <input type="checkbox"/> / N <input type="checkbox"/>
--	--

Date Sponsor	Date RLPL	Complete	Required Items
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	Proof of advertisement (Contract Reporter, local newspapers, etc.)
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	Amendments issued:
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	• No concerns with amendments.
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	• Copy of receipt of amendments by all bidders.
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	Bid Opening, Verification and Sponsor Recommendation Letter (LPM Appendix 14-1)
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	• Copy of verified low bidder's signed bid sheets.
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	• Mathematical verification of bids provided.
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	• Engineer Estimate (EE) and unit bid prices for all bidders.
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	• Recommendation of award by Responsible Local Official ( <i>On NHS or State Highway System</i> )
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	• List of Plan holders.
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	Award or recommendation consistent with <i>LPM</i> approved alternate bidding process
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	Bid analysis (LPM 14.4.2) - no collusion, no unbalancing for high bid/low bid items (25% over/under EE) and in certain cases major items.
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	• Items 25% over/under EE reviewed.
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	• Omissions or errors explained.
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	• Quantity changes affecting ranking of bidders.
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/>	• Significant variation from EE/unbalancing of unit prices explained.
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/> <input type="checkbox"/> n/a	• Reasonable justification provided (LPM 14.4.3).
<u>    /    /    </u>	<u>    /    /    </u>	<input type="checkbox"/> <input type="checkbox"/> n/a	Project Segments on the State or NHS (LPM 15.3.1.1.1). QC/QA Plan in place.

Date Sponsor	Date RLPL	Complete	Required Items
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	Bidder Responsibility: (LPM 14.4.1) <a href="https://uscontractorregistration.com/">https://uscontractorregistration.com/</a> – use this to register to do business with U.S. government. <a href="http://www.osha.gov/pls/imis/establishment.html">http://www.osha.gov/pls/imis/establishment.html</a> – use this to check if any OSHA violations. <a href="http://www.dos.ny.gov">http://www.dos.ny.gov</a> Go to “Corporations/State Records & Uniform Commercial codes”, “Search for Corporations”.
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	• NYS Uniform Contracting Questionnaire (Form CCA-2) completed and on file with DOT .
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	• Debarment History Certification <a href="https://apps.labor.ny.gov/EDList/searchPage.do">https://apps.labor.ny.gov/EDList/searchPage.do</a> .
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	• Disclosure of Lobbying Activities form signed.
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	• Non-collusive Bidding Certification form signed.
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	Certificate of Insurances: Workers Compensation and Disability Benefits.
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	Bond and/or Bid Deposit
<b>DBE goal is <span style="background-color: #cccccc;">      </span> % (Federal Aid Project)</b>			
		<input type="checkbox"/>	All DBE firms verified in NYS Unified Certification Program (UCP). <a href="https://nysucp.newnycontracts.com/">https://nysucp.newnycontracts.com/</a>
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	All DBE firms certified for items of work they are proposed to perform.
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	All DBE firms entered correctly, acknowledged and approved in EBO.
<b>MBE goal is <span style="background-color: #cccccc;">      </span> % (Non-Federal Aid Project Only)</b>			
<b>WBE goal is <span style="background-color: #cccccc;">      </span> % (Non-Federal Aid Project Only)</b>			
<b>M/WBE Waiver Request (Non-Federal Aid Project Only)</b>			
		<input type="checkbox"/>	All M/WBE firms verified.
<b>D/M/WBE goal not met: (Federal and Non-Federal Aid Projects)</b>			
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/> <input type="checkbox"/> n/a	Good Faith Efforts documentation submitted:
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	• Form AAP-10 D/M/WBE Subcontractor & Supplier Solicitation Log.
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	• Correspondences, faxes, emails.
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	• Advertisements (e.g. Newspaper ads).
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	• Quotes from non-selected/selected D/M/WBE's.

Date Sponsor	Date RLPL	Complete	Required Items
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/> <input type="checkbox"/> n/a	• Good Faith Efforts documentation approved by Main Office Local Program Bureau (LPB).
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	Award notification to Contractor (formal award documentation).
<u>  /  /  </u>	<u>  /  /  </u>	<input type="checkbox"/>	Low bid broken down by fiscal and highway/bridge share.

For RLPL Use:			
	<u>  /  /  </u>	<input type="checkbox"/> <input type="checkbox"/> n/a	If EE greater than available capped funds, is assurance granted by Sponsor to fund difference with own funds?
	<u>  /  /  </u>	<input type="checkbox"/> <input type="checkbox"/> n/a	Explanation of cost increases adequate?
	<u>  /  /  </u>	<input type="checkbox"/> <input type="checkbox"/> n/a	If additional federal aid is requested/needed and applicable, has it been secured?
	<u>  /  /  </u>	<input type="checkbox"/> <input type="checkbox"/> n/a	Construction related costs (CI, RRFA, utility, etc.) are known.

**For RLPL Use:**

<b><u>Low Bid vs. Programmed Funds</u></b> (to be used in Award Notification Memo)			
	Funding Source	Programmed	Low Bid
Construction		\$	\$
Highway .....	.....	\$.....	\$.....
Bridge.....	.....	\$.....	\$.....
100% Local .....	.....	\$.....	\$.....
(betterment, amount over capped funding, etc.)			
Utilities.....	.....	\$.....	\$.....
Total.....	.....	\$.....	\$.....
Construction Inspection		\$	\$
Who Performing:			
Total Construction Phase		\$	\$
Let Date: _____ Completion Date: _____ EE: \$ _____ Award Date: _____			
Contractor: _____ OSC D#: _____ Construction FA # _____			
EE at time of letting matches Award EE (If Award amount differs from EE at letting by > 10% and the additional bid analysis is not done, is federal funding affected? If not, then eliminate this checklist item. If so, then next step is to make sure appropriate bid analysis was done (> or < 10% of EE).			

Any recommendations, unique, unusual, unfinished, (e.g. ROW Projections, permits, funding shortfalls, etc.) to be noted in the “Notice to Proceed with Award” Letter:

**Unique Situations**

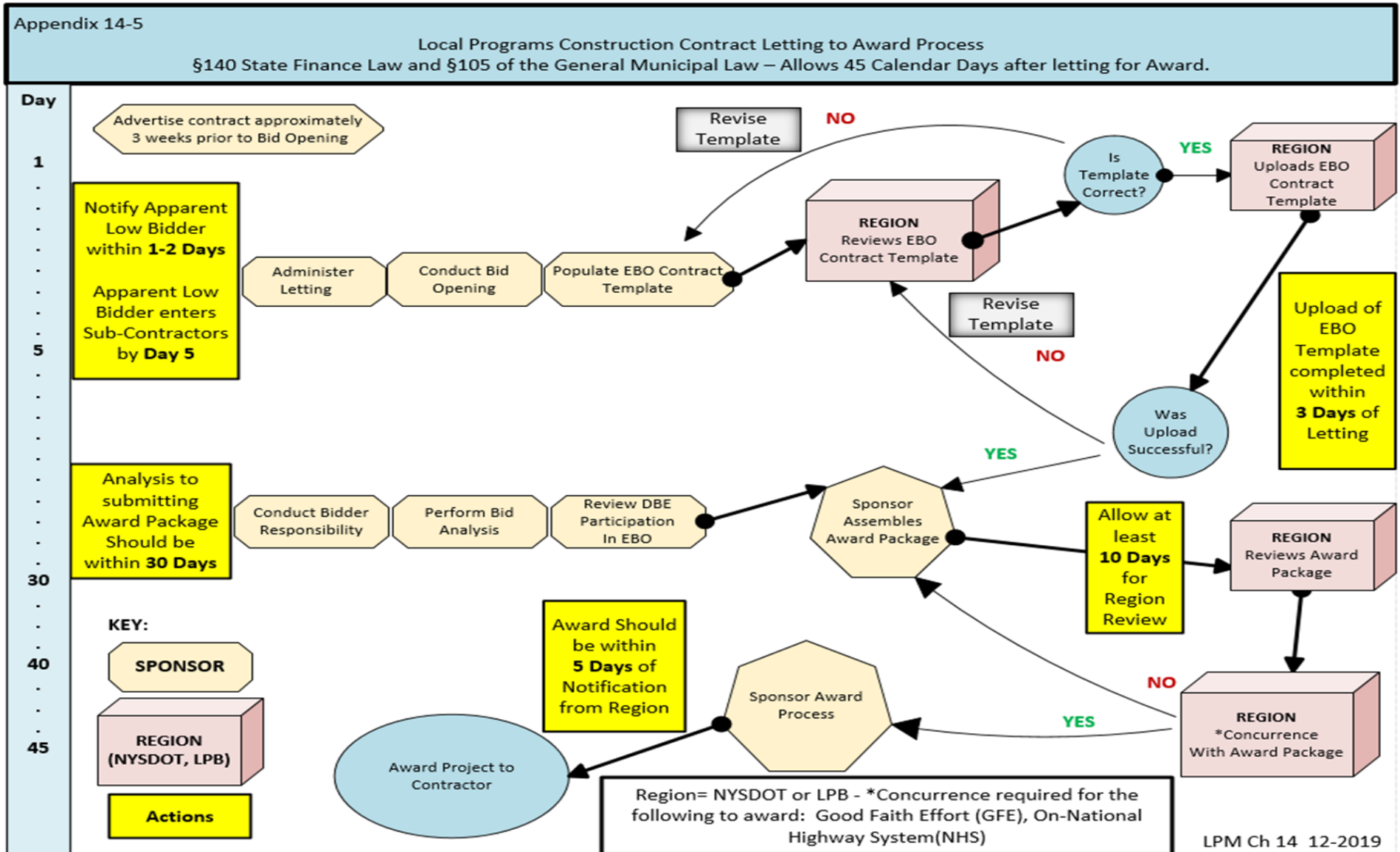
Regional Reviewer	Concern/Situation	Resolution/Date

**Appendix 14-4  
TABULATION OF BIDS  
(SAMPLE)**

Date:

<b>PIN:</b>											
<b>Project:</b>											
<b>Letting</b>											
<b>Date:</b>											
<b>Sponsor:</b>											
						<b>Bidder A</b>			<b>Bidder B</b>		
Item	Item Description	Unit	Quantity	Unit Price	Engineer's Estimate	Quantity	Unit Price	Total Cost	Quantity	Unit Price	Total Cost
201.06	CLEARING AND GRUBBING	L.S.	1	\$2,500.00	\$2,500.00	1	\$3,000.00	\$3,000.00	1	\$3,500.00	\$3,500.00
609.0401	CAST-IN-PLACE CONCRETE CURB TYPE VF 150	L.F.	730	\$40.00	\$29,200.00	730	\$40.00	\$29,200.00	730	\$45.00	\$32,850.00
608.0101	CONCRETE SIDEWALKS AND DRIVEWAYS	C.Y.	40	\$600.00	\$24,000.00	40	\$650.00	\$26,000.00	40	\$500.00	\$20,000.00
635.0203	CLEAN AND PREP OF PAVEMENT SURFACES - LETTERS	EA.	40	\$40.00	\$1,600.00	40	\$50.00	\$2,000.00	40	\$43.00	\$1,720.00
698.04	ASPHALT PRICE ADJUSTMENT	D-C	1	\$1.00	\$1.00	1	\$1.50	\$1.50	1	\$2.00	\$2.00
			<b>Computed TOTAL:</b>		<b>\$57,301.00</b>			<b>\$60,201.50</b>			<b>\$58,072.00</b>

## Appendix 14-5 LETTING TO AWARD FLOWCHART





**Appendix 14-6**  
**CHECKLIST- AFTER A PROJECT HAS BEEN LET, BUT NOT AWARDED**

Per §140 of the NY State Finance Law and §105 of the NYS General Municipal Law,  
**45 Calendar Days is allowed after letting to Award.**

PIN: <span style="background-color: #cccccc; display: inline-block; width: 100px; height: 1em;"></span> Project: <span style="background-color: #cccccc; display: inline-block; width: 100px; height: 1em;"></span> Sponsor: <span style="background-color: #cccccc; display: inline-block; width: 100px; height: 1em;"></span>	Received by RLPL:    /    / Start Review on:       /    / Finish Review by:     /    /
---	--

**Within first 3 Days of letting:** **(Date Completed)**

- ☐ Unverified Low Bidder, number of Bidders, Engineer Estimate and Low Bid.
  - Sponsor provides the RLPL with the results of the letting **immediately**. \_\_\_\_\_
- ☐ Sponsor provides RLPL with **a single contact** for the award process. \_\_\_\_\_
  - name, email address, and phone number.
- ☐ Sponsor verify bids. \_\_\_\_\_
- ☐ Sponsor identifies Apparent Low Bidder **within 2 calendar days**. \_\_\_\_\_
- ☐ Sponsor performs bidder responsibility review **within 2 calendar days**. \_\_\_\_\_
  - For all contracts, the New York State Uniform Contracting Questionnaire (CCA-2) is used in the qualification of an entity as a “responsible bidder.”
  - United States General Services Administration’s [List of Debarred, Suspended, or Voluntarily Excluded Firms Ineligible for Federal Aid](#).
  - NYS Department of Labor’s monthly [List of Employers Ineligible to Bid on or be Awarded any Public Work Contract](#).
  - NYS Department of State’s [Corporation/Business Entity Database](#) to ensure that Corporations, Professional Corporations, Limited Liability Companies, and Limited Liability Partnerships have the proper authority to conduct business in New York State.
  - Office of Safety and Health Administration (OSHA) website for [safety violations for a given firm](#).
- ☐ Sponsor completes bidder responsibility review and informs Apparent Low Bidder **within 2 calendar days**. \_\_\_\_\_
- ☐ Sponsor compiles the “*Contract Template*” for entry into EBO and submits to RLPL **within 3 calendar days**. \_\_\_\_\_
  - Verify template to ensure that there are no errors; total of extended prices must match the Low Bid.
  - The template can be obtained at <https://www.dot.ny.gov/divisions/operating/opdm/local-programs-bureau/locally-administered-federal-aid-projects/civil-rights>.
- ☐ Sponsor compiles “Award Documentation Package” for “lowest responsible bidder”. \_\_\_\_\_
  - See Local Program Manual, Chapter 14 – Advertisement, Contract Letting Award, Appendix 14-3 for a “*Locally Administered Project Contract Award Checklist*”.

(Date Completed)

**Within 5 calendar days of Letting** (per NYS Standard Specifications Section 102-12, H.):

- ☐ Once EBO is set up, Apparent Low Bidder must enter Sub-Contractors, items and rates in EBO. \_\_\_\_\_
- ☐ Subcontractors must access EBO and acknowledge commitments. \_\_\_\_\_
- ☐ Sponsor must review and approve Subcontractors. \_\_\_\_\_
- ☐ Sponsor must inform RLPL once Subcontractors are approved and DBE Goal is met or submit GFE for approval. \_\_\_\_\_
- ☐ RLPL provides:
  - Quality Assurance review on the Contract Templates and resolve errors. \_\_\_\_\_
  - Forward Contract Template to Main Office Local Programs EBO Unit for upload (to [localprograms.ebo@dot.ny.gov](mailto:localprograms.ebo@dot.ny.gov)). \_\_\_\_\_
- ☐ Main Office Local Programs EBO Unit upload information from the Contract Template and notifies RLPL. \_\_\_\_\_
- ☐ RLPL notifies Sponsor of successful upload to EBO. \_\_\_\_\_
- ☐ **Sponsor, Apparent Low Bidder and proposed Subcontractors who do not have EBO access must submit a request for access to the RLPL.**
  - Forms can be obtained at <https://www.dot.ny.gov/divisions/operating/opdm/local-programs-bureau/locally-administered-federal-aid-projects/repository/Sponsor%20Request%20for%20EBO%20system%20login.rtf>

**Within 25 days of Letting:**

- ☐ Sponsor submits the Assembled “Award Documentation Package” and checklist to the RLPL for review and Approval/Concurrence. \_\_\_\_\_
- ☐ Sponsor updates the Construction Management Plan (CMP) as needed and provides to the RLPL. \_\_\_\_\_
- ☐ The Sponsor can start working with the “lowest responsible bidder” on the contract agreement, bonds and insurances; do not execute an agreement yet.
  - **WAIT** for the RLPL to get back to you regarding the review of the “Award Documentation Package” and further instructions.

**Between 30 and 40 Days of Letting:**

(Date Completed)

- ☐ RLPL receives **completed** Award Documentation Package. \_\_\_\_\_
- ☐ RLPL completes review of Award Documentation Package and notifies Sponsor With a “Notification to Proceed with Award” Letter. \_\_\_\_\_
- ☐ Sponsor Receives “Notification to Proceed with Award” from RLPL. \_\_\_\_\_

**Between 40 and 45 days from Letting:**

- ☐ Sponsor provides the RLPL with the date contract awarded to the contractor. RLPL to have Local Programs EBO Unit enter date and indicate contract awarded in EBO. \_\_\_\_\_
- ☐ Sponsor finalizes resolution, contract agreement, bonds and insurances, and highway work permit (if applicable). \_\_\_\_\_
- ☐ Sponsor sends Contractor Notification of Award to RLPL. \_\_\_\_\_
- ☐ Sponsor contacts RLPL to schedule a Pre-Construction meeting. \_\_\_\_\_

**Appendix 14-7**  
**Construction Advertisement Checklist**  
**(NYS Contract Reporter and Local Paper(s))**

PIN: _____ OSC D# _____ Project: _____ Sponsor: _____	Start Review on: ____/____/____ Finish Review by: ____/____/____ Project on NHS or State Highway? Y / N
---	---

The following information must be included in the ad:      NYS Contract Reporter (NYSCR) <https://www.nyscr.ny.gov/>

Included	Description of Information
	NYSDOT (6-digit) Project Identification Number (PIN)
	Local Contract Number (if applicable)
	Owner/Contracting Party
	Address of the Letting Venue
	Date and Time of Letting
	Where to obtain contract documents; official bidder's list
	Address where to submit bids
	Process of issuing Amendments
	Time for Performance of Contract
	NYSDOT Standard Specifications version date (1/1; 5/1; 9/1) as noted in Contract Proposal
	Federal Aid Project (LPM – Local Projects Manual)
	DBE Goal – Even if ZERO
	MBE Goal (For non-federal aid Projects Only)
	WBE Goal (For non-federal aid Projects Only)
	EEO Goal - Minority (To be included for ALL projects)
	EEO Goal – Female (To be included for ALL projects)
	Requirement to use Equitable Business Opportunity (EBO) software
	Requirement to submit <i>New York State Uniform Contracting Questionnaire</i> (CCA-2) online for prime and subs
	Requirement to submit completed Non-Collusion Forms (Appendix 12-1)
	Requirement to submit completed Lobbying Activities Form (Appendix 12-1)
	NO indication of residential or geographical restrictions or warranties
	Bid Deposit/Security required
	Bid cannot be withdrawn within 45 days of letting
	Owner's rights to waive any informalities and to reject any and all bids
	Contact name, phone number and/or email for any questions
	Bidder to promptly notify contact of any errors, omissions, conflicts, ambiguity, etc. in/among contract documents

**Appendix 14-8**  
**SAMPLE NOTICE TO BIDDERS – ADVERTISEMENT TO BID**

Notice is hereby given that the **[Sponsor]** will accept sealed bids for:

**[Project description, location]**  
**[PIN XXXX.XX]**  
**[Contract Number]**

The Owner is the **[Sponsor]** and the work site is/are located in the **[municipality]**. The projects limits extend from: **[location limits]**

The work includes providing all labor, materials, machinery, tools, equipment and other means of construction necessary and incidental to the completion of the work shown on the plans and described in these specifications including, but not necessarily limited to the following: **[Provide a description of work included. E.g. Installation of approximately 3,500 ft of sidewalks with or without curb; signing and striping including the installation of crosswalks, pedestrian traffic signal upgrades, drainage modification, resurfacing, bridge replacement, etc.]**

This is a Federal Aid Project **[State Aid Project]** and NYSDOT Standard Specifications, officially finalized and adopted on **[date]** as posted on the New York State Department of Transportation's website must be followed by the successful bidder.

**[Choose appropriate goal format, DBE or M/WBE, based on funding and eliminate section not applicable]**

The DBE goal for this project is: **[ %]**

**There are no M/WBE goals for this project.**

**[OR]**

The MBE goal for this project is: **[ %]**

The WBE goal for this project is: **[ %]**

**There are no DBE goals for this project.**

**(The EEO Goals apply to ALL contracts)**

The EEO Employment goals for this project are: **[ %]** Minority Employment Goal  
6.9% Women Employment Goal

The use of the NYSDOT approved civil rights reporting software, Equitable Business Opportunities (EBO), is required. Access authorization to EBO can be found at [https://www.dot.ny.gov/main/business-center/civil-rights2/civil-rights-repository/Tab/20171010\\_EBO\\_Vendor\\_Login\\_Request\\_Form.pdf](https://www.dot.ny.gov/main/business-center/civil-rights2/civil-rights-repository/Tab/20171010_EBO_Vendor_Login_Request_Form.pdf)

No residential or geographical restrictions will be in effect for this project. Applicable Federal requirements take precedence over State and local requirements unless state and local requirements are deemed to be more stringent.

Contract Documents, including Invitation to Bidders, Instructions to Bidders, Wage Rates, Bid Documents, Agreement, Special Notes, Specifications, Contract Drawings and any Addenda, may be examined, at no expense, at the office of: **[street address]** or at **[street address]** between the hours of **[xx:xx]**am and **[xx:xx]**pm Monday through Friday. Contract Documents are also available at **[insert link if applicable]**.

(If applicable) USB drives containing digital versions of the plans and specifications may be obtained at: **[indicate location]** between the hours of **[xx:xx]**am and **[xx:xx]**pm Monday through Friday. There is no charge for USB drives. The **[Sponsor]** and **[Consultant]** (if applicable) will not mail any USB drives or any other Bid Documents. Pick up of USB drives or other Bid Documents must be arranged.

(If applicable) A site visit will be conducted on **[date]** at **[time]** at the following location: **[location]**.

No questions or inquiries regarding this bid will be accepted within three (3) business days prior to the bid opening.

Contractors that obtain Contract Documents from a source other than the issuing office must notify the issuing office in order to be placed on the official Plan Holder List, to receive Addenda and any other Bid correspondence. Bids received from Contractors other than those on the official Plan Holders List will not be accepted.

Addenda will be emailed from **[Sponsor, individual, consultant firm]** to Bidders listed on the official Plan Holders List. An emailed response from the Bidder, to the Addendum sent by **[Sponsor, individual, consultant firm]** will act as proof that the Bidder received the Addendum. In addition to an emailed response, Bidders must acknowledge receipt of all Addenda by signing and dating each Addendum on page **[xx-xx]** of the Bid Form and the Acknowledgement of Receipt of Addenda, page **[xx-xx]**. Failure of any Bidder to receive any such Addendum or interpretation shall not relieve such Bidder from any obligation under this Bid submittal. All Addenda so issued shall become part of the Contract Documents.

Questions regarding the Contract Documents should be directed to **[name, sponsor or name, consultant]** either through email at: **[email address]** or by telephone at **[area code, phone number]**. Bidders shall promptly notify **[name of contact]** of any errors, omissions, conflicts or ambiguity within the Contract Documents within **[xx]** days of bid opening.

All bids must include the completed Bid Form, Non-Collusive Bidding and Disbarment Certifications, and Lobbying Certifications. This is a **[unit price]** bid as described in the Instructions to Bidders. No bidder may withdraw his/her bid within forty-five (45) calendar days after the actual date of the opening thereof.

Each bid must be accompanied by security in an amount not less than five percent (5%) of the amount of the bid in the form and subject to the conditions provided in the Instructions to Bidders.

Bids to be considered must be received in a sealed envelope at **[address of bid opening]** by **[time of bid opening]**, local time, on **[date of bid opening]** at which time they will be publicly opened and read aloud in the **[room location of bid opening]**. Bids received after the above noted time will not be accepted. All sealed envelopes should be clearly labeled **["BID: PROJECT TITLE"]**.

The Bidder to whom the Contract is awarded will be required to furnish Performance, Payment and Guarantee Bonds from an acceptable Surety Company for an amount not less than 100% of the accepted bid. The successful Bidder and all subcontractors must have an approved CCA-2 on file with NYSDOT prior to being awarded a contract. If the successful Bidder does not currently have a CCA-2 on file with NYSDOT, the Bidder may find the CCA-2 forms and instruction for completion online at [https://osc.state.ny.us/venrep/form\\_cca2.htm](https://osc.state.ny.us/venrep/form_cca2.htm).

The successful Bidder will be required to comply with all provisions of the Federal Government Equal Employment Opportunity clauses issued by the Secretary of Labor on May 2, 1968 and published in the Federal Register (41 CFR Part 60-1, 33 F.2 7804). Successful bidders will be required to pay prevailing wage rates on this contract.

The [**Sponsor**] reserves the right to consider the bids for forty-five (45) days after receipt before awarding any Contract, and to waive any minor informalities in, and to reject, any and all bids. All bids are subject to final review and approval by the [**Sponsor's Governing Body**] before any award of contract may be made. Receipt of bids by the [**Sponsor**] shall not be construed as authority to bind the [**Sponsor**].

The work will be substantially completed [**xx**] calendar days from Notice to Proceed and completed and ready for final payment on [**M/M/ DD/YYYY**].

The New York State Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49 Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, as amended, issued pursuant to such Act, hereby notifies all who respond to the related solicitation, request for proposal or invitation to bid that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability/handicap and income status in consideration for an award.

**Owners Contact**

**Name**

**Title**

**Address**

**Phone/Email**

**Engineer's Contact**

**Name**

**Title**

**Address**

**Phone/Email**

## Appendix 14-9 DBE COMMITMENT

AAP 14LL  
(5/2021)

### Federal DBE Commitment and GFE Bid Requirements

Letting Date:

Proposer Name

Address:

PIN

Contract #

DBE Goal  % as Stated in the Advertisement

We hereby submit a DBE commitment of  % for the above-referenced project.

Identified below are the commitment(s) to certified\* DBE's for this contract:

DBE Name:	Work Category*	Description of Work	DBE Credit % (A)	Commitment (B)	DBE Credit (AxB)
Example Company: Drainage R Us Address: 2543 Lexington Street, Troy, NY 12180	Construction	Closed Drainage Installation	100	\$1,120,000	\$1,120,000
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

\*Only submit DBE(s) that you have verified are certified to perform/supply the identified commitments.

Total Commitment:

You are required to have firm commitments at the time of Letting. Within 5 calendar days of notification as apparent Low Bidder, you shall enter exactly (as shown) all of the DBE commitments identified here, into Equitable Business Opportunity Solution (EBO), NYSDOT's civil rights reporting software. No substitutions or reductions in commitments will be allowed without prior approval by the Sponsor, in accordance with NYSDOT Standard Specification §105-21.D.3.

NOTE: Bids may be submitted below the DBE Goal. If you do not meet the DBE Goal and are identified as apparent Low Bidder, you will be required to submit a Good Faith Effort package to the Sponsor, within 5 calendar days of notification.

*Key:	Work Categories:	DBE Credit %
	Construction	100
	Fabricator	100
	Manufacturer	100
	Material Supplier	60
	Professional Service	100
	Trucking Firm	100

Submitted By:

Enter Proposers Contact Information

Name:

Title:

Company Federal Tax ID XX-XXXXXXX



## **APPENDIX A-1: SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)**

### *To be included in all contracts*

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b.) cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as NYSDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request NYSDOT to enter into such litigation to protect the interests of NYSDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

# Commercially Useful Function (CUF) Monitoring Report

## Project Information

Region  Contract No.:  Prime Contractor:

DBE/MBE/WBE/SDVOB Firm's Work Category:  DBE/MBE/WBE/SDVOB Firm Name:

Who is completing form?

## DBE/MBE/WBE/SDVOB Firm's Information - Work

**Complete Table A for the DBE/MBE/WBE/SDVOB Firm's Work Category selected above:**

☐ Check this box to see guidance for this Section.

Core Work Code	Briefly describe observations of Work/Materials/Equipment

Required Documents - save to Site Manager

**Select most recent approval date for each document**

AAP-20

Trucking Plan

Supplier Questionnaire

## DBE/MBE/WBE/SDVOB Firm's Information - Workforce and Supervision

**Please answer the following questions as a part of the CUF assessment. Because the choice of DBE/MBE/WBE/SDVOB Firm's Work Category above determines what questions are required for this assessment, you may not be required to answer all questions. For Questions 1 and 2, Payrolls are for on-site work only. Questions that do not apply to the DBE/MBE/WBE/SDVOB Firm's Work Category selected will automatically default to "NA".**

☐ Check this box to see additional guidance for this Section.

- Does the Payroll reflect the number of workers, drivers, or trades (as applicable) shown on the DWR?
- Did any workers appear on the Prime's or other sub-contractor's payroll on this contract?
- Did the workers, drivers, or trades (as applicable) work for the Prime or other subcontractor (Vendor) on this contract?
- Did the supervisor manage the day-to-day operations for only the DBE/MBE/WBE/SDVOB Firm?
- Did the supervisor work for the Prime or other subcontractor (Vendor) on this contract?

Comments/Field Notes Section

## DBE/MBE/WBE/SDVOB Firm's Information - Work Products, Materials, and Equipment

Please answer the following questions as a part of the CUF assessment. Because the choice of DBE/MBE/WBE/SDVOB firm's work category above determines what questions are required for this assessment, you may not be required to answer all questions. Questions that do not apply will automatically default to "NA".

☐ Check this box to see additional guidance for this Section.

6. Were the Plans and Reports prepared by the DBE/MBE/WBE/SDVOB firm on this contract?

Select One

7. Select the statement that best describes the equipment used by the DBE/MBE/WBE/SDVOB firm on this contract:

Select One

8. Select the statement that best describes the delivery of materials on this contract:

Select One

**For Question 9: To select more than one choice, use the shift/click or control/click function to select from the list.**

9. Regarding the DBE/MBE/WBE/SDVOB firm's materials and equipment, select from the list all that apply:

DBE/MBE/WBE/SDVOB firm name is on Materials Certification(s).  
Shipping Ticket(s) or Bill(s) of Lading.  
DBE/MBE/WBE/SDVOB firm name is on Delivery Ticket.  
Equipment used.  
DBE/MBE/WBE/SDVOB firm name did not appear.  
Not Applicable to this DBE/MBE/WBE/SDVOB firm's Work Category.

☐ For each selection, attach relevant documentation.

Notes:

## CUF Assessment

Date of CUF review:

☐ Check this box to see additional guidance for this Section.

**Based upon an appropriate review of the contract records as well as periodic observations of the DBE/MBE/WBE/SDVOB Firm named above on the contract site, in accordance with the provisions of [CFR 49 Part 26 Section 55 \(c\)\(1\)](#), the [NYS DOT Specifications and Standards](#); and the Contract Administration Manual (CAM) Section 102-12, it is found that: (Check One)**

☐ Nothing calls into question that the DBE/MBE/WBE/SDVOB named above has performed a Commercially Useful Function (CUF) on this Contract.

☐ There are indicators that the DBE/MBE/WBE/SDVOB named above has not performed a Commercially Useful Function (CUF) on this Contract as evidenced by the following:

Brief Explanation of Finding:

Actions Taken: (e.g. notified Compliance Officer)

Name(s) & Title(s) of Person(s) who performed the assessment:

Date

Once completed, submit the form to the Compliance Officer assigned to the contract.

Save Form

Print Form

Send form to: