Form 3-14

Invitation to Bid
Required Documents

FORM 3-3: CDBG Contract Provisions

The following CDBG Contract Provisions should be used with all construction and professional service contracts, where CDBG funds are being used in whole or in part.

CDBG Contract Provisions

1. **Definitions:** For purposes of this Contract, the following terms shall have the meanings set forth below:

   (a) "Assistance" means the CDBG grant funds provided, or to be provided, to the Grantee by the State, pursuant to the Grant Award Agreement.

   (b) "CDBG" means Community Development Block Grant.

   (c) "Contract" means the contractual agreement between the Owner and the Contractor to which these Contract Special Provisions have been incorporated and made a part thereof.

   (d) "Contractor" means the contractor whose services are retained pursuant to the Contract.

   (e) "Grantee" means the unit of local government designated as the recipient of CDBG Assistance in a party to the Grant Award contract with the South Dakota Governor's Office of Economic Development.

   (f) "HUD" means U.S. Department of Housing and Urban Development, which is the federal agency that awards and has authority over CDBG funding to the State.

   (g) "Owner" means the Grantee or Subrecipient, as applicable.

   (h) "Project" means the project for which the services of the Contractor have been retained pursuant to the Contract which are funded, in whole or in part, with CDBG funds.

   (i) "State" means the State of South Dakota, or that agency, agency division, or Office of State government which has been delegated the responsibility for administering the CDBG program for the State of South Dakota, as appropriate.

   (j) "Subrecipient" means the agent of the unit of local government as designated by an agreement.

   (k) "Labor Surplus Area" means a civil jurisdiction that has an unemployment rate at least 20% above the average unemployment rate for all states, the District of Columbia, and Puerto Rico during the previous two calendar years. The Department of Labor issues the labor surplus area list on a fiscal year basis.

2. **Prime Contractor Responsibilities:** The Contractor is required to assume sole responsibility for the complete effort and enforcement of laws and regulations under this Contract. The Owner will consider the Contractor to be the sole point of contact with regard to contractual matters. All contractors must be registered in the federal System for Award Management (SAM) and be eligible to receive federal contracts.

3. **Federal and State Laws:** The Contractor agrees to comply with all CDBG requirements as well as other federal and state laws, regulations, or Executive Orders. The State reserves the right to add or delete terms and conditions of this Contract as may be required by revisions and additions or changes in the requirements, regulations, and laws governing the CDBG Program.

4. **Procurement and Contracting:** In accordance with 2 CFR Part 200, the cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used. This provision shall supersede any conflicting provision in an executed contract document or agreement funded in whole or in part with CDBG funds.

5. **Ownership**: Ownership of all real or personal property, acquired in whole or in part with CDBG funds for use on this Project, shall be vested in the Grantee, unless otherwise authorized by the State. When the Grantee determines that the property is no longer required for the purposes of this Project, the Grantee must notify the State and obtain approval for disposition of the property in accordance with applicable guidelines.

6. **Domestic Preferences for Procurements**: In the performance of this Agreement, Contractor shall, as appropriate and to the greatest extent practicable, purchase, acquire, and/or use goods, products, and materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts. For purposes of this section:

   a. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

   b. "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer- based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

7. **Build America, Buy America:** This agreement is for a project that is subject to the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. 177-58. Absent an approved waiver, all iron, steel, manufactured products, and construction materials used in this project must be produced in the United States, as further outlined by the Office of Management and Budget's Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, April 18,2022.

8. **Copyright:** Except as otherwise provided in the terms and conditions of this Contract, the Contractor paid through this Contract is free to copyright any books, publications or other copyrightable materials developed in the course of the Project and under this Contract. However, HUD and the State reserve a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, for Federal government and State purposes:

   (a) the copyright in any work developed under this Contract; and

   (b) any rights of copyright to which a subcontractor purchases ownership with grant support.

   The Federal government's rights and the State's rights identified above must be conveyed to the publisher and the language of the publisher's release form must insure the preservation of these rights.

9. **Reporting Requirements:** The Contractor agrees to complete and submit all reports, in such form and according to such schedule, as may be required by the State or HUD. Further, the Contractor agrees to require any subcontractors to submit reports that may be required and to incorporate such language in its agreements. Failure to meet deadlines with the required information could result in sanctions.

10. **Access to Records:** The Contractor shall grant access to the City, State or any other passthrough entity, the Federal Agency, Inspectors General, and/or the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and/or records of the Contractor that are pertinent to the Contract for the purpose of making audits, examinations,

excerpts, and transcripts. The right also includes timely and reasonable access to the Contractor's personnel for the purpose of interview and discussion related to such documents. The rights of access in this section are not limited to the required retention period but last as long as the records are retained.

11. **Maintenance of Records:** Contractor will keep adequate records and supporting documentation, which concern or reflect its services rendered under this agreement. All records and documentation will be retained by selected firm until five years after project completion. However, if any litigation, claim, or audit is started before the expiration of the five-year period, then records must be retained for five years after the litigation, claim or audit is resolved.

12. **Confidential Information:** Any reports, information, data, etc., given to, prepared by, or assembled by the Contractor under this Contract, which the Grantee or the State requests to be kept confidential, shall not be made available to any individual or organization by the Contractor without prior written approval of the Grantee or the State, as applicable.

13. **Reporting of Fraudulent Activity:** If at any time during the term of this Contract anyone has reason to believe by whatever means that, under this or any other program administered by the State, a recipient of funds has improperly or fraudulently applied for or received benefits, monies or services pursuant to this Contract or any other contract, such information shall be reported immediately to the appropriate authorities.

14. **Conflicts of Interest:** Regulations at 2 CFR 200.112 and 24 CFR 570.489(h) regarding conflicts of interest apply to the use and expenditure of CDBG funds by the Grantee and its subrecipients, including the Contractor.

    No member, officer, or employee of the recipient, subrecipient, or its agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any financial interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. This provision shall be incorporated in all such contracts or subcontracts.

15. **Applicable Law:** In addition to the applicable Federal laws and regulations, this Contract is also made under and shall be construed in accordance with the laws of the State. By execution of this Contract, the Contractor agrees to submit to the jurisdiction of the State for all matters arising or to arise hereunder, including but not limited to performance of said Contract and payment of all licenses and taxes of whatever kind or nature applicable hereto.

16. **Termination for Cause:** If either Party materially defaults in the performance of any of its duties or obligations under this Agreement, the Party in default either (1) must substantially cure the default within thirty (30) days after written notice is given to the defaulting Party specifying the default; or (2) with respect to those defaults which cannot reasonably be cured within thirty (30) days, must commence curing said default within thirty (30) days, proceed with all due diligence, and substantially cure the default within ninety (90) days. If the defaulting party is unable to do so, the Party not in default may, by giving written notice of termination to the defaulting Party, terminate this Agreement as of a date specified in the notice of termination (the "Termination Date"), such Termination Date being subsequent to the date of the notice of termination.

17. **Termination for Convenience:** Either party may terminate this Agreement in its entirety for convenience after providing the other party 30 days written notice in advance. Any or all finished or unfinished deliverables prepared by the Contractor under this Agreement shall, at the option of the Grantee, become the property of the Grantee.

18. **Breach of Contract Terms/Sanctions:** Upon written notice, the grantee may withhold payments to the contractor if the contractor shall fail to fulfill in a timely and proper manner its obligations to grantee under this contract, or if the contractor shall violate any of the conditions of this contract. The grantee shall in its written notice to contractor fully describe the nature of failure or violation by contractor, the corrective action required of contractor, and, the grantee shall allow the contractor thirty (30) days from the date of notification to correct such failure and/or violation. If such failure or violation is corrected by the contractor within thirty (30) days from the date of notification, then the grantee shall process payment(s) to the contractor. If such failure or violation is not corrected within thirty (30) days from the date of this notification, then the grantee may proceed to terminate this contract.

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

    By entering into this contract, the contractor certifies that neither it 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 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

    No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

    If any part of the work covered by this Contract is to be subcontracted, the Contractor shall identify the subcontracting organization, and the contractual arrangements made therewith to the Owner. All subcontracts must be approved by the Owner to ensure they are not debarred or suspended by the Federal or State governments.

20. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001. **Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms:** Federal regulations require Contractors to take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Accordingly, affirmative steps must be taken to assure that MBEs and WBEs are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

    a. Including qualified MBEs and WBEs on solicitation lists;

    b. Assuring that MBEs and WBEs are solicited whenever they are potential sources;

    c. Whenever economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by MBEs and WBEs;

    d. Where the requirement permits, establishing delivery schedules which will encourage participation by MBEs and WBEs;

e. Using the services and assistance of the Small Business Administration, Minority Business Development Agency of the U.S. Department of Commerce, the South Dakota Department of Disadvantaged Business Enterprise Program; and

f. Requiring the subcontractor, if any, to take the affirmative actions outlined in (a) – (e) above.

21. **Federal Lobbying Restrictions:** The Contractor certifies, to the best of its knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," (which is available on the HUD website or here: https://www.hudexchange.info/resources/documents/HUD-Form-Sflll.pdf in accordance with its instructions; and

c. It will require that the language of this Section be included in the award documents for all subcontracts at all tiers.

d. 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.

22. **Equal Employment Opportunity**: The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the State.

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

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

b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment

without discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin.

c. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

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

e. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

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

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

h. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

23. **Drug Free Workplace:** By signing this agreement, the contractor hereby certifies that it shall provide a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988, as amended. This requirement is applicable to all Contracts and Subcontracts of $100,000 or more.

24. **Non-Discrimination:** The Contractor shall conform with requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and HUD regulations issued pursuant thereto contained in 24 CFR Part 1. No person in the United States shall, on the basis of race, color, national origin, sex or religion or religious affiliation, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available through this Contract. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S C 6101 et seq.) or with respect to an otherwise qualified individual with a disability as provided in the Americans with Disabilities Act, as applicable, (P L. 101 336, 42 U S C 12101 12213) or Section 504 of the Rehabilitation Act of 1973 (29 U S.C Section 794) shall also apply to any such program or Project

25. **Certification of Nonsegregated Facilities:** The contractor certifies that the entity does not maintain or provide for employees any segregated facility at any of its establishments, and those under the contractors control. Contractor further certifies that they will not maintain or provide for employment segregated facilities at any of the Contractor's establishments, and Contractor will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of the contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and washrooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise. Contractor further agrees they will obtain identical certification from proposed subcontractors prior to the awards of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that Contractor will retain such certification in their files; and that they will forward this notice to such proposed subcontractors.

26. **Architectural Barriers Act and Americans with Disabilities Act:** The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, people with physical disabilities. A building or facility designed, constructed, or altered with funds allocated or reallocated under this subpart after November 21, 1996, and that meets the definition of residential structure as defined in 24 CFR 40.2, or the definition of building as defined in 41 CFR 101-19.602(a), is subject to the requirements of the Architectural Barriers Act of 1968 and shall comply with the Uniform Federal Accessibility Standards. For general type buildings, these standards are in appendix A to 41 CFR part 101-19.6. For residential structures, these standards are available from the Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Disability Rights Division, Room 5240, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708-2333 (voice) or (202) 708-1734 (TTY).

27. **Section 109 of the Housing and Community Development Act of 1974:** No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the CDBG program of the State.

28. **Section 504 of the Rehabilitation Act of 1973, as amended:** The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, any program or activity that receives the benefits from the Assistance.

29. **Section 3, Compliance and Provision of Training, Employment and Business Opportunities:** The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, (12 USC § 1701u). Contractors and subcontractors must address the Section 3 employment work hours benchmarks for Section 3 Workers and Targeted Section 3 Workers as established by the U.S. Department of Housing and Urban Development at 24 CFR Part 75.

    a. This is a Section 3 covered project. Section 3 projects mean housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds $200,000. The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

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

    c. The parties to this contract will comply with HUD's regulations as set forth in 24 CFR Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

    d. The Section 3 requirements apply to all contractors and subcontractors performing work in connection with a Section 3 covered project. Contractor means any entity entering into a contract with (a) a recipient to perform work in connection with work in connection with a Section 3 project; or (b) a subrecipient for work in connection with a Section 3 project. Subcontractor means any entity that has a contract with a Contractor to undertake a portion of the contractor's obligation to perform work in connection with a Section 3 project.

    e. The contractor agrees to include this Section 3 Clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 Clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of regulations under 24 CFR Part 75.

    f. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

g. Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

30. **Lead-Based Paint:** Contractor shall carry out all work within the procedures established by the Grantee with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851- 4856), and implementing regulations at 24 CFR Part 35.

31. **Procurement of Recovered Materials:** The Contractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procurement only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

32. **Compliance with Air and Water Acts:** (Applicable to construction contracts and related subcontracts exceeding $100,000)

    During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

    In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

    a. A stipulation by the contractor or subcontractors, that any facility to be utilized in the performance of any non-exempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

    b. Agreement by the contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued there under.

    c. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.

    d. Agreement by the contractor that they will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the contractor will take such action as the government may direct as a means of enforcing such provisions.

    In no event shall any amount of the Assistance be utilized with respect to a facility which has given rise to a conviction under section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

33. **Energy Policy and Conservation Act:** In carrying out this agreement, the contractor agrees to comply with the requirements of mandatory standards and policies relating to energy efficiency which are contained in the State of South Dakota's energy conservation plan issued in compliance with the federal Energy Policy and Conservation Act (PL 94-163, 89 Statutes 871).

34. **Federal Labor Standards Provisions:** *(Applicable to construction contracts in excess of $2,000)*

    This contract will be funded in whole or in part with federal housing and community development funds. The Federal Labor Standards Provisions, including prevailing wage requirements of the Davis-Bacon and Related Acts and the Contract Work Hours and Safety Standards Act will be enforced. (see attached HUD Form 4010 Federal Labor Standards)

A. APPLICABILITY

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

1. Minimum wages and fringe benefits

i. All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), 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 basic hourly 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. As provided in 29 CFR 5.5(d) and (e), the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of these contract clauses; 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 must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) 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 classifications and wage rates conformed under 29 CFR 5.5(a)(1)(iii)) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. Frequently recurring classifications

A. In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to 29 CFR 5.5(a)(1)(iii), provided that:

1. The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

2. The classification is used in the area by the construction industry; and

3. The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

B. The Administrator will establish wage rates for such classifications in accordance with 29 CFR 5.5(a)(1)(iii)(A)(3). Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

iii. Conformance

A. The contracting officer must 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 be

classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

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

B. The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

C. 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 will be sent by the contracting officer by email to DBAconformance@dol.gov. 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.

D. 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 will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

E. The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under 29 CFR 5.5 (a)(1)(iii)(C) and (D). The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to 29 CFR 5.5 (a)(1)(iii)(C) or (D) must 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.

iv. Fringe benefits not expressed as an hourly rate

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 may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

v. Unfunded plans

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, in accordance with the criteria set forth in 29 CFR 5.28, 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.

vi. Interest In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding

i. Withholding requirements

The U. S. Department of Housing and Urban Development may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in 29 CFR 5.5(a) for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in 29 CFR 5.5(a)(3)(iv), HUD may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, 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.

ii. Priority to withheld funds

The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- **A.** A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- **B.** A contracting agency for its reprocurement costs;
- **C.** A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- **D.** A contractor's assignee(s);
- **E.** A contractor's successor(s); or
- **F.** A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

3. Records and certified payrolls

i. Basic record requirements

- **A. Length of record retention.** All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.
- **B. Information required** Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; 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 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.
- **C. Additional records relating to fringe benefits***.* Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(v) 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 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must 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.

D. Additional records relating to apprenticeship Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

ii. Certified payroll requirements

A. Frequency and method of submission The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to HUD if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system

B. Information required The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i)(B), except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.*, the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at *https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf* or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).

C. Statement of Compliance Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

1. That the certified payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information and basic records are being maintained under 29 CFR 5.5 (a)(3)(i), and such information and records are correct and complete;

2. That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly

from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

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

D. Use of Optional Form WH-347 The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by 29 CFR 5.5(a)(3)(ii)(C).

E. Signature The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

F. Falsification The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

G. Length of certified payroll retention The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

iii. Contracts, subcontracts, and related documents The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

iv Required disclosures and access

A. Required record disclosures and access to workers The contractor or subcontractor must make the records required under 29 CFR 5.5(a)(3)(i)–(iii), and any other documents that HUD or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by 29 CFR 5.1, available for inspection, copying, or transcription by authorized representatives of HUD or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

B. Sanctions for non-compliance with records and worker access requirements If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, 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, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

C. Required information disclosures Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to HUD if the agency is a party to

the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity

i. Apprentices

A. Rate of pay Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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 (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

B. Fringe benefits Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

C. Apprenticeship ratio The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to 29 CFR 5.5(a)(4)(i)(D). Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in 29 CFR 5.5(a)(4)(i)(A), must 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 this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

D. Reciprocity of ratios and wage rates Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

ii Equal employment opportunity The use of apprentices and journeyworkers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

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

6 Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (11), along with the applicable wage determination(s) and such other clauses or contract modifications as the U.S. Department of Housing and
Urban Development may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.

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.

i. By entering into this contract, the contractor certifies that neither it 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 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

iii. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11 Anti-retaliation It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

- **i.** Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;
- **ii.** Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;
- **iii.** Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5; or
- **iv.** Informing any other person about their rights under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5.

B. Contract Work Hours and Safety Standards Act (CWHSSA)

The Agency Head must cause or require the contracting officer to insert the following clauses set forth in 29 CFR 5.5(b)(1), (2), (3), (4), and (5) in full, or (for contracts covered by the Federal Acquisition Regulation) by reference, in any 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 must

be inserted in addition to the clauses required by 29 CFR 5.5(a) or 4.6. As used in this paragraph, the terms "laborers and mechanics" include watchpersons 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 29 CFR 5.5(b)(1) the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. 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 watchpersons and guards, employed in violation of the clause set forth in 29 CFR 5.5(b)(1), in the sum of $31 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 29 CFR 5.5(b)(1).
3. **Withholding for unpaid wages and liquidated damages**

i. **Withholding process** The U.S Department of Housing and Urban Development or the recipient of Federal assistance may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in 29 CFR 5.5(b) on this contract, 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 that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

ii **Priority to withheld funds** The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- **A.** A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- **B.** A contracting agency for its reprocurement costs;
- **C.** A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- **D.** A contractor's assignee(s);
- **E.** A contractor's successor(s); or
- **F.** A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

4. ***Subcontracts***. The contractor or subcontractor must insert in any subcontracts the clauses set forth in 29 CFR 5.5(b)(1) through (5) and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 CFR 5.5(b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss,

due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5 Anti-retaliation It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

- **i.** Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in 29 CFR part 5;
- **ii.** Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or 29 CFR part 5;
- **iii.** Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or 29 CFR part 5; or
- **iv.** Informing any other person about their rights under CWHSSA or 29 CFR part 5.

C. CWHSSA required records clause In addition to the clauses contained in 29 CFR 5.5(b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other laws referenced by 29 CFR 5.1, the Agency Head must cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of 3 years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made and actual wages paid. Further, the Agency Head must cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job.

D. Incorporation of contract clauses and wage determinations by reference Although agencies are required to insert the contract clauses set forth in this section, along with appropriate wage determinations, in full into covered contracts, and contractors and subcontractors are required to insert them in any lower-tier subcontracts, the incorporation by reference of the required contract clauses and appropriate wage determinations will be given the same force and effect as if they were inserted in full text.

E. Incorporation by operation of law The contract clauses set forth in this section (or their equivalent under the Federal Acquisition Regulation), along with the correct wage determinations, will be considered to be a part of every prime contract required by the applicable statutes referenced by 29 CFR 5.1 to include such clauses, and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Administrator grants a variance, tolerance, or exemption from the application of this paragraph. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

F. HEALTH AND SAFETY

The provisions of this paragraph (F) are applicable where the amount of the prime contract exceeds **$100,000**.

1. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety, as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
2. The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96), 40 U.S.C. § 3701 et seq.
3. The contractor shall include the provisions of this paragraph in every subcontract, so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

ATTACH APPLICABLE FEDERAL PREVAILING WAGE DECISION
(CDBG FUNDED CONSTRUCTION CONTRACTS)

FORM 3-1: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 2 CFR Part 200. 214, Suspension and Debarment and 24 CFR 24.1 Debarment and Suspension.

1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
    a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    b. Have not within a 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;
    c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
    d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

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

_____ _____

Organization Name Date

_____ _____

Authorized Representative Name Title

_____

Authorized Representative Signature

FORM 3-1: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. 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.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. 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 proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. 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.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

*Note: Lower Tier refers to the agency or contractor receiving Federal funds, as well as any subcontractors that the agency or contractor enters into contract with using those funds.

FORM 3-4: BUY AMERICA CERTIFICATION FORM

PURPOSE: The "Buy America Certification Form" is used to certify that, as required by federal law, all of the iron, steel , specific construction materials – non-ferrous metals, lumber, composite building materials, plastic and polymer based pipe and tube, (for FY24 funded projects and forward), all construction materials, including manufactured products (for FY25 funded projects and forward) utilized in federally funded projects with an aggregate of $250,000 or more funds, including HUD CDBG and RHP funds, are produced in the United States in a manner that complies with the Build America, Buy America Act, unless an applicable waiver applies or is granted by the Made in America Office of Management and Budget (MIAO).

GENERAL INFORMATION: BABA guidance requires the following Buy America preference:

1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States for FY 2023 funded projects forward; and,

2. All listed manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and, for FY 2025 funded projects forward;

3. All (listed and non-listed) construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

CERTIFICATION: I hereby certify the materials installed/to be installed pursuant to the attached Submittal conform to the Build America, Buy America Provisions. In addition, I understand and agree that the provisions of 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any. Signing this document does not alleviate the signee of providing evidence of such a request.

Grantee Name & Grant Number: _____

Authorized Representative (Print): _____

Signature: _____

Prime Contractor: _____

Phone Number: _____

Email: _____

Build America Buy America
Materials Certification

Grantee: _____ Contract Number: _____

Contractor: _____ Invoice Period: _____

Material Type (Steel, Iron, Manufactured Goods, Construction Materials)	Description	Name of Manufacturer	Location of Product

By signing, I certify that the statements made above are true to the best of my ability and knowledge and that the listed materials for use in this project funded by federal dollars were produced in the United States of America.	
Contractor Signature:	
Print Contractor Name:	
Contractor Company:	

Form 3-6: Self- Certification of Section 3 Worker/Targeted Worker Status

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 employer certification requirements listed in 24 CFR § 75.31. To qualify as a Section 3 worker, any United States legal resident's annual income must not exceed the HUD income limits for the year before the worker was hired, or the individual's current income annualized on a full-time basis for the year must be below the HUD income limit. Additionally, an individual can qualify as a Section 3 worker if they are a YouthBuild participant or employee of a Section 3 Business concern.

Please provide the following information about the worker:

Printed Name: _____

_____

Street Address (N*ot a PO Box*) Apt# City State Zip

Phone #**:** _____Email: _____

To qualify as a Section 3 Worker, you must meet **one** of the following requirements **OR** have your employer certify that you are employed by a Section 3 Business concern:

• Income for the previous calendar year is below the income limit* • A participant in a means-tested program such as public housing or Section 8-assisted housing • A YouthBuild Participant*	Income limit $XX,XXX

*Currently or at the time of hire if hired within the past 5 years

☐ I meet at least one of the requirements in the box above and therefore qualify to be counted as a Section 3 Worker under 24 CFR § 75.

If applicable, please indicate which requirement you meet to be considered a Targeted Section 3 worker in the box below. If you select "Living within the service area or neighborhood of the project," that selection will have to be confirmed by your employer. If you do not meet any of these requirements or do not know if you meet any of the requirements listed below, you may leave this section blank.

___ Living within the service area or neighborhood of the project (requires employer confirmation)*

___ YouthBuild participant*

*Currently or at the time of hire if hired within the past 5 years

☐ In addition to qualifying as a Section 3 Worker, I meet at least **one** of the requirements in the box above and therefore qualify to be counted as a Targeted Section 3 Worker under 75 CFR § 75.

I, the undersigned, certify under penalty of perjury that the information provided above is true and correct and certify that I (the worker identified above) meet the definition of a Section 3 worker. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802)

_____ _____

Signature Date

Form 3-7

CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING

(To be submitted as applicable)

Name of Business _____

Address of Business _____

Type of Business: ☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Joint Venture

Federal ID Number: _____ DUNS#: _____

Attach one or more of the following as evidence of status:

For Business claiming status as being at least 51% owned and controlled by low- and very low-income persons:

- ☐ Copy of Articles of Incorporation
- ☐ Assumed Business Name Certificate
- ☐ List of owners/stockholders and % ownership of each
- ☐ Organization chart with names and titles and brief function statement
- ☐ Certificate of Good Standing
- ☐ Partnership Agreement
- ☐ Corporation Annual Report
- ☐ Additional documentation

For Business claiming status as being at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing:

- ☐ Copy of resident lease

For business claiming Section 3 status, claiming at least 75 percent of the labor hours performed for the business over the prior three-month period was performed by Section 3 Workers:

- ☐ List of all current full-time employees
- ☐ Timesheets/payroll documentation for employee hours for last 3 months
- ☐ List of employees claiming Section 3 status

I declare and affirm under penalty of law that the statements made herein are true and accurate to the best of my knowledge. I understand that falsifying information and incomplete statements will disqualify certification status.

Business Owner or Authorized Representative	Attested by:
Signature	Signature
Date	Date

Form 3-8: Contractor/Subcontractor Section 3 Workforce Report

Updated July 2024

☐ Estimated (submitted at pre-construction conference)

☑ Final (submitted at project completion)

Date Report Submitted to GRANTEE:	
Project Name:	
Contractor Name:	
Contact Person:	
Project Address:	
Phone:	

CURRENT WORKFORCE

A	B	C	D	E	F	G	H	I
Employee Name	Annualized Salary	Annualized Salary Below HUD Limits (Yes/No)	Met the Definition of Section 3 at the time of hiring **(1)** (Yes/No)	YouthBuild Participant (Yes/No)	Reside in Section 8 Housing (Yes/No)	Reside within the Project Area (Yes/No)	Certified Section 3 Worker (Yes/No)	Targeted Section 3 Worker (Yes/No)

I, the undersigned, certify under penalty of perjury that the information provided above is true and correct and the above employees are permanent employees of ***INSERT CONTRACTOR NAME****. I certify the above employees are on our regular monthly payroll and have their W-2 tax forms for our records. These records will be available to the* ***INSERT GRANTEE NAME*** *for the above referenced project for verification purposes. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802) ramifications.*

Contractor Authorized Signature:	
Printed Name:	
Date:	

Instructions

This form should be used for documenting and tracking Section 3 and Targeted Section 3 Workers. The initial form is to be submitted at the time of pre-construction conference (no later than contract execution). The final report will be submitted at project completion. Please notate new employees for ease of review.

1) Check the box for either initial report or final report

2) Complete the contractor/subcontractor information

3) Each employee for the company who will (or might) work on the project should be listed below.

Column A: Employee Name

Column B: List the current annualized salary for the employee.

Column C: Is the employees salary currently below the CDBG Income Limit for 1-person? Yes/No

Column D: If answer to C was no, was the employee's annualized income below the CDBG Income Limit for 1-person at the time they were hired. Employees who were hired on or after 11/30/2020 who met the definition of a Section 3 worker AT THAT

Form 3-9: Section 3 Final Labor Hours Compliance Report

Updated August 2024

To be provided with final closeout documents.

Date Report Submitted to County:		
Project Name:		
Contractor Name:		
Contact Person:		
Phone:		

PART 1: EMPLOYMENT AND TRAINING (All fields are mandatory)

	A	B	C	D	E
Job Category	Total Labor Hours Worked on Project*	Total Labor Hours Worked on Project by Section 3 Workers	Total Labor Hours Worked on Project by Targeted Section 3 Workers	% of Total Labor Hours Worked by Section 3 Workers *	% of Total Labor Hours Worked by Targeted Section 3 Workers
Professionals	0	0	0	0%	0%
Technicians	0	0	0	0%	0%
Office/Clerical	0	0	0	0%	0%
Officials/Managers	0	0	0	0%	0%
Sales	0	0	0	0%	0%
Craft Workers (skilled)	0	0	0	0%	0%
Operatives (semiskilled)	0	0	0	0%	0%
Laborers (unskilled)	0	0	0	0%	0%
Service Workers	0	0	0	0%	0%
Other	0	0	0	0%	0%
Total	0	0	0	0%	0%

* Includes hours worked by Section 3 Workers and Targeted Section 3 Workers

PART 2: SUMMARY OF EFFORTS

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, Section 3 Workers and Targeted Section 3 Workers. Check all that apply.

	Attempted to recruit low-income workers through local advertising, signs prominently displayed at the project site, contacts with community organizations and public or private agencies operating within the County or metropolitan statistal area the projects is located in, or similar methods.
	Provided training or apprenticeship programs.
	Coordinated with YouthBuild Programs administered in the area in which the Section 3 covered project is located.
	Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
	Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
	Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
	Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
	Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

Is there any supplemental information you would like to provide?

Contractor Authorized Signature:	
Printed Name:	
Date:	

Form 5-2

U.S. Department of Labor
Wage and Hour Division

PAYROLL

For contractor's optional use; see instructions at dol.gov/agencies/whd/forms/wh347

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

WAGE AND HOUR DIVISION
Revised December 2008

OMB No. 1235-0008
Expires 09/30/2026

NAME OF CONTRACTOR ☐ OR SUBCONTRACTOR ☐	ADDRESS	
PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION / PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT. OR ST.	(4) DAY AND DATE — HOURS WORKED EACH DAY	(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS: FICA	WITH-HOLDING TAX			OTHER	TOTAL DEDUCTIONS	(9) NET WAGES PAID FOR WEEK
			O											
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that is will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

Date _____

I, _____ _____
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the
(Contractor or Subcontractor)

_____; that during the payroll period commencing on the
(Building or Work)

_____ day of _____, _____, and ending the _____ day of _____, _____,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

_____ from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

_____

_____

_____

_____

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

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

(4) That:

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

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

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

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

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF TITLE 31 OF THE UNITED STATES CODE.

U.S. Department of Labor
Wage and Hour Division

Davis-Bacon and Related Acts Weekly Certified Payroll Form

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

Unless otherwise noted, the information requested is specific to the named project below.

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

U.S. Wage and Hour Division

Rev. January 2025
OMB No.: 1235-0008
Expires: 01/31/2028

☐ SUBMISSION OF FINAL DBRA CERTIFIED PAYROLL FORM ☐ PRIME CONTRACTOR ☐ SUBCONTRACTOR

PROJECT NAME	PROJECT NO. or CONTRACT NO.	CERTIFIED PAYROLL NO.	PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME
PROJECT LOCATION	**WAGE DETERMINATION NO.**	**WEEK ENDING DATE**	**PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS ADDRESS**

(1A)	(1B)	(1C)	(1D)	(1E)	(2)	(3)		(4)		(5)		(6A)	(6B)	(6C)	(7A)	(7B)	(8)				(9)
WORKER ENTRY NO.	WORKER LAST NAME	WORKER FIRST NAME	WORKER MIDDLE INITIAL	WORKER IDENTIFYING NO.	(J) JOURNEYWORKER (RA) REGISTERD APPRENTICE	LABOR CLASSIFICATION		ST = STRAIGHT TIME OT = OVERTIME	(TOP) DAYS OF WORK WEEK (BOTTOM) DATES HOURS WORKED EACH DAY	TOTAL HOURS WORKED FOR WEEK		HOURLY WAGE RATE PAID FOR ST AND OT	TOTAL FRINGE BENEFIT CREDIT	PAYMENT IN LIEU OF FRINGE BENEFITS	GROSS AMT EARNED	GROSS AMT EARNED FOR **ALL WORK**	DEDUCTIONS FOR **ALL WORK**				NET PAY TO WORKER FOR **ALL WORK**
								ST									TAX WITH-HOLDINGS	FICA	OTHER (MUST SPECIFY, SEE INSTRUCTIONS)	TOTAL DEDUCTIONS	
								OT													
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While use of Form WH-347 itself is optional, covered contractors and subcontractors performing work on Federal or federally assisted construction contracts are required by the DBRA regulations and the contract clauses to submit payroll information on a weekly basis. The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federal or federally financed construction contracts to, on a weekly basis, "furnish a statement on the wages paid each employee during the prior week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors and subcontractors to submit weekly certified payrolls to the appropriate Federal agency if the agency is a party to the contract (or, if the agency is not such a party, to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the Federal agency). Each certified payroll must be accompanied by a signed "Statement of Compliance" (e.g., page 2 of the WH-347 or another document with identical wording) indicating that the certified payrolls are accurate and complete, and that each laborer or mechanic has been paid not less than the required Davis-Bacon prevailing wage rate(s) (including any fringe benefits) for the work performed. DOL and contracting agencies receiving this information review the information to determine whether workers have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

PROJECT NAME	PROJECT NO. or CONTRACT NO.	PAYROLL NO.	PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME
PROJECT LOCATION		**WEEK ENDING DATE**	**CERTIFYING OFFICIAL's NAME AND TITLE**

I paid or supervised the payment of the laborers or mechanics working on the above project during the stated time period. I certify the following:

☐ The payroll information submitted with this statement is correct and complete for the above project during the above period, and the wage and fringe benefit rates paid to the workers, including credit taken for the reasonably anticipated costs of a bona fide fringe benefit plan, fund or program, are not less than the applicable wage and fringe benefits rates for the classification(s) of work actually performed, as specified in the wage determination(s) incorporated into the contract.

☐ All regular payrolls and all other basic records that the contractor is required to maintain for this payroll period are complete and accurate and will be made available upon request from the agency or the Department of Labor.

☐ The classifications reported for each laborer or mechanic are the classification(s) of work that each worker actually performed.

☐ Any workers paid as apprentices during the above period are duly registered in a bona fide apprenticeship program registered with the Office of Apprenticeship, Employment and Training Administration, United States Department of Labor ("OA"), or a State Apprenticeship Agency ("SAA") recognized by Department of Labor. I have verified the registered apprenticeship program information provided below as accurate and applicable to any apprentices identified on page 1 of this form.

APPRENTICESHIP PROGRAM NAME	REGISTERED		NAME OF LABOR CLASSIFICATION
	☐ OA	☐ SAA	
	☐ OA	☐ SAA	
	☐ OA	☐ SAA	

☐ Fringe benefits have been paid in cash and/or to bona fide fringe benefit plans, funds, or programs. Where the contractor is claiming an hourly credit for their contributions to or reasonably anticipated costs of a bona fide fringe benefit plan, fund, or program, provide plan information and the hourly credit claimed for each worker listed on the previous page of this form.

HOURLY CREDIT FOR FRINGE BENEFITS

If an amount is listed in (6B) on the first page of this certified payroll form, enter the hourly credit claimed under each plan name, type and number for each worker and check whether the plan is funded or unfunded.

NAME OF WORKER	FB NAME / FB TYPE / PLAN NO. / ☐ Funded ☐ Unfunded	FB NAME / FB TYPE / PLAN NO. / ☐ Funded ☐ Unfunded	FB NAME / FB TYPE / PLAN NO. / ☐ Funded ☐ Unfunded	FB NAME / FB TYPE / PLAN NO. / ☐ Funded ☐ Unfunded	FB NAME / FB TYPE / PLAN NO. / ☐ Funded ☐ Unfunded	FB NAME / FB TYPE / PLAN NO. / ☐ Funded ☐ Unfunded	TOTAL HOURLY CREDIT
	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	$
	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	$
	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	$
	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	$
	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	$
	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	$
	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	$
	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hourly Credit $	Hrly Credit $	$

☐ All workers on the project have been paid the full weekly wages earned, and no rebates or deductions have been or will be made either directly or indirectly, other than permissible deductions as defined in 29 CFR part 3.

ADDITIONAL REMARKS

SIGNATURE OF CERTIFYING OFFICIAL	DATE	TELEPHONE NUMBER	EMAIL ADDRESS
		(___) ___ -____	

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION (SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF TITLE 31 OF THE UNITED STATES CODE), AS WELL AS DEBARMENT FROM FUTURE FEDERAL AND FEDERALLY-ASSISTED CONTRACTS. INFORMATION REPORTED IN CERTIFIED PAYROLLS MAY BE SUBJECT TO DISCLOSURE IN RESPONSE TO A FREEDOM OF INFORMATION ACT REQUEST.

Simplify Your Davis-Bacon Certified Payroll Reporting

DOL's online fillable WH-347 form generator streamlines the certified payroll process, reducing errors and saving you valuable time.

Key Benefits

- ✓ Automatic Calculations: Our tool performs all wage, overtime, and deduction calculations instantly, eliminating math errors.
- ✓ Print-Ready Output: Generate a professional, properly formatted WH-347 form that looks identical to the official Department of Labor version
- ✓ No Software Required: Works directly in your web browser—no downloads, installations, or subscriptions needed.
- ✓ Privacy First: Your data never leaves your computer. We don't store your information on any servers.

How It Works

- ➢ Enter your company and project details
- ➢ Input employee information and work hours
- ➢ Add wage rates and deductions
- ➢ Review the completed form
- ➢ Print or save as a PDF to submit to your contracting agency

Request For Authorization Of Additional Classification And Rate	Check Appropriate Box ☐ Service Contract ☐ Construction Contract	**OMB Control Number: 9000-0066** **Expiration Date: 5/31/2027**

Instructions: The Contractor shall complete items 3 through 16, keep a pending copy, and submit the request, in quadruplicate, to the Contracting Officer.

1. **To:** Administrator, Wage And Hour Division U.S. Department Of Labor Washington, DC 20210	2. **From:** (Reporting Office)
3. Contractor	4. Date Of Request

5. Contract Number	6. Date Bid Opened (Sealed Bidding)	7. Date Of Award	8. Date Contract Work Started	9. Date Option Exercised (If Applicable) (Service Contract Only)

10. Subcontractor (If Any)

11. Project And Description Of Work (Attach Additional Sheet If Needed)

12. Location (City, County, And State)

13. In Order To Complete The Work Provided For Under The Above Contract, It Is Necessary To Establish The Following Rate(s) For The Indicated Classification(s) Not Included In The Department Of Labor Determination

Number: Dated:

a. List In Order: Proposed Classification Title(s); Job Description(s); Duties; And Rationale For Proposed Classifications (Service contracts only)	b. Wage Rate(s)	c. Fringe Benefits Payments
(Use reverse or attach additional sheets, if necessary)		

14. Signature And Title Of Subcontractor Representative (If Any)	15. Signature And Title Of Prime Contractor Representative

16. Signature Of Employee Or Representative	Title	Check Appropriate Box - Referencing Block 13. ☐ Agree ☐ Disagree

To Be Completed By Contracting Officer (Check As Appropriate - See FAR 22.1019 (Service Contract Labor Standards) Or FAR 22.406-3 (Construction Wage Rate Requirements))

☐ The Interested Parties Agree And The Contracting Officer Recommends Approval By The Wage And Hour Division. Available Information And Recommendations Are Attached.

☐ The Interested Parties Cannot Agree On The Proposed Classification And Wage Rate. A Determination Of The Question By The Wage And Hour Division Is Therefore Requested. Available Information And Recommendations Are Attached.

(Send 3 copies to the Department of Labor)

Signature Of Contracting Officer Or Representative	Title And Commercial Telephone Number	Date Submitted

Paperwork Reduction Act Statement

This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0066. We estimate that it will take .5 hours to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: U.S. General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

FORM 5-5: INSTRUCTIONS FOR REQUEST FOR ADDITIONAL CLASSIFICATION

Request for Authorization of Additional Classification and Rate Info and Instructions

The U.S. Department of Labor (DOL) issues wage determinations under the Davis-Bacon Act (DBA) using available statistical data on prevailing wages and benefits paid in a specific locality. On occasion, the data does not contain sufficient information to issue rates for a particular classification of worker needed in the performance of the contract. Because of this, DBA provisions contain a conformance procedure for the purpose of establishing an enforceable wage and benefit rate for the missing classification.

If a classification considered necessary by the contractor for performance of the work is not listed on the applicable wage determination, the contractor must initiate a request for approval of additional classification along with the proposed wage and benefit rates for that classification. The Prime Contractor initiates the request by preparing an SF-1444, Request for Authorization of Additional Classification and Rate. The Contractor completes blocks 2 through 15 on the form.

The Contractor submits the request to the local government Grantee. The Labor Standards Officer (LSO) will review the form and the required documentation. The LSO then submits the proposal with all the attachments to DOL for approval. This process can take up to 30 days.

DBA Facts

- The classification must be appropriate for the contract work and must be a classification that is utilized in the locality by the construction industry.
- The contractor cannot propose a new classification by combining job duties from two or more existing classifications on the wage determination or propose a new classification that performs only part of the duties of an existing classification.
- The proposed wage rate for the new classification should generally be no lower than the wage rate of the lowest skilled classification on the determination.
- Conformance requests should not be submitted for exempt classifications (project managers, full-time supervisors, professionals such as engineers), nor for classifications other than “laborers or mechanics” employed on the site of work, as covered by DBA.
- The proposed rate should bear a reasonable relationship to the wage rates listed on the wage determination.

FORM 5-4: INSTRUCTIONS FOR REQUEST FOR ADDITIONAL CLASSIFICATION

SF-1444 Form Instructions

The following are instructions on how to complete the SF-1444 Form. Each number below coordinates with each box number on the form.

1. Check "Construction Contract" in the upper right-hand corner of the form.
2. Insert Grantee Information.
   Contact Name
   Name of Grantee
   Address
   City, State, Zip
3. Prime Contractors name.
4. Date the prime contractor is requesting authorization of additional classification.
5. Contract ID number. (Grantee/Contractor Contract #)
6. Date of Bid Opening.
7. The date the contract was awarded.
8. The actual date the contractor started work or will start work.
9. This section is not applicable.
10. List subcontractor's name if a subcontractor is requesting authorization of additional classification.
11. List the project number (e.g. 2324-101) and a description of the work that is being performed on the job.
12. Location of the project (city, county, and state).
13. The information for the following is noted on the front page of the federal general decision.
    - Number: "General Decision Number" (e.g. SD20240032 Mod#2)
    - Dated: General Decisions – The date is the latest "Publication date" listed above where the wage rates start

13a – 13c. List all classifications <u>not covered</u> by the wage determination, which are utilized by either the prime or the subcontractors. Provide information for the job description. The wage rate portion (13b, 13c) of the form should bear a reasonable relationship to the to the category classification wage rates (equipment operators, laborers, truck drivers, etc.) listed in the federal wage determination.

14. If there is a subcontractor listed on line 10, they must sign and list their title on this line.
15. The prime contractor's representative must sign on this line.
16. An employee who will be performing the work of the requested classification may sign and list their title/classification (THIS IS OPTIONAL).
    - The "Agree or Disagree" box is checked by anyone signing lines 14, 15, and 16.
    - The LSO will fill out everything else below the "to be completed by contracting officer" section.
    - The Contractor must provide a copy of the wage determination within the contract.