

STATE OF DELAWARE



DEPARTMENT OF TRANSPORTATION

BID PROPOSAL

for

CONTRACT DOT1905.01

FTA GRANT NO. DE-2018-003

WILMINGTON OPERATIONS CENTER PARATRANSIT BUS WASH

NEW CASTLE COUNTY

ADVERTISEMENT DATE: May 27, 2019

COMPLETION TIME: 224 Calendar Days

SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION  
DELAWARE DEPARTMENT OF TRANSPORTATION  
AUGUST 2016

Bids will be received in the Bidder's Room at the Delaware Department of Transportation's Administration Building, 800 Bay Road, Dover, Delaware prior to 2:00 P.M. local time June 25, 2019

**Contract No.DOT1905  
FTA Grant No. DE-2018-003**

**WILMINGTON OPERATIONS CENTER PARATRANSIT BUS WASH  
NEW CASTLE COUNTY**

**GENERAL DESCRIPTION**

LOCATION

These improvements are located in NEW CASTLE County more specifically shown on the Location Map(s) of the enclosed Plans.

DESCRIPTION

The improvements consist of furnishing all labor and materials for manufacturing bus wash system and roughing-in, installation of equipment, and final connection of utilities, with labor, services, and incidentals necessary for complete and operational equipment installation, and other incidental construction in accordance with the location, notes and details shown on the plans and as directed by the Engineer.

COMPLETION TIME

All work on this contract must be complete within 224 Calendar Days. The Contract Time includes an allowance for 10 Weather Days. It is the Department's intent to issue a Notice to Proceed such that work starts on or about September 3, 2019.

PROSPECTIVE BIDDERS NOTES:

1. QUESTIONS regarding this project are to be e-mailed to [dot-ask@state.de.us](mailto:dot-ask@state.de.us) no less than six business days prior to the bid opening date in order to receive a response. Please include DOT1905 in the subject line. Responses to inquiries are posted on-line at <http://www.bids.delaware.gov>.
2. SURETY BOND - Each proposal must be accompanied by a deposit of either surety bond or security for a sum equal to at least 10% of the bid.
3. DRUG TESTING - Regulation 4104; The state Office of Management and Budget has developed regulations that require Contractors and Subcontractors to implement a program of mandatory drug testing for Employees who work on Large Public Works Contracts funded all or in part with public funds pursuant to 29 Del.C. §6908(a)(6). **Refer to the full REVISED requirements at the following link:** [http://regulations.delaware.gov/register/december2017/final/21\\_DE\\_Reg\\_503\\_12-01-17.htm](http://regulations.delaware.gov/register/december2017/final/21_DE_Reg_503_12-01-17.htm)

Note a few of the requirements;

- \* At bid submission - Each bidder must submit with the bid a single signed affidavit certifying that the bidder and its subcontractors has in place or will implement during the entire term of the contract a Mandatory Drug Testing Program that complies with the regulation, *the form is attached*;
  - \* At least two business days prior to contract execution - The awarded Contractor shall provide to DeIDOT copies of the Employee Drug Testing Program for the Contractor, each participating DBE firm, and all other listed Subcontractors;
  - \* Subcontractors - Contractors that employ Subcontractors on the job site may do so only after submitting a copy of the Subcontractor's Employee Drug Testing Program along with the standard required subcontractor information. A Subcontractor shall not commence work until DeIDOT has approved the subcontractor in writing.
4. DBE PROGRAM REQUIREMENTS (49CFR §26.53(b)(3)(i)(B)) require submission of DBE participation information from the apparent low bidder no later than five (5) calendar days **after bid opening**.
  5. This project incorporates **Appendix A TECHNICAL SPECIFICATIONS**, which is a part of this contract. Appendix A contains additional specifications required for this project.

6. FTA Grant Number for this project: DE-2018-003
7. No RETAINAGE will be withheld on this contract unless through the Prequalification Requirements.
8. EXTERNAL COMPLAINT PROCEDURE can be viewed on DeIDOT's Website [here](#), or you may request a copy by calling (302) 760-2555.
9. AUGUST 2016 STANDARD SPECIFICATIONS apply to this contract. The Contractor shall make himself aware of any revisions and corrections (Supplemental Specifications, if any) and apply them to the applicable item(s) of this contract. The 2016 Standard Specifications can be [viewed here](#).
- 9a. FLATWORK CONCRETE TECHNICIAN CERTIFICATION TRAINING:  
Section 501.03, 503.03, 505.03, 610.03, 701.03 and 702.03 of the 2016 Standard Specifications require contractor's to provide an American Concrete Institute (ACI) or National Ready Mix Concrete Association (NRMCA) certified concrete flatwork technician to supervise all finishing of flatwork concrete.

Contract No.DOT1905  
CONSTRUCTION ITEMS UNITS OF MEASURE

<b>English Code</b>	English Description	Multiply By	Metric Code	Metric Description	Suggested CEC Metric Code
ACRE	Acre	0.4047	ha	Hectare	HECTARE
BAG	Bag	N/A	Bag	Bag	BAG
C.F.	Cubic Foot	0.02832	m <sup>3</sup>	Cubic Meter	M3
C.Y.	Cubic Yard	0.7646	m <sup>3</sup>	Cubic Meter	M3
EA-DY	Each Day	N/A	EA-DY	Each Day	EA-DY
EA-MO	Each Month	N/A	EA-MO	Each Month	EA-MO
EA/NT	Each Night	N/A	EA-NT	Each Night	EA/NT
EACH	Each	N/A	EA	Each	EACH
GAL	Gallon	3.785	L	Liter	L
HOUR	Hour	N/A	h	Hour	HOUR
INCH	Inch	25.4	mm	Millimeter	MM
L.F.	Linear Foot	0.3048	m	Linear Meter	L.M.
L.S.	Lump Sum	N/A	L.S.	Lump Sum	L.S.
LA-MI	Lane Mile	1.609	LA-km	Lane-Kilometer	LA-KM
LB	Pound	0.4536	kg	Kilogram	KG
MFBM	Thousand Feet of Board Measure	2.3597	m <sup>3</sup>	Cubic Meter	M3
MGAL	Thousand Gallons	3.785	kL	Kiloliter	KL
MILE	Mile	1.609	km	Kilometer	KM
S.F.	Square Foot	0.0929	m <sup>2</sup>	Square Meter	M2
S.Y.	Square Yard	0.8361	m <sup>2</sup>	Square Meter	M2
SY-IN	Square Yard-Inch	0.8495	m <sup>2</sup> -25 mm	Square Meter-25 Millimeter	M2-25 MM
TON	Ton	.9072	t	Metric Ton (1000kg)	TON
N.A.*	Kip	4.448	kN	Kilonewton	N.A.*
N.A.*	Thousand Pounds per Square Inch	6.895	MPa	Megapascal	N.A.*

\*Not used for units of measurement for payment.

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**GENERAL NOTICES**

SPECIFICATIONS:

The specifications entitled "Delaware Standard Specifications for Road and Bridge Construction, August, 2016", hereinafter referred to as the Standard Specifications; Supplemental Standard Specifications; the Special Provisions; notes on the Plans; this Bid Proposal; and any addenda thereto, shall govern the work to be performed under this contract. The Specifications and Supplemental Specifications can be [viewed here](#).

CLARIFICATIONS:

Under any Section or Item included in the Contract, the Contractor shall be aware that when requirements, responsibilities, and furnishing of materials are outlined in the details and notes on the Plans and in the paragraphs preceding the "Basis of Payment" paragraph in the Standard Specifications or Special Provisions, no interpretation shall be made that such stipulations are excluded because reiteration is not made in the "Basis of Payment" paragraph.

ATTESTING TO NON-COLLUSION:

The Department requires as a condition precedent to acceptance of bids a sworn statement executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract. The form for this sworn statement is included in the proposal and must be properly executed in order to have the bid considered.

QUANTITIES:

The quantities shown are for comparison of bids only. The Department may increase or decrease any quantity or quantities without penalty or change in the bid price.

EQUALITY OF EMPLOYMENT OPPORTUNITY ON PUBLIC WORKS:

Delaware Code, Title 29, Chapter 69, Section 6962, Paragraph (d), Subsection (7) states;

- a. As a condition of the awarding of any contract for public works financed in whole or in part by State appropriation, such contracts shall include the following provisions:

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

1. The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, gender identity or national origin. The contractor will take positive steps to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, 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 by the contracting agency setting forth this nondiscrimination clause.
2. 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 regard to race, creed, color, sex, sexual orientation, gender identity or national origin.
3. The contractor will ensure employees receive equal pay for equal work, without regard to sex. Employee pay differential is acceptable if pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or if the differential is based on any other factor other than sex.

TAX CLEARANCE:

As payments to each vendor or contractor aggregate \$2,000, the Division of Accounting will report such vendor or contractor to the Division of Revenue, who will then check the vendor or contractor's compliance with tax requirements and take such further action as may be necessary to insure compliance.

LICENSE:

A person desiring to engage in business in this State as a contractor on a project designated to include federal funds, shall obtain a Delaware business license upon making application to the Division of Revenue. Proof of said license compliance to be made prior to, or in conjunction with, the execution of a contract to which he has been named.

SUBCONTRACTOR LICENSE: 29 DEL. C. §6967:

(c) Any contractor that enters a public works contract must provide to the agency to which it is contracting, within 30 days of entering such public works contract, copies of all occupational and business licenses of subcontractors and/or independent contractors that will perform work for such public works contract. However, if a subcontractor or independent contractor is hired or contracted more than 20 days after the contractor entered the public works contract the occupational or business license of such subcontractor or independent contractor shall be provided to the agency within 10 days of being contracted or hired.

DIFFERING SITE CONDITIONS,

SUSPENSIONS OF WORK and SIGNIFICANT CHANGES IN THE CHARACTER OF WORK:

Differing site conditions: During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before they are disturbed and before the affected work is performed.

Upon written notification, the engineer will investigate the conditions, and if he/she determines that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding loss of anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of his/her determination whether or not an adjustment of the contract is warranted.

No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.

No contract adjustment will be allowed under their clause for any effects caused on unchanged work.

Suspensions of work ordered by the engineer: If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The engineer will notify the contractor of his/her determination whether or not an adjustment of the contract is warranted.

No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.

No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for or excluded under any other term or condition of this contract.

Significant changes in the character of work: The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.

If the alterations or changes in quantities significantly change the character of the work under the contract, whether or not changed by any such different quantities or alterations, an adjustment, excluding loss of anticipated profits, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.

The term "significant change" shall be construed to apply only to the following circumstances:

- (A) When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction or
- (B) When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

CONFLICT WITH FEDERAL STATUTES OR REGULATIONS:

Delaware Code, Title 29, Chapter 69, Section 6904, Paragraph (a):

"If any provision of this subchapter conflicts or is inconsistent with any statute, rule or regulation of the federal government applicable to a project or activity, the cost of which is to be paid or reimbursed in whole or in part by the federal government, and due to such conflict or inconsistency the availability of federal funds may be jeopardized, such provision shall not apply to such project or activity."

FEDERAL LABOR AND EMPLOYMENT REQUIREMENTS

Federal Regulation 23 CFR § 635.117(b) Labor and employment, states:

"No procedures or requirement shall be imposed by any State which will operate to discriminate against the employment of labor from any other State, possession or territory of the United States, in the construction of a Federal-aid project."

CONVICT PRODUCED MATERIALS:

- (a) Materials produced after July 1, 1991, by convict labor may only be incorporated in a Federal-aid highway construction project if such materials have been:
  - (1) Produced by convicts who are on parole, supervised release, or probation from a prison or
  - (2) Produced in a qualified prison facility and the cumulative annual production amount of such materials for use in Federal-aid highway construction does not exceed the amount of such materials produced in such facility for use in Federal-aid highway construction during the 12-month period ending July 1, 1987.
- (b) Qualified prison facility means any prison facility in which convicts, during the 12-month period ending July 1, 1987, produced materials for use in Federal-aid highway construction projects.

TO REPORT BID RIGGING ACTIVITIES:

The U. S. Department of Transportation (DOT) operates the below toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

TO REPORT BID RIGGING ACTIVITIES  
CALL 1-800-424-9071

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION  
TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY  
(EXECUTIVE ORDER 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Goals for Minority Participation In  
Each Trade

12.3% (New Castle County)  
14.5% (Kent & Sussex Counties)

Goals for Female Participation In  
Each Trade

6.9% (Entire State)

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is NEW CASTLE County.

REV. 11-3-80

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
  - d. "Minority" includes:
    - i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    - ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
    - iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Program Office or from the Federal procurement contracting offices. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
  - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
  - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
  - f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
  - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foreman, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
  - h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
  - i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
  - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontractors from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participating, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is under utilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Order of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate

of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

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#### TRAINING SPECIAL PROVISIONS

This Training Special Provision supersedes subparagraph 7b of the Special Provision entitled "Specific Equal Employment Opportunity Responsibilities", (Attachment 1), and is in implementation of 23 U.S.C. 140(a). As part of the contractor's equal employment opportunity affirmative action program, training shall be provided as follows:

The contractor shall provide on-the-job training aimed at developing full journeyman in the type of trade or job classification involved.

The number of trainees to be trained under the special provision will be **zero (0)**. In the event the contractor subcontracts a portion of the contract work, he shall determine how many, if any, of the trainees are to be trained by the subcontractor, provided however, that the contractor shall retain the primary responsibility for meeting the training requirements imposed by this special provision. The contractor shall also insure that this Training Special Provision is made applicable to such subcontract. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year apprenticeship or training.

The number of trainees shall be distributed among the work classification on the basis of the contractor's needs and the availability of journeymen in the various classifications within a reasonable area of recruitment. Prior to commencing construction, the contractor shall submit to the Department of Highways and Transportation for approval the number of trainees to be trained in each selected classification and training program to be used. Furthermore, the contractor shall specify the starting time for training in each of the classifications. The contractor will be credited for each trainee employed by him on the contract work who is currently enrolled or becomes enrolled in an approved program and will be reimbursed for such trainees as provided hereinafter.

Training and upgrading of minorities and women toward journeyman status is a primary objective of this Training Special Provision. Accordingly, the contractor shall make every effort to enroll minority trainees and women (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment. The contractor will be responsible for demonstrating the steps that he has taken in pursuance thereof, prior to a determination as to whether the contractor is in compliance with this Training Special Provision. This training commitment is not intended, and not be used, to discriminate against any applicant for training, whether a member of a minority group or not.

No employee shall be employed as a trainee in any classification in which he has successfully completed a training course leading to journeyman status or in which he has been employed as a journeyman. The contractor should satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used the contractor's records should document the findings in each case.

The minimum length and type of training for each classification will be as established in the training program selected by the contractor and approved by the Department of Highways and Transportation and the Federal Highway Administration. The Department of Highways and Transportation and the Federal Highway Administration shall approve a program if it is reasonably calculated to meet the equal employment opportunity obligations of the contractor and to qualify the average trainee for journeyman status in the classification concerned by the end of the training period. Furthermore, apprenticeship programs registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau and training programs approved but not necessarily sponsored by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training shall also be considered acceptable provided it is being administered in a manner consistent with the equal employment

obligations of Federal-aid highway construction contracts. Approval or acceptance of a training program shall be obtained from the State prior to commencing work the classification covered by the program. It is the intention of these provisions that the training is to be provided in the construction crafts rather than clerk-typists or secretarial-type positions. Training is permissible in lower level management positions such as office engineers, estimators, timekeepers, etc., where the training is oriented toward construction applications. Training in the laborer classification may be permitted provided that significant and meaningful training is provided and approved by the division office. Some off-site training is permissible as long as the training is an integral part of an approved training program and does not comprise a significant part of the overall training.

Except as otherwise noted below, the contractor will be reimbursed 80 cents per hour of training given an employee on this contract in accordance with an approved training program. As approved by the engineer, reimbursement will be made for training persons in excess of the number specified herein. This reimbursement will be made even though the contractor receives additional training program funds from other sources, provided such other sources does not specifically prohibit the contractor from receiving other reimbursement. Reimbursement for off-site training indicated above may only be made to the contractor where he does one or more of the following and the trainees are concurrently employed on a Federal-aid project; contributes to the cost of the training; provides the instruction of the trainee; or pays the trainee's wages during the off-site training period.

No payment shall be made to the contractor if either the failure to provide the required training, or the failure to hire the trainees as a journeyman, is caused by the contractor and evidences a lack of good faith on the part of the contractor in meeting the requirements of this Training Special Provision. It is normally expected that a trainee will begin his training on the project as soon as feasible after start of work utilizing the skill involved and remain on the project as long as training opportunities exist in his work classification or until he has completed his training program. It is not required that all trainees be on board for the entire length of the contract. A contractor will have fulfilled his responsibilities under this Training Special Provision if he has provided acceptable training to the number of trainees specified. The number trained shall be determined on the basis of the total number enrolled on the contract for a significant period.

Trainees will be paid a least 60 percent of the appropriate minimum journeymen's rate specified in the contract for the first half of the of the training period, 75 percent for the third quarter of the training period, and 90 percent for the last quarter of the training period, unless apprentices or trainees is an approved existing program are enrolled as trainees on this project. In fact case, the appropriate rates approved by the Department of Labor or Transportation in connection with the existing program shall apply to all trainees being trained for the same classification who are covered by this Training Special Provisions.

The contractor shall furnish the trainee a copy of the program he will follow in providing the training.

The contractor shall provide each trainee with a certification showing the type and length of training satisfactorily completed.

The contractor will provide for the maintenance of records and furnish periodic reports documenting his performance under this Training Special Provision.

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INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT  
& TRANSPORTATION EQUITY ACT

Recipients of Federal-aid highway funds authorized under Titles I (other than Part B) and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), or Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21) are required to comply with the regulations of 49 Code of Federal Regulations (CFR) Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM SPECIFICATION

The U.S. Department of Transportation (DOT) requires that the Delaware Department of Transportation continue the established Disadvantaged Business Enterprise (DBE) Program for participation in U.S. DOT programs and that the program follow the final rules as stated in 49 CFR Part 26 and the Department's approved DBE Program plan.

The following definitions apply to this subpart:

Disadvantaged Business Enterprise or DBE means a for-profit small business concern (1) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and, (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

Good Faith Efforts means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Joint Venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-neutral measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender neutrality.

Small Business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR §26.65(b).

Socially and economically disadvantaged individuals means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is - (1) any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis; (2) any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

- (i) Black Americans which includes persons having origins in any of the Black racial groups of Africa;
- (ii) Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- (iii) Native Americans which includes persons who are American Indians, Eskimos, Aluets, or Native Hawaiians;
- (iv) Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- (v) Subcontinent Asian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- (vi) Women;
- (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

DelDOT will establish specific goals for each particular DOT-assisted project which will be expressed as a percentage of the total dollar amount of contract bid. The specific contract goals for this contract are:

**Disadvantaged Business Enterprise 0 % Percent**

DelDOT continues to reserve the right to approve DBE subcontractors and all substitutions of DBE subcontractors prior to award and during the time of the contract.

Bidders are required to submit with their bids the completed DBE Program Assurance portion of the Certification document which will state the bidders intent of meeting the goals established for this contract; or in the instance where a contractor cannot meet the assigned DBE Goals for this contract, he/she shall at the time of bid submit documentation required to verify that he/she has made a Good Faith Effort to meet the DBE Goals. Guidance for submitting a Good Faith Effort is identified in the next section and in the DBE Program Plan. Further, the apparent low bidder must submit to DelDOT within five (5) calendar days after the bid opening, executed originals of each and every DBE subcontract to satisfy contract goals consistent with the DBE Program Assurance submitted as part of the bid package.

No contract work shall be performed by a DBE subcontractor until the executed DBE subcontract is approved in writing by DelDOT and the Department has issued the required Notice to Proceed. Any DBE subcontract relating to work to be performed pursuant to this contract, which is submitted to DelDOT for approval, must contain all DBE subcontractor information, the requirements contained in this contract, and must be fully executed by the contractor and DBE subcontractor.

Each contract between the prime contractor and each DBE subcontractor shall at the minimum include the following:

1. All pertinent provisions and requirements of the prime contract.
2. Description of the work to be performed by the DBE subcontractor.
3. The dollar value of each item of work to be completed by the DBE subcontractor and the bid price of each item of work to be completed by the DBE subcontractor.

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**CRITICAL DBE REQUIREMENTS**

A bid may be held to be non-responsive and not considered if the required DBE information is not provided. In addition, the bidder may lose its bidding capability on Department projects and such other sanctions as the Department may impose. It is critical that the bidder understands:

1. In the event that the bidder cannot meet the DBE goal as set forth in this specification, he/she shall at the time of bid submit to the Department that percentage of the DBE Goal that will be met, if any, on the written and notarized assurance made a part of this contract. The contractor shall also at the time of bid submit all documentation that the contractor wishes to have the Department consider in determining that the contractor made a Good Faith Effort to meet contract DBE Goals. The Department will not accept Good Faith Effort documentation other than on the scheduled date and time of the bid opening. However, the Department may ask for clarification of information submitted should the need arise.
2. A bid which does not contain either a completely executed DBE Program Assurance and/or Good Faith Effort documentation, where appropriate, shall be declared non-responsive and shall not be considered by the Department.
3. Failure of the apparent low bidder to present originals of all DBE subcontracts to substantiate the volume of work to be performed by DBE's as indicated in the bid within five (5) calendar days after the bid opening shall create a rebuttable presumption that the bid is not responsive.
4. Bidders are advised that failure to meet DBE Goals during the term of the contract may subject them to Department sanctions as identified in the DBE Program Plan.
5. In the execution of this contract, the successful bidder agrees to comply with the following contract clauses:

Prompt Payment: The prime contractor/consultant receiving payments shall, within 30 days of receipt of any payment, file a statement with the Department on a form to be determined by the Department that all subcontractors furnishing labor or material have been paid the full sum due them at the stage of the contract, except any funds withheld under the terms of the contract as required by Chapter 8, Title 17 of the Delaware Code, annotated and as amended. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of DelDOT. This clause applies to both DBE and non-DBE subcontractors.

Retainage: The prime contractor agrees to return retainage to each subcontractor within 15 calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of DeIDOT. This clause covers both DBE and non-DBE subcontractors. As guidance, once a subcontractor has satisfactorily completed the physical work, and has given to the prime contractor a certified statement that all laborers, lower tier contractors, and materialmen who have furnished labor and materials to the subcontractor have been paid all monies due them, the prime contractor shall return retainage to the subcontractor within 15 calendar days.

6. In the execution of this contract, the successful bidder agrees to comply with the following contract assurance and will include this same language in each subcontractor contract:  
"The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such remedy as the recipient deems appropriate." 49 CFR Section 26.13
7. In addition to this specification, bidders must comply with all provisions of the rules and regulations adopted by the U.S. Department of Transportation for DBE participation in U.S. DOT and DeIDOT Programs (49 CFR Part 26) and the Delaware Department of Transportation Disadvantaged Business Enterprise Program Plan; each of which is hereby incorporated and made part of this specification. Bidders are also reminded that they must be responsible and responsive bidders in all other aspects aside from the DBE Program in order to be awarded the contract.
8. In accordance with 49 CFR 26.53(f)(1), DeIDOT requires that a prime contractor not terminate a DBE subcontractor without prior written consent from the DeIDOT Civil Rights Office. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

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GUIDANCE FOR GOOD FAITH EFFORT

When the DBE Goals established for a contract by DeIDOT are not met, the contractor shall demonstrate good faith efforts to meet the DBE contract goals. The contractor shall demonstrate that the efforts made were those that a contractor actively and aggressively seeking to meet the goals established by DeIDOT would make, given all relevant circumstances. Evidence of this good faith effort will be submitted with the bid at the time of the bid opening.

The contractor is expected to demonstrate good faith efforts by actively and aggressively seeking out DBE participation in the project to the maximum extent, given all relevant circumstances. Following are the kinds of efforts that may be taken but are not deemed to be exclusive or exhaustive and DeIDOT will consider other factors and types of efforts that may be relevant:

1. Efforts made to select portions of the work proposed to be performed by DBEs in order to increase the likelihood of achieving the stated goal. Selection of portions of work are required to at least equal the goal for DBE utilization specified in this contract.
2. Written notification at least ten (10) calendar days prior to the opening of a bid soliciting DBE interest in participating in the contract as a subcontractor or supplier and for specific items of work.
3. Efforts made to obtain and negotiate with DBE firms for specific items of work:
  - a. Description of the means by which firms were solicited (i.e. by telephone, e-mail, written notice, advertisement).
  - b. The names, addresses, telephone numbers of DBE's contacted, the dates of initial contact; and whether initial solicitations of interest were followed-up by contacting the DBEs to determine with certainty whether the DBEs were interested.
  - c. A description of the information provided to DBE firms regarding the plans, specifications and estimated quantities for portions of the work to be performed.
  - d. A statement of why additional agreements with DBE's were not reached in order to meet the projected goal.
  - e. Listing of each DBE contacted but not contracted and the reasons for not entering a contract.
4. Efforts made to assist DBEs that need assistance in obtaining bonding, insurance, or lines of credit required by the contractor.

5. Reasons why certified DBEs are not available or not interested.
6. Efforts to effectively use the services of available disadvantaged community organizations; disadvantaged contractor's groups; local, state and federal DBE assistance offices; and other organizations that provide assistance in recruitment and placement of DBEs.

The following are examples of actions that may not be used as justification by the contractor for failure to meet DBE contract goals:

1. Failure to contract with a DBE solely because the DBE was unable to provide performance and/or payment bonds.
2. Rejection of a DBE bid or quotation based on price alone.
3. Rejection of a DBE because of its union or non-union status.
4. Failure to contract with a DBE because the contractor normally would perform all or most of the work in the contract.

Administrative reconsideration:

Within five (5) days of being informed by DelDOT that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidder should make this request in writing to the following reconsideration official: Director of Finance, DelDOT, 800 Bay Road, Dover, Delaware 19901, and Email a copy to [dot-ask@state.de.us](mailto:dot-ask@state.de.us). The reconsideration official will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

As part of this reconsideration, the bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder will have the opportunity to meet in person with the reconsideration official, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The final decision made by the reconsideration official will be communicated to the bidder in writing. The result of the reconsideration process is not administratively appealable to the U.S. Department of Transportation.

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## **FEDERAL TRANSIT ADMINISTRATION PROVISIONS**

Federal Transit Administration (FTA) requirements apply to project participants to the lowest tier necessary to ensure compliance with these requirements. The contractor will need to include applicable Federal requirements in each sub-agreement, lease, third party contract, or other document as necessary. The requirements listed herein must be adhered to by any firms selected to perform work required under this agreement.

### **1. AUDIT AND INSPECTION OF RECORDS**

The Contractor agrees to provide the Delaware Department of Transportation (Department), the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives' access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

### **2. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES**

The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Section 12101 et seq. And 49 U.S.C. Section 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. App. Section 1612; and implementing regulations, as may be amended

### **3. BUY AMERICA**

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or proposer must submit to the Department the appropriate Buy America certification (included in this bid proposal package) with all bids or proposals on FTA-funded contracts, except those subject to a general waiver. Bids or proposals that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

### **4. CARGO PREFERENCE**

Use of United States-Flag Vessels - The contractor agrees:

A) To use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

B) To furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in

English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the Department (through the contractor in the case of a subcontractor's bill-of-lading.)

C) To include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

5. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - Lower Tier Covered Transactions (Third Party Contracts over \$100,000);

A) By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

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

C) The prospective lower tier participant shall provide immediate written notice to the Department if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

D) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact the Department for assistance in obtaining a copy of those regulations.

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

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

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

H) Nothing contained in the foregoing shall be construed to require establishment of 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.

I) Except for transactions authorized under Paragraph E of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the Department may pursue available remedies including suspension and/or debarment.

J) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 CFR §29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

K) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

#### 6. CLEAN WATER REQUIREMENTS

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Department and understands and agrees that the Department will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. (2)The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### 7. FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Department and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### 8. CLEAN AIR

A) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the Department and understands and agrees that the Department will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

B) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### 9. RECYCLED PRODUCTS

Recovered Materials - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

#### 10. ENERGY CONSERVATION

The Contractor shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 US Section 321 et seq.).

#### 11. CONTRACT TERMINATION

A) Termination for Convenience. The Department may terminate this contract, in whole or in part, at any time by written notice to the Contractor. The Contractor shall be paid its costs, including contract close-out costs, and profit on product delivered up to the time of termination. The Contractor shall promptly submit its termination claim for payment. If the Contractor has any property in its possession belonging to the Department, the Contractor will account for the same and dispose of it in the manner the Department directs.

B) Termination for Default. If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the

Department may terminate this contract for default. Termination shall be affected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined that the Contractor had an excusable reason for not performing, such as a strike, flood, events which are not the fault of or are beyond the control of the Contractor, the Department, after setting up a new delivery or performance schedule, may allow the Contractor to continue work, or treat the termination as a termination of convenience.

In the event the Department exercises its right of termination for default, and if an amount for liquidated damages is set forth, the Contractor shall be liable to the Department for excess costs and, in addition, for liquidated damages in the amount set forth, as fixed, agreed, and liquidated damages for each calendar day of delay, until such time as the Department may reasonably obtain delivery or performance of similar supplies or services.

If the contract is so terminated, the Contractor shall continue performance and be liable to the Department for such liquidated damages for each calendar day of delay until the supplies are delivered or services performed.

The Contractor shall not be liable for liquidated damages resulting from delays such as acts of God, strikes, fire or flood, and events which are not the fault of, or are beyond the control of the Contractor.

## 12. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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) Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

Section 107 (OSHA):

Contract Work Hours and Safety Standards Act –

(i) The Contractor agrees to comply with section 107 of the Contract Work Hours and Safety

Standards Act, 40 U.S.C. section 333, and applicable DOL regulations, " Safety and Health

Regulations for Construction " 29 C.F.R. Part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

(ii) Subcontracts - The Contractor also agrees to include the requirements of this section in each subcontract. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this section if the work in question involves the performance of construction work and is to be performed:

- 1) Directly on or near the construction site, or
- 2) By the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

### 13. CIVIL RIGHTS

1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions

of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3) The contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Section 12101 et seq. And 49 U.S.C. Section 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. App. Section 1612; and implementing regulations, as may be amended.

4) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

#### 14. DAVIS-BACON ACT

Applies to contractors and subcontractors

##### 1) Minimum wages –

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 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 and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

- 1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
- 2) The classification is utilized in the area by the construction industry; and
- 3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- 4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate

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

C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the 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.

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

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

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

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

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

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

C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and

wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 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) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

2) Withholding - The Department shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the [ insert name of grantee] may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3) Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Department for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR part 5 and that such information is correct and complete;

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

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

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

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

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

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

apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

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

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

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

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

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

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

#### 15. DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of the Department of Transportation that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this contract. Consequently the DBE Requirements of 49 CFR Part 26 apply to this contract. The recipient or its contractor agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this contract. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of FTA assisted subcontracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Department deems appropriate.

The successful bidder agrees to comply with the following clauses:

Prompt Payment: The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Department. This clause applies to both DBE and Non-DBE subcontractors.

Retainage: The prime contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Department. This clause applies to both DBE and non-DBE subcontractors.

The specific goal for this contract is:

Disadvantaged Business Enterprise	0 Percent
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#### 16. ENVIRONMENTAL VIOLATIONS

The Contractor agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 (h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11378, and Environmental Protection Agency regulations: (40 CFR, Part 15) which prohibit the use under nonexempt Federal contracts, grants or loans, of facilities included on the EPA List for Violating Facilities. The Contractor shall report violations to the FTA.

#### 17. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the execution of this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, creed, religion, color, national origin, age, sex or disability. The Contractor shall take affirmative action to insure that applicants are employed, and that

employees are tested during their employment without regard to their race, creed, religion, color, national origin, age, sex or disability. Such actions 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. The Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

#### 18. FLY AMERICA REQUIREMENTS

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

#### 19. FTA FUNDING REQUIREMENTS

This project may be financed in part by funds from the Federal Transit Administration. Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Department and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### 20. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by FTA, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Department requests which would cause the Department to be in violation of the FTA terms and conditions.

#### 21. LOBBYING:

The Contractor is required to certify using the Certification of Restrictions on Lobbying Form included that, to the best of his or her knowledge and belief:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to 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, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying

Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq .)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of the certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

## 22. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(1) The Department and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Department, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## 23. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq . and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

## 24. PROTEST PROCEDURES

Protests based upon the award of the contract shall be made in writing to the Contract Services Administrator no later than ten (10) calendar days following the award of the contract. The protest must

clearly specify in writing the grounds and evidence on which the protest is based. The protest will be reviewed and decided pursuant to; the proposal documents issued by the Department, the Delaware Code, the Department's Standard Specifications for Road and Bridge Construction, August 2001, and the Federal Transit Authority's regulations.

25. RECORD RETENTION

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Department, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

26. SEISMIC SAFETY

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

27. TITLE VI COMPLIANCE

During the performance of any Contract entered into pursuant to these specifications, the Contractor, for itself, its assignees and successor in interest, agrees that it shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. section 2000d) and the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations Part 21, as they may be amended from time to time which are incorporated by reference and made a part of this contract.

28. INTELLIGENT TRANSPORTATION SYSTEMS

Intelligent transportation system (ITS) property and services must comply with the National ITS Architecture and Standards to the extent required by Section 5307(c) of SAFETEA-LU, FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 FR 1455 et seq., January 8, 2001, and later published policies or implementing directives FTA may issue. Consequently, third party contracts involving ITS are likely to require provisions to ensure compliance with Federal requirements.

**APPENDICES TO THE TITLE VI ASSURANCE**

**APPENDIX A**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, (Federal Highway Administration (FHWA), or Federal Transit Authority (FTA) ), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts and the Regulations, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration (FHWA), or Federal Transit Authority (FTA) to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration (FHWA), or Federal Transit Authority (FTA), as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration (FHWA), or Federal Transit Authority (FTA) may determine to be appropriate, including, but not limited to:
  - withholding payments to the contractor under the contract until the contractor complies;
  - and/or cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through five in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts and the Regulations . The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration (FHWA), or Federal Transit Authority (FTA) may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

**APPENDIX E**

During the performance of this contract, the contractor or consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970,(42 U.S.C. § 460 I), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);

Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part27;

The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);

Airport and Airway Improvement Act of 1982,(49 USC §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

The Civil Rights Restoration Act of 1987,(PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964,The AgeDiscrimination Act of 1975and Section 504 of the Rehabilitation Act of 1973,by expanding the defrnition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 - 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. S 41123) (prohibits discrimination on the basis of race, color, national origin, and sex);

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs; policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

\* \* \* \* \*

GENERAL DECISION: DE190008 01/04/2019 DE8

Superseded General Decision Number: DE20180014

State: DELAWARE

Construction Type: BUILDING

County: New Castle County in Delaware

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1 (a) (2) - (60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/04/2019

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BOIL0013-009	01/01/2016
	Rates                      Fringes
BOILERMAKER	\$42.26                      37.02
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BRDE0001-001	05/01/2018
	Rates                      Fringes
BRICKLAYER Brick Refractory/Brick Placement Worker)	\$32.47                      23.37
Bricklayer	\$32.47                      23.37
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CARP0173-009	05/01/2017
	Rates                      Fringes
CARPENTER (Includes Acoustical Ceiling Installation, Drywall Hanging, Form Work, Metal Stud Installation, Scaffold Building, Excludes Masonry/ Brick, and Excludes Soft Floor Layer)	\$31.62                      22.94
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CARP0251-008 05/01/2016

Rates Fringes

SOFT FLOOR LAYER \$29.96 21.04

CARP1906-003 07/01/2015

Rates Fringes

MILLWRIGHT \$36.05 30.63

ELEC0313-002 06/01/2018

Rates Fringes

ELECTRICIAN (Includes Low Voltage Wiring and Installation of Alarms, HVAC/Temperature Controls and Sound and Communication Systems) \$39.60 30.46

ELEV0005-003 01/01/2018

Rates Fringes

ELEVATOR MECHANIC \$55.76 32.645+A&B

FOOTNOTES FOR ELEVATOR MECHANICS:

- A. PAID VACATION: Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% for 6 months to 5 years of service.
- B. Eight Paid Holidays (provided employee has worked 5 consecutive days before and the working day after the holiday); New Year's Day, Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day and the Friday after Thanksgiving Day, and Christmas Day

ENGI0542-003 05/01/2018

Rates Fringes

POWER EQUIPMENT OPERATOR (Forklift) \$39.85 27.11+A

FOOTNOTE: A. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day (provided the employee works the scheduled work day following the holiday.)

IRON0451-005 07/01/2018

Rates Fringes

IRONWORKER (Ornamental, Reinforcing, and Structural) \$35.10 30.35

The following holidays shall be observed, and when work is performed thereon it shall be paid for at twice the base wage rate: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

LABO0199-005      05/01/2016

Rates                      Fringes

LABORERS:

Backfiller, Common or  
General, Jack Hammer,  
Mason Tender - Brick,  
Pipelayer, Scaffold  
Builder (Brick and  
Masonry), Tamper (Hand  
Held

\$24.55                      19.30

Mason Tender -  
Cement/Concrete

\$24.80                      19.30

PAIN0252-002                      05/01/2017

Rates                      Fringes  
\$41.30                      28.06

GLAZIER

PLAS0008-006                      05/01/2017

Rates                      Fringes

PLASTERER (Fireproofers)

\$37.42                      28.83

PLAS0592-009                      05/01/2018

Rates                      Fringes

CEMENT MASON/  
CONCRETE FINISHER

\$31.79                      25.58

PLUM0074-002                      06/13/2016

Rates                      Fringes

PIPEFITTER (Includes HVAC  
Pipe Installation and  
Excludes Industrial Work)

\$48.83                      33.30

FOOTNOTE:                      A. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day,  
Thanksgiving Day, Labor Day, Christmas Day, and General Election Day.

PLUM0074-003                      06/13/2016

Rates                      Fringes

PIPEFITTER (INDUSTRIAL)

\$48.83                      33.30

FOOTNOTE:                      A. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day,  
Thanksgiving Day, Labor Day, Christmas Day, and General Election Day.

SFDE0669-002                      04/01/2018

Rates                      Fringes

SPRINKLERFITTER (Fire  
Sprinklers)

\$36.55                      22.69

SHEE0019-021	07/01/2018	Rates	Fringes
SHEET METAL WORKER (Includes HVAC Duct Installation)		\$32.37	39.06

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SUDE2014-005	01/20/2016	Rates	Fringes
OPERATOR: Backhoe/Excavator/Trackhoe		\$33.96	0.00
OPERATOR: Bulldozer		\$25.89	0.00
OPERATOR: Crane		\$32.40	18.27
PAINTER (Brush and Roller)		\$38.80	0.91
PLUMBER		\$47.73	18.40
ROOFER (Installation of Metal Roofs Only)		\$39.09	30.77
ROOFER, Excludes Installation of Metal Roofs		\$27.98	27.90
TILE FINISHER		\$35.40	4.31
TILE SETTER		\$57.98	1.11

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198

indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under an "SU" identifier indicated that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U. S. Department of Labor  
200 Constitution Avenue, N. W.  
Washington, D. C. 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

APPLICABILITY OF DAVIS-BACON LABOR STANDARD PROVISIONS TO FLAGGERS

The U.S. Department of Labor has established that the duties of flaggers working on contracts covered by the Davis-Bacon Act, are manual and physical in nature. Accordingly, all employees performing the work of flaggers on Davis-Bacon covered contracts shall be entitled to receive applicable prevailing wage rates.

\* \* \* \* \*

ALL AGENCY MEMORANDUM NO. 130  
U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
WAGE AND HOUR DIVISION  
WASHINGTON, DC 20210

GUIDELINES

HIGHWAY CONSTRUCTION

Highway projects include the construction, alteration, or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or heavy construction.

EXAMPLES: Alleys, Base Courses, Bituminous treatments, Bridle Paths, Concrete pavement, Curbs, Excavation and embankment (for road construction), Fencing (highway), Grade crossing elimination (overpasses and underpasses), Guard rails on highway, Highway signs, Highway bridges (overpasses, underpasses, grade separation), Medians, Parking lots, Parkways, Resurfacing streets and highways, Roadbeds, Roadways, Runways, Shoulders, Stabilizing courses, Storm sewers incidental to road construction, Street paving, Surface courses, Taxiways, and Trails.

ANY QUESTIONS REGARDING THE APPLICATION OF THE GUIDELINES ABOVE TO A PARTICULAR PROJECT OR ANY DISPUTES REGARDING THE APPLICATION OF THE WAGE SCHEDULES ARE TO BE REFERRED TO THE WAGE AND HOUR DIVISION, U.S. DEPARTMENT OF LABOR FOR RESOLUTION, AND THE INSTRUCTIONS OF THE WAGE AND HOUR DIVISION ARE TO BE OBSERVED IN ALL INSTANCES.

\* ALL AGENCY MEMORANDUM NO. 130  
U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
WAGE AND HOUR DIVISION  
WASHINGTON, DC 20210

# **SUPPLEMENTAL SPECIFICATIONS TO THE STANDARD SPECIFICATIONS**

**EFFECTIVE AS OF THE ADVERTISEMENT  
DATE OF THIS PROPOSAL  
AND INCLUDED BY REFERENCE**

**The Supplemental Specifications can be viewed and printed from  
the Department's Website.**

- To access the Website;
- in your internet browser, enter; <https://www.deldot.gov>
  - under 'BUSINESS', Click; 'Publications'
  - scroll down under 'MANUALS' and Click; "Standard Specifications"
  - be sure and choose the correct Standard Specification year; 2001 or 2016
  - choose the latest revision prior to the date of this advertisement

The full Website Link is;  
[https://www.deldot.gov/Publications/manuals/standard\\_specifications/index.shtml](https://www.deldot.gov/Publications/manuals/standard_specifications/index.shtml)

Copies of the Supplemental Specifications can be printed from the Website.

**The Contractor shall make himself aware of these revisions and corrections (Supplemental Specifications), and apply them to the applicable item(s) of this contract.**

# **SPECIAL PROVISIONS**

**CONSTRUCTION ITEM NUMBERS**

All construction pay items are assigned a six (6) digit number, shown as Item Number on the Plans and/or in the Special Provisions, and shall be interpreted in accordance with the following:

**Standard Item Number:**

The first three digits of the construction item numbers indicates the Section number as described in the Standard Specifications, and all applicable requirements of the Section shall remain effective unless otherwise modified by the Special Provisions. The last three digits of the construction item identifies the item by sequential number under that Section. Sequential numbers for all items covered under Standard Specifications range from 000 to 499. A comprehensive list of construction item numbers begins on page 421 of the Standard Specifications. Additions to this list will be made as required.

**Special Provisions Item Number:**

The first three digits of the construction items, covered under Special Provisions, indicates the applicable Section number of the Standard Specifications, and shall be governed fully by the requirements of the Special Provisions. The last three digit of the items covered under Special Provisions identifies the item by sequential number. Sequential numbers for Special Provision items, range from 500 to 999.

Examples

**Standard Item Number - 202000 Excavation and Embankment**

202 Indicates Section Number

000 Indicates Sequential Number

**Special Provision Item Number - 202500 Grading and Reshaping Roadway**

202 Indicates Section Number

500 Indicates Sequential Number

**401502 - ASPHALT CEMENT COST ADJUSTMENT**

For Sections 304, 401, 402, 403, 404, and 405, payments to the Contractor shall be adjusted to reflect increases or decreases in the Delaware Posted Asphalt Cement Price when compared to the Project Asphalt Cement Base Price, as defined in these Special Provisions.

The Delaware Posted Asphalt Cement Price will be issued monthly by the Department and will be the industry posted price for Asphalt Cement, F.O.B. Philadelphia, Pennsylvania. The link for the posting is [https://www.deldot.gov/Business/bids/index.shtml?dc=asphalt\\_cement\\_english](https://www.deldot.gov/Business/bids/index.shtml?dc=asphalt_cement_english).

The Project Asphalt Cement Base Price will be the Delaware Posted Asphalt Cement Price in effect on the date of advertisement.

All deviations of the Delaware Posted Asphalt Cement Price from the Project Asphalt Cement Base Price are eligible for cost adjustment. No minimum increases or decreases or corresponding percentages are required to qualify for cost adjustment.

Actual quantity of asphalt cement qualifying for any Asphalt Cement Cost Adjustment will be computed using the weight of eligible asphalt that is shown on the QA/QC pay sheets as a percentage for the delivered material.

If the mix was not inspected and no QA/QC pay sheet was generated, then the asphalt percentage will be obtained from the job mix formula for that mix ID.

The asphalt percentage eligible for cost adjustment shall only be the virgin asphalt cement added to the mix.

There shall be no separate payment per ton cost of asphalt cement. That cost shall be included in the various unit prices bid per ton for those bid items that contain asphalt cement (mentioned above).

The Asphalt cement cost adjustment will be calculated on grade PG 64-22 asphalt regardless of the actual grade of asphalt used. The Project Asphalt Cement Base Price per ton for the project will be the Delaware Posted Asphalt Cement Price in effect on the date of project advertisement.

If the Contractor exceeds the authorized allotted completion time, the price of asphalt cement on the last authorized allotted work day, shall be the prices used for cost adjustment during the time liquidated damages are assessed. However, if the industry posted price for asphalt cement goes down, the asphalt-cement cost shall be adjusted downward accordingly.

**NOTE:**

Application of Asphalt Cement Cost Adjustment requirements as indicated above shall apply only to those contracts involving items related to bituminous base and pavements, and with bitumen, having a total of 1,000 tons or more of hot-mix bid quantity in case of Sections 401, 402 and 403; and 15,000 gallons or more in case of Sections 304, 404 and 405.

5/05/15



STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**  
800 BAY ROAD  
P.O. Box 778  
DOVER, DELAWARE 19903

JENNIFER COHAN  
SECRETARY

**UTILITY STATEMENT**  
**February 13, 2019**

**STATE CONTRACT #T201853102**  
**P6 # 10-12143**  
**Alternate Contract #DOT1905 F.A.P. # 5307-2017(04)**  
**WILMINGTON OPERATIONS CENTER PARATRANSIT BUS WASH**

**The state contractor shall be responsible to connect on-site, private utilities into the proposed improvements. Additional utility adjustment, relocation or other involvement is not anticipated for the work associated with this project. It is anticipated that all existing facilities will remain in place and active throughout the duration of the contract.**

Should any conflicts be encountered as a result of the contractor's means and methods during construction requiring adjustment, outages and/or relocation, the necessary relocation work shall be accomplished by the respective utility company and funded by the State's Contractor as directed by the District Engineer. The State Contractor shall coordinate any potential conflicts with utility companies and provide adequate notice as determined by the utility company prior to performing work. Any utility conflicts that are not readily discernable shall be coordinated by the State Contractor once the conflict is recognized. The time to complete any relocations/adjustments found to be necessary during construction of the project will depend on the nature of the work.

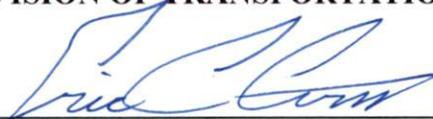
Any adjustments and/or relocations of municipally owned sewer or water facilities shall be performed by the State's Contractor in accordance with the respective agency's standard specifications as directed by the District Engineer. The State contractor shall coordinate any potential conflicts of municipally owned sewer or water facilities with facility owners and provide adequate notice to the municipally and to the District Engineer prior to performing work.

### General Notes

1. The Contractor's attention is directed to Section 105.09 Utilities, Delaware Standard Specifications, August 2016. The Contractor shall contact Miss Utility (1-800-282-8555) two working days prior to any excavation. The Contractor is responsible for the support and protection of all utilities when excavating. The Contractor is responsible for ensuring proper clearances, including safety clearances, from overhead utilities for construction equipment. The Contractor is advised to check the site for access and operating purposes for his equipment and, if necessary, make arrangements directly with the utility companies for field adjustments for adequate clearances.
2. The information shown in the Contract Documents, including the Utility Statement and the Utility Schedule contained herein, concerning the location, type and size of existing and proposed utilities, their locations, and construction timing has been compiled by the preparer based on information furnished by each of the involved Utility Companies. It shall be the responsibility of the State's Contractor to verify all information and coordinate with the Utility Companies prior to and during construction, as specified in Section 105.09 of the Standard Specifications.
3. It is understood and agreed that the Contractor has considered in his bid all permanent and temporary utility appurtenances in their present and relocated positions as shown on the plans or described in the Utility Statement or are readily discernible and that no additional compensation will be allowed for any delays, inconvenience, or damage due to any interference from the utility facilities and appurtenances or the operation of moving them, except that the Contractor may be granted an equitable extension of time unless the delay is caused by the Contractor's delay in having the site conditions ready for the utility relocation work after the Contractor has provided the advance notice that the site conditions would be ready for the utility relocation work. The contractor's means and method of construction are not taken into account when known utility conflicts are identified. If the Contractor's means and method of construction create a utility conflict the Utility Statement will prevail in discussions with the utility and the Contractor. The State's Contractor shall be responsible for any costs associated with any temporary outages; holding, bracing and shielding of utility facilities; temporary relocations; or permanent relocations that are not specifically identified in this utility statement or shown in the contract plan set.

4. Coordination and cooperation among the Utility Companies and the State's Contractor are of prime importance. Therefore, the Contractor is directed to contact the following Utility Company representatives with any questions regarding this work prior to submitting bids and work schedules. Proposed work schedules should reflect the Utility Companies' proposed relocations. The Utility Companies do not work on weekends, nights or legal holidays.
5. As outlined in Chapter 3 of the DeIDOT Utilities Manual, individual utility companies are responsible for obtaining all required permits from municipal, State and federal government agencies and railroads. This includes but is not limited to water quality permits/DNREC Water Quality Certification, DNREC Subaqueous Lands/Wetlands permits, DNREC Coastal Zone Consistency Certification, County Floodplain permits (New Castle County only), U.S. Coast Guard permits, US Army Corps 404 permits, sediment and erosion permits, and railroad crossing permits.
6. Individual utility companies are required to restore any areas disturbed in conjunction with their relocation work. If an area is disturbed by a utility company and is not properly restored, the Department may have the State's Contractor perform the necessary restoration. Any additional costs incurred as a result will be forwarded to the utility company.
7. 16 Del. C. § 7405B requires notification to and mutually agreeable measures from the public utility operating the electric line for any person intending to carry on any function, activity, work or operation within dangerous proximity of any high voltage overhead electric lines. All contractors/other utilities must also maintain a minimum distance of 10'-0" from all energized lines. Additional clearance may be required from high voltage transmission lines.
8. Any existing facilities that are comprised of hazardous materials will be removed by the Utility Company unless otherwise outlined in the contract documents or language above. Any existing facilities containing hazardous materials will be purged by the Utility Company unless otherwise outlined in the contract documents or language above.

**DIVISION OF TRANSPORTATION SOLUTIONS**



Utilities Section, DeIDOT  
Eric C. Cimo, P.E.  
eric.cimo@state.de.us

2/15/19  
Date

**STATE OF DELAWARE  
DEPARTMENT OF TRANSPORTATION  
PO BOX 778  
DOVER, DELAWARE 19903**

**CERTIFICATE OF RIGHT-OF-WAY STATUS**

**STATE PROJECT NO. DOT 1905**

**F.A.P. NO. 5307-2017(04)**

**WILMINGTON OPERATIONS CENTER PARATRANSIT BUS WASH**

**NEW CASTLE COUNTY**

**Certificate of Right-of-Way Status – 100%**

**Level 1**

**As required by 23 CFR, Part 635, and other pertinent Federal and State regulations or laws, the following certifications are hereby made in reference to this highway project:**

All project construction or work shall be performed within existing rights of way and permanent easements; and

**All necessary real property interests, including control of access rights when pertinent, were acquired as part of previous highway projects, and include legal and physical possession; and,**

This project does not cause any persons to be displaced as defined in 49 CFR, Part 24; and,

The State has the right to remove, salvage, or demolish any improvements or personal property that may be located within project limits.

**RIGHT OF WAY SECTION**



**James Pappas  
Acting Chief of Right of Way**

February 8, 2019



STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**  
800 BAY ROAD  
P.O. BOX 778  
DOVER, DELAWARE 19903

JENNIFER COHAN  
SECRETARY

February 28, 2019

ENVIRONMENTAL REQUIREMENTS

FOR

State Contract No. DOT1905  
Federal Aid No.: 5307-2017(04)

Contract Title: Wilmington Operations Center Paratransit Bus Wash

Due to the nature of the proposed construction activities, permits are not required for this project. However, the following construction requirements and special provisions have been developed to minimize and mitigate impact to the surrounding environs. These requirements by DelDOT not specified within the contract, but listed below, are the responsibility of the contractor and are subject to risk of shut down at the contractor's expense if not followed.

GENERAL REQUIREMENTS:

1. All construction debris, excavated material, brush, rocks, and refuse incidental to such work shall be placed either on shore above the influence of flood waters or on some suitable dumping ground.
2. That effort shall be made to keep construction debris from entering adjacent waterways or wetlands. Any debris that enters those areas shall be removed immediately.
3. The disposal of trees, brush, and other debris in any stream corridor, wetland, surface water, or drainage area is prohibited.
4. DelDOT Environmental Studies Section (302) 760-2264 must be notified if there are any changes to the project methods, footprint, materials, or designs, to allow the Department to coordinate with the appropriate resource agencies (COE, DNREC, and SHPO), for approval.



STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**  
 800 BAY ROAD  
 P.O. BOX 778  
 DOVER, DELAWARE 19903

JENNIFER COHAN  
 SECRETARY

**RAILROAD STATEMENT**

**For**

**State Contract No.:** DOT 1905

**Federal Aid No.:** 5307-2017(04)

**Project Title:** Wilmington Operation Center Bus Wash

**The following railroad companies maintain facilities within the contract limits:**

- |  |   |
|--|---|
| <input type="checkbox"/> Amtrak              | <input type="checkbox"/> Maryland & Delaware  |
| <input type="checkbox"/> CSX                 | <input type="checkbox"/> Norfolk Southern     |
| <input type="checkbox"/> Delaware Coast Line | <input type="checkbox"/> Wilmington & Western |
| <input type="checkbox"/> East Penn           | <input checked="" type="checkbox"/> None      |
| <input type="checkbox"/> Delmarva Central    |   |

DOT Inventory No.:     N/A     No. Trains/Day:     N/A     Passenger Trains (Y / N):     N/A    

**In accordance with 23 CFR 635, herein is the railroad statement of coordination (check one):**

- No Railroad involvement.
  
- Railroad Agreement unnecessary but railroad flagging required. The contractor shall follow requirements stated in the DelDOT Maintenance of Railroad Traffic Item in the Special Provisions. Contractor shall coordinate railroad flagging with DelDOT's Railroad Program Manager at (302) 760-2183.
  
- Railroad Agreement required. The necessary Railroad Agreement is pending. The Contractor cannot begin work until the Agreement is complete and fully executed. Railroad related work to be undertaken and completed as required for proper coordination with physical construction schedules. The Contractor shall follow requirements stated in the DelDOT Maintenance of Railroad Traffic Item in the Special Provisions. Contractor shall coordinate railroad flagging with DelDOT's Railroad Program Manager at (302) 760-2183.

**Approved As To Form:**

  
 \_\_\_\_\_  
 Robert A. Perrine  
 DelDOT Railroad Program Manager

7Feb19  
 \_\_\_\_\_  
 DATE

**BID PROPOSAL FORMS**  
CONTRACT DOT1905.01  
FTA GRANT NO. DE-2018-003

UNLESS OTHERWISE DIRECTED, SUBMIT ALL FOLLOWING PAGES TO:

DEPARTMENT OF TRANSPORTATION  
BIDDERS ROOM  
800 BAY ROAD  
DOVER, DELAWARE 19901

Identify the following on the outside of the sealed envelope:  
- Contract Number DOT1905.01  
- Name of Contractor

CONTRACT ID: DOT1905.01

PROJECT(S): DE-2018-003

All figures must be typewritten.

CONTRACTOR : \_\_\_\_\_

LINE NO	ITEM DESCRIPTION	APPROX. QUANTITY AND UNITS	UNIT PRICE		BID AMOUNT	
			DOLLARS	CTS	DOLLARS	CTS
1	MANUFACTURE AND INSTALL BUS WASH	LUMP	LUMP			
	SECTION 0001 TOTAL					
	TOTAL BID					

**BUY AMERICA CERTIFICATION**

**CERTIFICATION OF COMPLIANCE**

The bidder hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 CFR 661.11:

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

**CERTIFICATION OF NON-COMPLIANCE**

The Bidder hereby certifies that he/she cannot comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 CFR 6612.7.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

CERTIFICATION OF ELIGIBILITY

\_\_\_\_\_ hereby certifies that it is not included on the United States Comptroller General's Consolidated List of Persons or Firms Currently Debarred for Violations of Various Public Contracts Incorporating Labor Standard Provisions.

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009.  
My commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

CERTIFICATE OF NON-COLLUSION

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

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

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009.  
My commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

The Primary Participant (applicant for an FTA grant or cooperative agreement, or potential contractor for a major third party contract), \_\_\_\_\_ certifies to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- 2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- 4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or Local) terminated for cause or default.

If the primary participant (applicant for an FTA grant or cooperative agreement, or potential third party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

The Primary Participant (applicant for an FTA grant or cooperative agreement, or potential contractor for a major third party contract), \_\_\_\_\_ certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Sections 3801 et seq, are applicable thereto.

\_\_\_\_\_  
Signature and Title of Authorized Official

\_\_\_\_\_  
Date

CERTIFICATION OF RESTRICTIONS ON LOBBYING

The Bidder or Offeror certifies, to the best of its knowledge and belief, that:

1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. 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 thereof.

2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to 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, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions (as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)).

3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. 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 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

THE BIDDER OR OFFEROR, \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE BIDDER OR OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

\_\_\_\_\_ Signature of the Bidder or Offeror's Authorized Official

\_\_\_\_\_ Name and Title of the Bidder or Offeror's Authorized Official

\_\_\_\_\_ Date



**AFFIDAVIT  
OF  
EMPLOYEE DRUG TESTING PROGRAM**

4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects requires that Contractors and Subcontractors implement a program of mandatory drug testing for Employees who work on Large Public Works Contracts funded all or in part with public funds.

We hereby certify that we have in place or will implement during the entire term of the contract a Mandatory Drug Testing Program for our employees on the jobsite, including subcontractors, that complies with this regulation:

**Contractor Name:** \_\_\_\_\_

**Contractor Address:** \_\_\_\_\_

\_\_\_\_\_

**Authorized Representative (typed or printed):** \_\_\_\_\_

**Authorized Representative (signature):** \_\_\_\_\_

**Title:** \_\_\_\_\_

Sworn to and Subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

My Commission expires \_\_\_\_\_. NOTARY PUBLIC \_\_\_\_\_.

**THIS PAGE MUST BE SIGNED, NOTARIZED, AND RETURNED WITH YOUR BID.**

**(This form is required from the prime contractor only, not required from subcontractors)**

**CERTIFICATION**

Contract No. DOT1905  
FTA Grant No. DE-2018-003

The undersigned bidder, \_\_\_\_\_  
whose address is \_\_\_\_\_  
and telephone number is \_\_\_\_\_ hereby certifies the following:

I/We have carefully examined the location of the proposed work, the proposed plans and specifications, and will be bound, upon award of this contract by the Department of Transportation, to execute in accordance with such award, a contract with necessary surety bond, of which contract this proposal and said plans and specifications shall be a part, to provide all necessary machinery, tools, labor and other means of construction, and to do all the work and to furnish all the materials necessary to perform and complete the said contract within the time and as required in accordance with the requirements of the Department of Transportation, and at the unit prices for the various items as listed on the preceding pages.

**Bidder's Certification Statement [US DOT Suspension and Debarment Regulation (49 CFR 29)]:**

**NOTICE:** All contractors who hold prime contracts (Federal Aid) with DelDOT are advised that the prime contractor and subcontractors are required to submit to DelDOT a signed and notary attested copy of the Bidder Certification Statement for each and every subcontract that will be utilized by the prime contractor. This Certification **must** be filed with DelDOT prior to written approval being granted for each and every subcontractor. Copies of the Certification Form are available from the appropriate District Construction Office.

Under penalty of perjury under the laws of the United States, that I/We, or any person associated therewith in the capacity of (owner, partner, director, officer, principal, investigator, project director, manager, auditor, or any position involving the administration federal funds):

- a. am/are not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- b. have not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years;
- c. do not have a proposed debarment pending; and,
- d. have not been indicted, convicted, or had a civil judgement rendered against (it) by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate below to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Insert Exceptions)

**DBE Program Assurance:**

**NOTICE:** In accordance with 49 CFR Part 26 the undersigned, a legally authorized representative of the bidder listed below, must complete this assurance.

By its signature affixed hereto, assures the Department that it will attain DBE participation as indicated:

**Disadvantaged Business Enterprise \_\_\_\_\_ percent (blank to be filled in by bidder)**



The foregoing quantities are considered to be approximate only and are given as the basis for comparison of bids. The Department of Transportation may increase or decrease the amount of any item or portion of the work as may be deemed necessary or expedient. Any such increase or decrease in the quantity for any item will not be regarded as a sufficient ground for an increase or decrease in the unit prices, nor in the time allowed for the completion of the work, except as provided in the contract.

Accompanying this proposal is a surety bond or a security of the bidder assigned to the Department of Transportation, for at least ten (10) percentum of total amount of the proposal, which deposit is to be forfeited as liquidated damages in case this proposal is accepted, and the undersigned shall fail to execute a contract with necessary bond, when required, for the performance of said contract with the Department of Transportation, under the conditions of this proposal, within twenty (20) days after date of official notice of the award of the contract as provided in the requirement and specifications hereto attached; otherwise said deposit is to be returned to the undersigned.

By submission of this proposal, each person signing on behalf of the bidder, certifies as to its own organization, under penalty of perjury, that to the best of each signer's knowledge and belief:

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

I/We acknowledge receipt and incorporation of addenda to this proposal as follows:

No.	Date								
-----	------	-----	------	-----	------	-----	------	-----	------

**BIDDERS MUST ACKNOWLEDGE RECEIPT OF ALL ADDENDA**

**MUST INSERT DATE OF FINAL QUESTIONS AND ANSWERS ON WEBSITE:** \_\_\_\_\_

Sealed and dated this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord two thousand \_\_\_\_\_ ( 20\_\_\_\_ ).

\_\_\_\_\_  
Name of Bidder (Organization)

Corporate  
Seal

By: \_\_\_\_\_  
Authorized Signature

Attest \_\_\_\_\_

\_\_\_\_\_  
Title

SWORN TO AND SUBSCRIBED BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary  
Seal

\_\_\_\_\_  
Notary

**BID BOND**

TO ACCOMPANY PROPOSAL  
(Not necessary if security is used)

KNOW ALL MEN BY THESE PRESENTS That: \_\_\_\_\_  
of \_\_\_\_\_ in the County of \_\_\_\_\_ and State of \_\_\_\_\_ as  
**Principal**, and \_\_\_\_\_ of \_\_\_\_\_ in the County of  
\_\_\_\_\_ and State of \_\_\_\_\_ as **Surety**, legally authorized to do business in the State of  
Delaware ("**State**"), are held and firmly unto the **State** in the sum of \_\_\_\_\_  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_), or \_\_\_\_\_ percent not to exceed \_\_\_\_\_  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) of amount of bid on Contract No.  
DOT1905, to be paid to the **State** for the use and benefit of its Department of Transportation ("**DeIDOT**") for which  
payment well and truly to be made, we do bind ourselves, our and each of our heirs, executors, administrators, and  
successors, jointly and severally for and in the whole firmly by these presents.

NOW THE CONDITION OF THIS OBLIGATION IS SUCH That if the above bounden **Principal** who has  
submitted to the **DeIDOT** a certain proposal to enter into this contract for the furnishing of certain materiel and/or  
services within the **State**, shall be awarded this Contract, and if said **Principal** shall well and truly enter into and  
execute this Contract as may be required by the terms of this Contract and approved by the **DeIDOT**, this Contract to  
be entered into within twenty days after the date of official notice of the award thereof in accordance with the terms of  
said proposal, then this obligation shall be void or else to be and remain in full force and virtue.

Sealed with \_\_\_\_\_ seal and dated this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord  
two thousand and \_\_\_\_\_ ( 20\_\_ ).

SEALED, AND DELIVERED IN THE  
presence of

\_\_\_\_\_  
Name of Bidder (Organization)

Corporate  
Seal

By: \_\_\_\_\_  
Authorized Signature

Attest \_\_\_\_\_

\_\_\_\_\_  
Title

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Name of Surety

Witness: \_\_\_\_\_

By: \_\_\_\_\_

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Title