

SPECIAL PROVISION

EQUAL EMPLOYMENT OPPORTUNITY – NOTICE TO CONTRACTORS

Elsewhere in this contract are three Supplemental Specifications on Equal Employment Opportunity designated as PR-1273 Supplements. They are (1) Specific Equal Employment Opportunity Responsibilities (23 U.S.C. 140), (2) Equal Employment Opportunity – Goals and Timetables, and (3) Equal Employment Opportunity – Federal Standards. This notice is to clarify the responsibilities for review of compliance and enforcement for these separate supplemental specification requirements.

The first of the Supplemental Specifications cited above covers the requirements for the equal employment opportunity program under Title 23 for which the sponsor is responsible. The sponsor performs the necessary compliance review and enforcement of this supplemental Specification which is applicable to all contractors holding Federal-aid highway contracts.

The latter two Supplemental Specifications are for the specific equal opportunity requirements for Executive Order 11246 which is the sole responsibility of the Office of Federal Contract Compliance Programs (OFCCP), Department of Labor. Review and enforcement under these Supplemental Specifications is performed by OFCCP.

OFCCP has, under Paragraph 8 of the EEO Federal Standards Supplemental Specification, recognized the Arkansas AGC Heavy Highway Affirmative Action Plan as meeting the provisions of that Supplemental Specification and Supplemental Specification (2) cited above. With this recognition, those contractors signatory to the AGC Plan have been waived from individual review by OFCCP. However, OFCCP retains the right to review any such contractors whenever circumstances warrant. Also, contractors non-signatory to the AGC Plan are subject to OFCCP review under EO 11246.

AHTD and OFCCP have agreed to work towards eliminating duplicative reviews on individual contractors; however, each agency may make reviews at any time notwithstanding the cited agreement.

SPECIAL PROVISION**SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES
(23 U.S.C. 140)**1. General.

a. Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract Provisions (Form FHWA-1273 and Supplements) and these Special Provisions which are imposed pursuant to Section 140 of Title 23, U.S.C., as established by Section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions. The initial measure of the contractor's good faith efforts to comply with these Special Provisions shall be its efforts to meet the goals set forth in the 'Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)' for minority and female participation expressed in percentage terms for the contractor's work force in each trade on this project.

b. The contractor will work with the sponsor and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.

c. The contractor and all his/her subcontractors holding subcontracts not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection I of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of \$10,000 or more with such modification of

language as is necessary to make them binding on the subcontractor.

2. Equal Employment Opportunity Policy.

The contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, age, disability, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

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

3. Equal Employment Opportunity Officer.

The contractor will designate and make known to the sponsor contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. Dissemination of Policy.

a. All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To ensure that the above

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(23 U.S.C. 140)**

agreement will be met, the following actions will be taken as a minimum:

(1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

(2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the contractor.

(3) All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official in the contractor's procedures for locating and hiring minority and female employees.

b. In order to make the contractor's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor will take the following actions:

(1) Notices and posters setting forth the contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment, and potential employees.

(2) The contractor's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

5. Recruitment

a. When advertising for employees, the contractor will include in all advertisements for employees the notation: 'An Equal Opportunity Employer.' All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

b. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority and female applicants, including, but not limited to, State employment agencies, schools, colleges, and minority group organizations. To meet this requirement, the contractor will, through his EEO Officer, identify sources of potential minority and female employees, and establish with such identified sources procedures whereby minority and female applicants may be referred to the contractor for employment consideration.

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

c. The contractor will encourage his present employees to refer minority and female applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority and female applicants will be discussed with employees.

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(23 U.S.C. 140)****6. Personnel Actions.**

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

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

7. Training and Promotion.

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority

group and women employees and applicants for employment.

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

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

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

8. Unions.

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

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

- b. The contractor will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer

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(23 U.S.C. 140)

applicants without regard to their race, color, religion, sex, age, disability, or national origin.

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

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, age, disability, or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the sponsor.

9. Subcontracting.

a. The contractor's attention is called to the Special Provision on Disadvantaged Business Enterprises in Federal-Aid Highway Construction.

b. The contractor will use his best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. Records and Reports.

a. The contractor will keep such records as are necessary to determine compliance with the contractor's equal employment opportunity obligations. The records kept by the contractor will be designed to indicate:

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

(2) the progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force),

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

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

b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the sponsor and the Federal Highway Administration.

c. The contractors will submit an annual report to the State Highway agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. Ibis information is to be reported on Form PR 1391.

11. Corrective Action Plans.

The contractor understands that a designated representative of the sponsor will periodically review compliance by the contractor with all contractual provisions incorporated pursuant to

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(23 U.S.C. 140)

Executive Order 11246, as amended, and Federal Highway Administration Equal Employment Opportunity Special Provisions implementing the Federal-Aid Highway Act of 1968, where applicable.

In the event that the designated representative of the sponsor finds that the contractor has failed to comply with any of the aforementioned contractual provisions, he will notify the contractor of this finding in writing. A declaration of default will result in the suspension of all future payments. No declaration of default will be made if the sponsor and the contractor formally agree to enter into a corrective action plan setting out the specified steps and timetables the contractor will be contractually obligated to perform in order to re-establish his compliance. This collective action plan, in order to be accepted by the sponsor, shall include the following mandatory enforcement language:

'If, at any time in the future, the Office of Federal Contract Compliance Programs or the Federal Highway Administration or the Arkansas State Highway Commission or their successor(s) believe that (name of contractor) has violated any portion of this agreement, (name of contractor) shall be promptly notified of the fact in writing. This notification shall include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification shall provide (name of contractor) with 15 days to respond in writing to the notification except where the Office of Federal Contract Compliance Programs, the Federal Highway Administration or the Arkansas State Highway Commission alleges that such delay would result in irreparable injury. It is understood that enforcement proceedings for violation of this agreement may be initiated at any time after the 15-day period has elapsed (or sooner if irreparable injury is alleged) without issuance of a show cause notice.'

'It is recognized that where the Office of Federal Contract Compliance Programs and/or the Federal Highway Administration and/or the Arkansas State Highway Commission believes that (name of contractor) has breached this agreement, evidence regarding the entire scope of (name of contractor)

alleged noncompliance from which this agreement resulted, in addition to evidence regarding (name of contractor) alleged violation of this agreement, may be introduced at the enforcement proceeding.'

'Violation of this agreement may subject (name of contractor) to sanctions pursuant to the Arkansas State Highway Commission contract administration procedures. It is further recognized that liability for violation of this agreement may also subject (name of contractor) to sanctions set forth in Section 209 of Executive Order 11246, as amended, and/or appropriate relief.'

The contractor will submit quarterly reports to the sponsor as a result of any deficiencies cited during an equal employment opportunity compliance review. The reports will indicate the affirmative action steps taken to correct the deficiencies. Instructions for submission of the reports will be furnished by the Equal Employment Opportunity Section.

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EQUAL EMPLOYMENT OPPORTUNITY – GOALS & TIMETABLES

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

1. The 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 workforce in each trade on all construction work in covered area, are as follows:

MINORITIES
COUNTY

| | | | | |
|------------------|--------|--|--------------|--------|
| Arkansas | -16.4% | | Lee | -26.5% |
| Ashley | -16.4% | | Lincoln | -16.4% |
| Baxter | -3.3% | | Little River | -19.7% |
| Benton | -3.3% | | Logan | -6.6% |
| Boone | -3.3% | | Lonoke | -16.4% |
| Bradley | -16.4% | | Madison | -3.3% |
| Calhoun | -16.4% | | Marion | -3.3% |
| Carroll | -3.3% | | Miller | -19.7% |
| Chicot | -16.4% | | Mississippi | -26.5% |
| Clark | -16.4% | | Monroe | -16.4% |
| Clay | -26.5% | | Montgomery | -16.4% |
| Cleburne | -16.4% | | Nevada | -20.2% |
| Cleveland | -16.4% | | Newton | -3.3% |
| Columbia | -20.2% | | Ouachita | -16.4% |
| Conway | -16.4% | | Perry | -16.4% |
| Craighead | -26.5% | | Phillips | -26.5% |
| Crawford | -5.6% | | Pike | -20.2% |
| Crittenden | -32.3% | | Poinsett | -26.5% |
| Cross | -26.5% | | Polk | -6.6% |
| Dallas | -16.4% | | Pope. | -16.4% |
| Desha | -16.4% | | Prairie | -16.4% |
| Drew | -16.4% | | Pulaski | -15.7% |
| Faulkner | -16.4% | | Randolph | -26.5% |
| Franklin | -6.6% | | Saline | -15.7% |
| Fulton | -16.4% | | Scott | -6.6% |
| Garland | -16.4% | | Searcy | -3.3% |
| Grant | -16.4% | | Sebastian | -5.6% |
| Greene | -26.5% | | Sevier | -20.2% |
| Hempstead | -20.2% | | Sharp | -16.4% |
| Hot Spring | -16.4% | | Stone | -16.4% |
| Howard - | -20.2% | | St. Francis | -26.5% |
| Independence | -16.4% | | Union | -16.4% |
| Izard | -16.4% | | Van Buren | -16.4% |
| Jackson | -16.4% | | Washington | -3.3% |
| Jefferson | -31.2% | | White | -16.4% |
| Johnson | -16.4% | | Woodruff | -16.4% |
| Lafayette | -20.2% | | Yell | -16.4% |
| Lawrence | -26.5% | | | |
| FEMALES | | | | |
| Statewide – 6.9% | | | | |

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ACTION TO ENSURE EQUAL EMPLOYMENT
OPPORTUNITY (EXECUTIVE ORDER 11246)**

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 nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 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 ten (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 the Notice, and in the contract resulting from this solicitation, the 'covered area' is as described in the Proposal Form for this project.

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CONSTRUCTION CONTRACT SPECIFICATIONS
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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 and 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 p 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 Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

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

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

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report, etc.; by specific review of the policy with all management personnel and with all minority and female employees before the start of work and then not less often than once every six months; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review 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 and then not less often than once every six months. 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 test 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 workforce.

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 subcontracts from disadvantaged business enterprise construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

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STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

(EXECUTIVE ORDER 11246)

- 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 workforce participation, 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 underutilized).
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, national origin, age or disability.
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 Employment 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 Office 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.

SPECIAL PROVISION**EQUAL EMPLOYMENT OPPORTUNITY – FEDERAL STANDARDS****STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246)**

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).

16. In addition to the reporting requirements set forth elsewhere in this contract, the contractor and the subcontractors holding subcontracts not including material suppliers, of \$10,000 or more, shall submit for every month of July during which work is performed employment data as contained under Form PR-1391 (Appendix C to 23 CFR, Part 230), and in accordance with the instructions included thereon.

SPECIAL PROVISION
POSTERS AND NOTICES REQUIRED FOR FEDERAL-AID PROJECTS

| POSTER OR DOCUMENT REQUIRED | REQUIRED BY | WHERE TO OBTAIN |
|---|--|--|
| 1. Equal Employment Opportunity is the Law | U.S. Department of Labor (OFCCP) | A.H.T.D. Resident Engineer |
| 2. Company EEO Policy (prepared by the Contractor on the Company's letterhead) | U. S. Department of Labor (OFCCP) | Contractor to Prepare: <ul style="list-style-type: none">a. EEO policy statement.b. Notice encouraging employees to refer minority and female applicants for employment.c. Notice informing employees of an available training program and the entrance requirements.d. Notice identifying company EEO officer by name, including address and telephone number where EEO officer can be located.e. Work environment statement.f. Certification of nonsegregated facilities.g. Complaint procedures.*h. Notice to unions disseminating EEO commitments and responsibilities and requesting their cooperation. |
| 3. Current Wage Rates (PR-1273 Supplement) or SS Revisions of PR-1273 for Off-System Projects | *Union Contractors Only U. S. Department of Labor | Contained in contract. Extra copies may be obtained from Programs and Contracts Division - A.H.T.D. |

SPECIAL PROVISION
POSTERS AND NOTICES REQUIRED FOR FEDERAL-AID PROJECTS

| POSTER OR DOCUMENT REQUIRED | REQUIRED BY | WHERE TO OBTAIN |
|--|--|------------------------------------|
| 4. Important Wage Rate Information FHWA Form 1495 | U. S. Department of Transportation (FHWA) | A.H.T.D. Resident Engineer |
| 5. Important Wage Rate Information FHWA Form 1495A | U. S. Department of Transportation (FHWA) | A.H.T.D. Resident Engineer |
| 6. Minimum Wage Rate (WH 1088) | U. S. Department of Labor | A.H.T.D. Resident Engineer |
| 7. "Notice to Employees" (WH 1321) | U. S. Department of Labor | A.H.T.D. Resident Engineer |
| 8. "NOTICE" Federal Aid Projects (PR-1022) | U. S. Department of Transportation (FHWA) | A.H.T.D. Resident Engineer |
| 9. Job Safety and Health Protection | U. S. Department of Labor (OSHA) | A.H.T.D. Resident Engineer |
| 10. Emergency Phone Numbers of Doctors, Hospital and Ambulance near Job Site for referring injured employees. | U. S. Department of Labor (OSHA) | A.H.T.D. Resident Engineer |
| 11. WCC Form AR-P Workers Compensation Notice and Instructions to Employers and Employees | State of Arkansas | Insurance Carrier |
| Self-Insurer | State of Arkansas | Administrator - Self-Insured Group |

SPECIAL PROVISION
POSTERS AND NOTICES REQUIRED FOR FEDERAL-AID PROJECTS

| POSTER OR DOCUMENT REQUIRED | REQUIRED BY | WHERE TO OBTAIN |
|--|--|----------------------------|
| 12. Log and Summary of Occupational Injuries and Illnesses (OSHA Form 200). The Summary portion must be posted not later than February 1st each year and it must remain posted until March 1st. | U. S. Department of Labor (OSHA) Public Law 91-596 | A.H.T.D. Resident Engineer |
| 13. Family and Medical Leave Act of 1993 (WH-1420) Employers who employ 50 or more employees for at least 20 workweeks in the current or preceding calendar year. | U. S. Department of Labor | A.H.T.D. Resident Engineer |
| 14. Employee Polygraph Protection Act (WH-1462) | U. S. Department of Labor | A.H.T.D. Resident Engineer |

SPECIAL PROVISION
REVISIONS OF FHWA-1273 FOR OFF-SYSTEMS PROJECTS

All references to FHWA-1273 to minimum wage rates required by the Davis-Bacon Act are hereby deleted. Davis-Bacon minimum wage rates are not applicable to this contract. All other provisions of FHWA-1273 apply including the submittal of weekly payroll records.

SPECIAL PROVISION**DISADVANTAGED BUSINESS ENTERPRISE IN HIGHWAY CONSTRUCTION**

It is the policy of the sponsor that Disadvantaged Business Enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of all State and Federal contracts. This must also be the Contractor's policy. And, even though there are no specific participation goals for this contract, the Contractor agrees to ensure that Disadvantaged Business Enterprises have the maximum opportunity to participate in the performance of this contract or subcontracts and shall take all necessary and reasonable steps to ensure that this policy is maintained. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

Failure of the Contractor or the Subcontractor to carry out the requirements set forth above shall constitute a breach of contract and, after notification by the sponsor, may result in termination of the contract by the sponsor or such action as the sponsor deems appropriate.

**SUPPLEMENT TO PROPOSAL
ANTI-COLLUSION AND DEBARMENT CERTIFICATION**

**FAILURE TO EXECUTE AND SUBMIT THIS CERTIFICATION SHALL RENDER THIS BID
NONRESPONSIVE AND NOT ELIGIBLE FOR AWARD CONSIDERATION.**

As a condition precedent to the acceptance of the bidding document for this project, the bidder shall file this Affidavit executed by, or on behalf of the person, firm, association, or corporation submitting the bid. The original of this Affidavit shall be filed with the sponsor **at the time proposals are submitted.**

AFFIDAVIT

I hereby certify, under penalty of perjury under the laws of the United States and/or the State of Arkansas, that the bidder listed below has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid for this project, is not presently barred from bidding in any other jurisdiction as a result of any collusion or any other action in restraint of free competition, and that the foregoing is true and correct.

Further, that except as noted below, the bidder, 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 of Federal funds:

- a. is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- b. has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- c. does not have a proposed debarment pending; and
- d. has not been indicted, convicted, or had an adverse civil judgment rendered by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

SPECIAL PROVISION**CERTIFICATION FOR FEDERAL-AID CONTRACTS**

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

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

This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This Certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code.

During the period of performance of this contract, the contractor and all lower tier subcontractors must file a Form-LLL at the end of each calendar year quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any previously filed disclosure form. 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 failure.

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

SPECIAL PROVISION
CERTIFICATION FOR FEDERAL-AID CONTRACTS

THIS CERTIFICATION SHALL BE COMPLETED BY THE BIDDER AS PART OF THIS PROPOSAL

The bidder _____, I proposed subcontractor _____ hereby certifies that he has _____, has not _____, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that he has _____, has not _____, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

(Currently, Standard Form 100 [EEO-1] is the only report required by the Executive Orders or their implementing regulations.)

JOB NO. _____

_____ (Company)

F.A.P. NO. _____

By: _____

(Signature)

(Date Executed)

(Title of Person Signing)

NOTE: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7 (b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U. S. Department of Labor.