

TEXOMA AREA PARATRANSIT SYSTEM, INC.



Request for Proposals

TAPS Operations Facility

RFP 2024-10

March 26, 2024

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Section A

REQUEST FOR PROPOSALS RFP 2024-10

Texoma Area Paratransit System, Inc. (TAPS) is hereby soliciting proposals for the construction of the TAPS Operations Facility.

This RFP, comprises of all information needed for potential proposers to submit proposals for the consideration of TAPS.

SELECTION CRITERIA

Selection of the firm to complete the required services will be based on the following evaluation criteria:

- **Price**: The total cost proposed for completing the project.
- **Offeror's Qualifications, Experience and Past Performance**: Demonstrable ability, capacity, experience and skill of the Offeror to perform the contract, and the quality of the references provided to affirm relevant experience.
- **Quality of Submittal**: Clarity, completeness, order and overall quality of submittal information. Compliance with requirements will also be evaluated.
- **Disadvantaged Business Enterprise (DBE) Participation**: Meet the DBE Goal of 1% of the total dollar value of the proposal (Total Proposal).

GENERAL PROJECT DESCRIPTION

TAPS is seeking qualified firms or individuals to construct a new 6757sf Operations Facility with associated parking and remodel approximately 1,200sf of the existing Maintenance Facility located at 6104 Texoma Parkway, Sherman, TX 75090. The design process has been completed and can be found at <https://tapsbus.com/request-proposals/>.

RESPONSIBILITIES

The Firm selected will contract with TAPS through the General Manager, subject to authorizing action by the TAPS Board of Directors. All construction must be in compliance with Federal, State, and local codes and regulations. The firm is responsible for ensuring full compliance on all codes and regulations implicit in the completion of the project.

SUBMITTAL REQUIREMENTS FOR RFP

One (1) original, electronic submission of the Firm's responses to the RFP must be provided.

OR

If mailed, Offeror must provide one (1) original and five (5) copies of the Firm's responses to the RFP must be provided.

CHECKLIST

THE ITEMS BELOW SHALL BE PROVIDED WITH ALL PROPOSALS, IN THE ORDER LISTED,
AND TABBED FOR IDENTIFICATION

TAPS reserves the right to reject any proposal that does not include each of these items:

- I. **Cover Letter.** Signed letter stating whether or not any exceptions are taken to the Documents and that Offeror has the capability of performing the contract.
- II. **Section B - Proposal & Pricing Methodology Form** (2 pages). Complete all blanks.
Breakdown of Base Bid Form (2 pages). Complete all blanks.
- III. **Section C - Offeror Questionnaire and Information Form** (2 pages) **and List of Subcontractors/Suppliers** (1 page). Complete all blanks.
- IV. **Preliminary Project Milestone Schedule** estimating the completion of the major tasks of the project.
- V. **Organizational Chart & Resumes** showing principals and management personnel who will be involved in the work. Supply information on experience and credentials (or resumes) of each person listed in the chart. Identify also who will be functioning as the Project Manager and Superintendent on this Project.
- VI. **Experience.** Attach descriptions of three similar projects completed by your firm within the last five years. Include the following items: (a) project name and location; (b) construction cost; (c) brief description of work; (d) contractual completion date and actual completion date; (e) name of your project manager and superintendent assigned to the project; and (f) Owner name, project contact and current, working phone number. (If phone numbers are not correct, TAPS may not be able to use project/owner as reference. TAPS reserves the right to contact project owner and architect as references.)
- VII. **Bid Bond.** A Bid Bond is required in the amount of 5% of the total proposed price and in the form of a certified or cashier's check or a bid bond issued by a surety licensed to do business in the state of Texas as a guarantee that the successful Offeror will enter into a proper contract and execute bonds and guaranties on the forms provided within ten (10) days after the date contract documents are received by the contractor.
- VIII. **Section F - Certifications.** Complete and attach the following Seven (7) certifications:
 1. Lobbying Certification
 2. Disclosure of Lobbying Activities
 3. Debarment and Suspension (nonprocurement)
 4. Lower Tier Participation Debarment Certification
 5. Child Support Certification
 6. Texas Corporate Franchise Tax Certification
 7. Buy America
 8. Prime Contractor DBE Good Faith Effort
 9. Disadvantage Business Enterprise (DBE) Utilization
 10. Disadvantaged Business Enterprise (DBE) Program Commitment Agreement From
 11. Disadvantage Business Enterprise (DBE) Letter of Intent
- IX. **Section G - Certificate of Insurance Requirements.**
- X. **Section H - Consolidated Certification Form and Addendum A – Construction and A&E Projects.** Applicable portions of Form PTN-130 and Addendum A shall be completed and the entire form must be submitted.

ADDITIONAL ITEMS TO BE PROVIDED AT THE REQUEST OF TAPS:

- **Residence of Status.** Upon request of TAPS, the apparent responsive Offeror (and any other Offeror requested by TAPS) shall submit an opinion of its legal counsel regarding its Resident or Nonresident status under §2252.002 of the Texas Government Code. A Resident Offeror is an Offeror whose

principal place of business is in Texas or whose ultimate parent company or majority owner has its principal place of business in Texas. Otherwise the Offeror is a Nonresident. If Offeror is a Nonresident, the legal opinion shall include a copy of the statute, if any, from Offeror's domiciliary state, that confers a credit on a Resident Offeror or assesses a penalty for a Nonresident Offeror.

- **Audited Financials** for the past three (3) years, **upon request of TAPS.**

ITEMS TO BE PROVIDED BY SUCCESSFUL OFFEROR 5 DAYS FROM NOTICE OF INTENT TO AWARD

- **Contract Signature Page.** Signed by an authorized company representative.
- **Insurance Certificates.** A copy of the insurance certificates with endorsements.
- **Performance & Payment Bonds.** Provide completed forms.

DEADLINE FOR SUBMITTALS

Proposals need to be mailed or delivered (faxes and email submittals will not be accepted) to arrive no later than **2:00 p.m. on Tuesday, April 22, 2024** to the attention of:

TAPS
ATTN: Shellie White
6104 Texoma Parkway
Sherman, TX 75090

Proposals shall be clearly marked with:
"TAPS RFP 2024-10"

SCHEDULE OF EVENTS BLOCK:

EVENT	DATE
Request for Proposal (RFP) Available	March 26, 2024; 2:00 p.m.
Pre-proposal Conference (not mandatory but recommended), 6104 Texoma Parkway, Sherman, TX 75090	April 3, 2024; 2:00 p.m.
Deadline for Proposal Questions	April 8, 2024; 2:00 p.m.
Responses to Questions Posted on Website	April 11, 2024; 2:00 p.m.
Proposals DUE at TAPS. Proposals received after this date and time will be returned unopened. There is NO PUBLIC OPENING.	April 22, 2024; 2:00 p.m.

Section B

PROPOSAL AND PRICING METHODOLOGY FORM

PROPOSAL INFORMATION

Bidder: _____

Project Name: TAPS Operations Facility

Project Location: Sherman, TX

Owner: Texoma Area Paratransit System, Inc.

Architect: Huitt-Zollars, Inc.

BASE SEALED PROPOSAL

The undersigned, having carefully examined the Procurement and Contracting Requirements, Conditions of the Contract, Drawings, Specifications, and all subsequent Addenda, as prepared by Texoma Area Paratransit System, Inc. and Huitt-Zollars, Inc., having visited the site, and being familiar with all conditions and requirements of the Work, hereby agrees to furnish all material, labor, equipment and services, including all scheduled allowances, necessary to complete the construction of the above-named project, according to the requirements of the Procurement and Contracting Documents, for the stipulated sum of:

_____ Dollars

(\$ _____)

TIME OF COMPLETION

A. If awarded this contract, the Undersigned agrees to execute the work as follows:

Work can begin _____ and be completed by _____ (insert dates)

B. On projects or portions of projects where the actual date of beginning construction is not immediate, the contractor shall order, receive and store materials on the jobsite, such that upon starting construction, the contractor may proceed in rapid pace toward completion of the project. Payment for materials will be made as prescribed in these specifications provided the contractor includes the appropriate bills and documents supporting the request.

C. For those materials requiring protection from the elements, contractor shall make necessary provisions for storage on the jobsite. Owner will not provide storage facilities. Materials shall be appropriately insured during storage by contractor.

D. It is imperative that the contractor make efficient use of his time and workmen, in the progress of the work to meet the completion dates listed above.

UNIT PRICES

Unit prices shall be based on plans and specifications titled "TAPS Admin & Operations Building" prepared by Huitt-Zollars, Inc.

PROPOSER INFORMATION

The undersigned confirms inclusion of information documenting how proposer meets the selection criteria.

ACKNOWLEDGEMENT OF ADDENDA

The undersigned acknowledges receipt of and use of the following Addenda in the preparation of this proposal:

1. Addendum No. _____, dated _____
2. Addendum No. _____, dated _____
3. Addendum No. _____, dated _____
4. Addendum No. _____, dated _____

PROPOSAL ACCEPTANCE

Firm Name: _____

Address: _____

Phone: _____

Authorized Signature: _____

Title: _____

Date: _____

Section C
OFFEROR QUESTIONNAIRE AND INFORMATION FORM

Offeror **MUST** complete this form in its entirety.
If a question is not applicable, Offeror should state "not applicable".

BUSINESS AND CONTACT INFORMATION

Business Name: _____

Federal Tax ID # _____

Address: _____

City/State/Zip: _____

Contact Name: _____

Phone #: _____ Fax #: _____

E-Mail: _____ Web Site: _____

NIGP Code: _____

Number of Years been in Business: _____ Duns # _____

Is Business an MBE ☐ or WBE ☐ or neither ☐ ?

Type of Business Entity: Corporation ☐ LLC ☐ LP ☐ LLP ☐

Other ☐ _____

In What State & Year Did Business Organize in Your Current Structure:

Is Business or Parent Publicly Traded? Yes ☐ No ☐

Full Legal Name of Parent or Holding Company, if any:

(Note: if there are several tiers of ownership, attach a corporate organizational chart)

Services Provided by Business:

Names and Positions of the individuals authorized to bind Offeror's company:

GENERAL CONTRACT INFORMATION/PERFORMANCE

In the past three (3) years, has Business:

- (a) Been engaged in any litigation? Yes ☐ No ☐ If yes, attach explanation
- (b) Completed all contracts it was awarded? Yes ☐ No ☐ If no, attach details.
- (c) Been awarded a bonus for early completion of Work? Yes ☐ No ☐ If yes, attach details.
- (d) Defaulted on a contract? Yes ☐ No ☐ If yes, attach details.
- (e) Been assessed liquidated damages? Yes ☐ No ☐ If yes, attach details.

SPECIAL CONTRACT INFORMATION/PERFORMANCE

Provide a schedule of contracts under which Business has performed similar construction in the last five (5) years, showing name and address of customer, amount of each contract and the actual or anticipated dates of completion.

Is your firm bondable? ☐ Yes ☐ No

With Whom: _____ What Limits: _____

Bank credit available: \$ _____

Have the principals of your firm been engaged in providing construction under any other name within the past five (5) years? If so, provide the name of such principal(s) and the name and address of the former business. _____

The undersigned Offeror declares: (a) that it has reviewed and agrees to the Terms and Conditions, Scope of Work, and all other documents herein; (b) that through its authorized personnel it has personally examined the location of the proposed work and has determined the amount and character of the proposed work and the supervision, labor, tools, material as identified, and equipment, necessary to complete the same in compliance with the specifications and contract documents (if applicable); (c) that either (1) no delinquent corporate franchise taxes are owed the State of Texas under Chapter 171, Tax Code or (2) the Offeror is not subject to the corporate franchise tax in Texas.

SIGNATURE: _____

TITLE: _____

PRINTED NAME: _____

DATE: _____

Contractor Company Name:

LIST OF SUBCONTRACTORS/SUPPLIERS

In conformance with the Contract Documents, listed below are the names of the subcontractors/suppliers that will provide more than 5% of the Work, and to what extent they will be used. Also, include all qualifying Disadvantaged Business Enterprise (DBE) subcontractors/suppliers that will provide more than 5% of the Work. Attach additional sheets if needed.

All blanks for each subcontractor listed MUST be completed.

[illegible]

ACKNOWLEDGMENT OF ADDENDA RECEIVED

The undersigned acknowledges receipt of the following addenda to TAPS Request for Qualifications documents (give number and date of each):

Addendum Number _____ Dated: _____

Addendum Number _____ Dated: _____

Addendum Number _____ Dated: _____

Addendum Number _____ Dated: _____

Addendum Number _____ Dated: _____

Failure to acknowledge receipt of all addenda may cause the proposal to be considered non-responsive to the request that would require rejection of the proposal.

The undersigned understands that any condition stated above, clarification of the above, or information submitted on or with this form other than requested will render the quotation non-responsive.

Firm Name: _____

Address: _____ City _____ State _____ Zip _____

Type Name By: _____

Signature of Authorized Official: _____

Title: _____

Date: _____

Section D

GENERAL INSTRUCTIONS

1. Submission of Sealed Proposals. PROPOSALS SHALL BE RECEIVED ON THE DATE INDICATED IN THE SCHEDULE OF EVENTS BLOCK UNTIL 2PM CT. Proposals received after the date and time specified above shall be considered late and returned unopened. **Proposals shall be considered valid legal offers for a period of sixty (60) days after receipt by TAPS. Submittal of response by fax is not acceptable for this proposal.** Proposals may be submitted by Regular Mail, Express Mail or Courier. Offeror must provide one (1) original and five (5) copies of the proposal. The proposal shall be plainly marked with the RFP number TAPS RFP 2024-10 and project name (TAPS Operations Facility).

2. Opening of Proposals. Proposals will not be publicly opened. All proposals and evaluations will be kept strictly confidential throughout the evaluation, negotiation and selection process. Only the members of the Evaluation Team will be provided access to the proposals and evaluation results during this period.

3. Contact. Questions regarding the RFP should be submitted to TAPS via E-mail at: shellie.white@transdev.com reference "TAPS RFP 2024-10-Question" in subject line.

4. Proposal Forms. Offeror shall prepare its proposal on forms furnished by TAPS or as otherwise specified herein. Each Offeror shall fill in each blank space in the proposal forms. The proposal shall be executed with the complete and correct name of the Offeror, whether an individual, partnership, firm, corporation or other legal entity. The proposal shall be signed by an officer legally authorized to bind the Offeror's company. Any corrections to the proposal shall be initialed by person signing the proposal. Complete RFPs must be used in preparing proposals; neither TAPS nor designer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete RFPs. Incomplete proposal forms, schedules and information sheets may be grounds for disqualification.

5. Pricing. RFPs may require proposals for a firm fixed price, unit prices or a combination of firm, fixed and unit prices. Offeror shall submit a price for each item on the basis indicated on the proposal form. In case of conflict between unit prices and extensions, unit prices shall govern. In case of conflict between words and numerals, words shall govern. Proposal prices shall not include sales, excise, and use taxes on installed equipment and materials. TAPS is exempt from such taxes under the Texas Tax Code §151.309. An exemption certificate shall be furnished to Offeror, subcontractors and suppliers upon request. Offeror may have sales tax liability for materials and supplies used for the project, but for which Offeror is considered the consumer. To obtain possible tax benefits by the separation of materials and labor, Offerors should be familiar with the Comptroller's Rules 3.291 (Contractors), 3.292 (Repairmen), and 3.347 (Improvements to Realty), which may be obtained from the Texas Comptroller of Public Accounts. The prices quoted in the proposals shall be complete, including without limitation all supervision, labor, subcontracts, services, equipment, contractor supplied materials, consumables, shipping and transportation, travel, living expenses, insurance, bond costs, overhead, profit and taxes.

6. Requirements of Offerors Prior to Proposal Submission Date.

6a. Review of Documents. Proposals must be based upon the Requirements and Specifications provided by TAPS including any alternates. Offerors shall read and understand the complete RFP package including those sections that shall be completed subsequently by the Offeror to whom an award is made.

6b. Exceptions to Terms and Conditions. Exceptions to terms and conditions must be taken at the time the proposal is submitted. Offerors shall submit exceptions to TAPS in the cover letter accompanying the Proposal with proposed alternative language. Exceptions shall not be allowed after the proposal opening date and time. At the sole discretion of the TAPS, the amount and nature of exceptions may be grounds for disqualification.

6c. Clarifications Regarding Specifications. TAPS shall attempt to answer written inquiries concerning the RFP, but shall not be obligated to do so. If an Offeror believes the RFP contains an error or ambiguity, then the Offeror shall make a written inquiry to TAPS explaining the issue and referencing paragraph and page number in the RFP, and asking the appropriate question. Written inquiry must be submitted by the date indicated in the Schedule of Events Block. Questions shall be e-mailed to the TAPS (shellie.white@transdev.com). A proposal item, which, in the opinion of TAPS, is not in exact compliance with the RFP, and which has not been modified or clarified may, at TAPS's discretion, be considered an exception to the RFP or be rejected as a non-conforming offer.

6d. Offeror shall propose based on the RFP as written without consideration of possible substitute or "or-equal" items. If the requirements or specifications provide that a substitute or "or-equal" item of material or equipment may be submitted for review and approval by the Designer, submission for review and approval shall take place after the "effective date" of the contract.

6e. Understanding of Jobsite and Local Conditions. Before submitting a proposal, the Offeror shall carefully examine and consider the contract documents, the site(s) of the proposed work, the soil and subsurface materials and underground installations to be encountered, the excavation requirements, the physical and environmental conditions, the character of equipment needed before and during the performance of the work, the availability and cost of skilled and unskilled labor required to perform the contract, the general and local conditions, the facilities available, and all other matters which can in any way affect the cost, progress or performance of the work, which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Offeror (including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the contract documents) or safety precautions and programs incident thereto. The Offeror shall be satisfied as to character, quality and quantities of work to be performed and materials to be furnished. Submission of proposal shall indicate that the Offeror has complied with these requirements. Offeror may at its own expense, before submitting a proposal, and upon written approval by TAPS, have access to the site to conduct such examinations, investigations, explorations, tests and studies it deems necessary to familiarize itself fully with the character of the site and of the work to be performed. Offeror shall fill all holes and clean up and restore the site to its former condition upon completion of such explorations, investigations, tests, and studies. Data obtained by Offeror, including analyses performed by the Offeror, shall be used solely for the preparation of the proposal. Data obtained by Offeror from such investigations or tests shall be provided at no expense to TAPS upon request. Requests for jobsite inspection shall be addressed to TAPS's General Manager.

6f. Buy America. Steel, iron and/or manufactured products shall comply with the Buy America provision and shall be produced in the United States in accordance with 49 USC 5323(j) and 49 CFR 661. The Offeror shall confirm that all products used in the project comply with Buy America and certify this by providing signature on Consolidated Certification Form.

6g. Disadvantaged Business Enterprises (DBE). In connection with this solicitation and any resulting contract, TAPS has established the following goals for Disadvantaged Business Enterprise (DBE) participation: DBE Goal: 1.0% of the total dollar value of the proposal (Total Proposal). TAPS is committed to the utilization of DBEs on all TxDOT assisted projects. To achieve this goal TAPS has established a 1 percent (1%) DBE participation to comply with 49 CFR Part 26; Not discriminating on the basis of race, color, religion, national origin, sex, disability or age. It is the policy of TAPS to facilitate, and assure that each prime contractor and subcontractors participating on this contract identify their DBE participation by furnishing the names and addresses of DBE firms that will participate in the Contract by completing the Prime

Contractor DBE Good Faith Effort form, Disadvantage Business Enterprise (DBE) Utilization form and the Disadvantage Business Enterprise (DBE) Letter of Intent (must be completed by all subcontractors). For guidance see 49 CFR 26 Appendix A: Guidance Concerning Good Faith Efforts.

7. TAPS Reservation of Rights. TAPS reserves the right to reject any and all proposals, to accept proposals in whole or in part, and to waive irregularities or formalities in the proposal. TAPS shall evaluate the proposals in accordance with the RFP requirements. TAPS may request additional written or oral information from Offerors to obtain clarifications with respect to their proposals. TAPS may award contracts from proposals without discussions, or may conduct discussions with one or more Offerors. TAPS reserves the right to delay proposal opening, to evaluate alternate proposals, TAPS reserves the right to engage in business with responsible contractors with sound management, quality control, capacity, experience, financial resources, and ethics to perform its contracts. TAPS reserves the right to employ a variety of means to determine the responsibility of potential contractors.

8. Discussions with Responsible Offerors and Revisions to Proposal. Discussions may be conducted individually with responsible Offerors for the purpose of clarification or to assure full understanding of, and responsiveness to, the solicitation requirement. TAPS reserves the right to determine when and with whom to conduct discussions. As a result of such discussions, revisions may be permitted after initial submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, TAPS shall not disclose to an Offeror any information derived from proposals submitted by competing Offerors. The purpose of such discussions may include: (a) investigation in greater detail of an Offeror's qualifications; (b) exploration with the Offeror of the scope, schedule, and nature of the proposed project, the Offeror's proposed method of performance, and the relative utility of alternative methods of approach; (c) establishment of the experience and availability of personnel and facilities necessary to perform within the required time; and (d) review of the Offeror's proposed compensation and opportunities for savings or value, taking into account the nature, scope, schedule, and complexity of proposed project.

9. Withdrawal of Proposal. A proposal may be withdrawn by an authorized representative of the Offeror by submitting a written request to the General Manager to withdraw the proposal prior to the date and time for the opening of proposals.

10. Addenda. Nothing in the instructions shall limit TAPS's right to issue addenda to the RFP prior to proposal opening.

11. Confidential Information. TAPS is subject to the Texas Public Information Act. Any information submitted to the TAPS by an Offeror shall be available to the public, unless it is clearly marked "CONFIDENTIAL". If another party requests access to information marked confidential, then TAPS shall ask the Offeror if the information may be released. If the release is agreed to, TAPS shall release the information. If the release is denied, the matter shall be referred to the Texas Attorney General's Office where the Offeror shall be responsible for substantiating the confidentiality of its information. The Attorney General's ruling on the matter shall be conclusive. The Attorney General's office shall rule on the matter. Pricing information contained in proposals or contracts is not considered confidential under the PIA and will be disclosed without making a request to the Texas Attorney General.

12. Evaluation Criteria. Offerors will be evaluated based on the criteria relevant to the RFP, including, as applicable (not in order of precedence): (a) price; (b) Offeror's qualifications, experience and past performance; and (c) quality of submittal.

13. References. If TAPS has experience with your firm and you do not list TAPS as a reference, TAPS reserves the right to use its past experience in the evaluation of the Offeror's proposal.

14. Award and Execution of Contract. Award of contract will be to the best evaluated Offeror meeting all requirements of the RFP and all evaluation criteria. Award of contract will occur within sixty (60) calendar days of proposal submission, unless otherwise agreed between the parties. Contracts shall be considered "Awarded" only after execution by both parties. Contract will not be

binding upon TAPS until it has been executed by both parties. TAPS will not be liable for any delays prior to the award or execution of contract.

15. Protest Procedures.

General

Protests may be made by prospective contractors, vendors or proposers whose direct economic interest would be affected by award of a contract or by failure to award a contract. TAPS will consider all protests requested in a timely manner regarding the award of a contract, whether submitted before or after an award.

All protests are to be submitted in writing to:

TAPS Public Transportation
6104 Texoma Parkway
Sherman, TX 75090

Protest submissions should be concise, logically arranged, and clearly state the grounds for protest. A protest must include at least the following information:

- (a) Name, address, and telephone number of protestor,
- (b) Identification of contract solicitation number,
- (c) A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents, and
- (d) A statement as to what relief is requested.

Protests must be submitted to TAPS in accordance with these procedures and time requirements, must be complete and contain all issues that the protestor believes relevant.

In the procedures outlined below, the TAPS Board of Directors or their designee is considered to be the Contracting Officer.

Protests Before Bid Opening

Protests alleging restrictive specifications or improprieties which are apparent prior to bid opening or receipt of proposals must be submitted in writing to the Contracting Officer at the address above and must be received at least seven (7) days prior to bid opening or closing date for receipt of bids or proposals. If the written protest is not received by the time specified, bids or proposals may be received and award made in the normal manner unless the Contracting Officer determines that remedial action is required. Oral protests not followed up by a written protest will be disregarded. The Contracting Officer may request additional information from the appealing party and information or response from other bidders, which shall be submitted to the Contracting Officer not less than ten (10) days after the date of TAPS's request. So far as practicable, appeals will be decided based on the written appeal, information and written response submitted by the appealing party and other bidders. In failure of any party to timely respond to a request for information, it may be deemed by TAPS that such party does not desire to participate in the proceeding, does not contest the matter, or does not desire to submit a response, and in such a case, the protest will proceed and will not be delayed due to the lack of a response. Upon receipt and review of written submissions and any independent evaluation deemed appropriate by TAPS, the Contracting Officer shall either:

- a) Render a final decision, or
- b) At the sole election of the Contracting Officer, conduct an informal hearing at which the interested parties will be afforded opportunity to present their respective positions and facts, documents, justification, and technical information in support thereof. Parties may, but are

not required to, be represented by counsel at the informal hearing, which will not be subject to formal rules of evidence or procedures. Following the informal hearing, if one is held, the Contracting Officer will render a decision, which shall be final, and notify all interested parties thereof in writing but no later than ten (10) days from the date of informal hearing.

Protests After Bid/Proposal Opening/Prior to Award

Protests against the making of an award by the TAPS must be submitted in writing to the Contracting Officer and received within seven (7) days of the award by the TAPS. Notice of the protest and the basis therefore will be given to all bidders or proposers. In addition, when a protest against the making of an award by the TAPS is received and it is determined to withhold the award pending disposition of the protest, the bidders or proposers whose bids or proposals might become eligible for award shall be requested, before expiration of the time for acceptance, to extend or to withdraw the bid. Where a written protest against the making of an award is received in the time period specified, award will not be made prior to seven (7) days after resolution of the protest unless TAPS determines that:

- a) The items to be purchased are urgently required.
- b) Delivery or performance will be unduly delayed by failure to make award promptly.
- c) Failure to make award will otherwise cause undue harm to TAPS or the federal government.

Protests After Award

In instances where the award has been made, the Contractor shall be furnished with the notice of protest and the basis therefore. If the contractor has not executed the contract as of the date the protest is received by TAPS, the execution of the contract will not be made prior to seven (7) days after resolution of the protest unless TAPS determines that:

- a) The items to be purchased are urgently required,
- b) Delivery or performance will be unduly delayed by failure to make award promptly, or
- c) Failure to make award will otherwise cause undue harm to TAPS or the federal government.

Decision

Any decision pertaining to a protest following the guidelines contained in this section is final.

Protests to Federal Transit Administration (FTA)

Under 2 CFR 200 right of bidders to protest the federal government was repealed.

Notice of 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 Agreement (Form FTA MA (2) dated October, 1995) between Purchaser 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.

16. Approvals. TAPS Contracts must be approved by the TAPS Board of Directors before they become effective. Change orders must be executed by the TAPS General Manager and the project architect.

Section E

GENERAL WAGE DETERMINATIONS ISSUED UNDER THE DAVIS-BACON AND RELATED ACTS DAVIS-BACON WAGE DETERMINATION REFERENCE MATERIAL

Part I: Introduction

This section includes a short discussion of the Davis-Bacon and related Acts and their requirements, and a brief explanation of wage determinations and their use.

Part II: How to Interpret General Wage Determinations

This section includes a discussion of how to interpret the information contained in Davis-Bacon General Wage Determinations.

Part III: Questions and Answers on the use of Davis-Bacon Wage Determinations

This section includes the answers to several of the most frequently asked questions about administration of the Davis-Bacon and related Acts.

Part I:

INTRODUCTION

THE DAVIS-BACON AND RELATED ACTS (DBRA)

The Davis-Bacon Act as amended, requires that each contract over \$2,000 to which the United States or the District of Columbia is a party for the construction, alteration, or repair of public buildings or public works shall contain a clause setting forth the minimum wages to be paid to various classes of laborers and mechanics employed under the contract. Under the provisions of the Act, contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The Davis-Bacon Act directs the Secretary of Labor to determine such local prevailing wage rates.

In addition to the Davis-Bacon Act itself, Congress has added prevailing wage provisions to approximately 60 statutes which assist construction projects through grants, loans, loan guarantees, and insurance. These "related Acts" involve construction in such areas as transportation, housing, air and water pollution reduction, and health. If a construction project is funded or assisted under more than one Federal statute, the Davis-Bacon prevailing wage provisions may apply to the project if any of the applicable statutes require payment of Davis-Bacon wage rates.

The geographic scope of the Davis-Bacon Act is limited, by its terms, to the 50 States and the District of Columbia. By the same token, the scope of each of the related Acts is determined by the terms of the particular statute under which the Federal assistance is provided. For example, Davis-Bacon prevailing wage provisions would apply to a construction contract located in Guam or the Virgin Islands funded under the Housing and Community Development Act of 1974, even though the Davis-Bacon Act itself does not apply to Federal construction contracts to be performed outside the 50 States and the District of Columbia.

WAGE DETERMINATIONS

A "wage determination" is the listing of wage rates and fringe benefit rates for each classification of laborers and mechanics which the Administrator of the Wage and Hour Division of the U.S. Department of Labor has determined to be prevailing in a given area for a particular type of construction (e.g., building, heavy, highway, or residential).

The Wage and Hour Division issues two types of wage determinations: general determinations, also known as area determinations, and project determinations. The term "wage determination" is defined as including not only the original decision but any subsequent decisions modifying, superseding, correcting, or otherwise changing the rates and scope of the original decision.

General wage determinations reflects those rates determined by the Division to be prevailing in a specific geographic area for the type of construction described. General wage decisions and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. If a contracting agency has a proposed construction project to which a general determination would be applicable, the published determination may be used by the contracting agency without consulting the Department of Labor, provided that questions concerning its use shall be referred to the Department of Labor.

Project wage determinations are issued at the specific request of a contracting agency; each is applicable to the named project only; and expires 180 calendar days from the date of issuance unless an extension of the expiration date is requested by the agency and approved by the Wage and Hour Division. If such a determination is not used in the period of its effectiveness, it is void. Project determinations are issued in response to contracting agencies submitting to the Wage and Hour Division a Standard Form 308 requesting a wage determination.

Modifications of general and project wage determinations are issued to update data in the original determination. Where a contract will be entered pursuant to competitive bidding procedures, a modification, notice of which is published in the Federal Register less than 10 days before the opening of bids shall be effective unless the agency finds that there is not a reasonable time still available before bid opening to notify bidders of the modification and a report of the finding is inserted in the contract file. (For projects assisted under the National Housing Act, and for projects to receive housing assistance payments under section 8 of the U.S. Housing Act of 1937, dates other than bid opening apply. See Regulations, 29 CFR Part 1, section 1.6.) If the contracting officer chooses to disregard a modification, a report of this action shall be inserted in the contract file and made available to the Wage and Hour Division upon request.

If a contract has not been awarded within 90 days after bid opening, modifications prior to award to a general wage determination in the contract shall be effective with respect to that contract unless the agency requests and obtains an extension of the 90-day period from the Wage and Hour Division.

Supersedeas Wage Determinations are issued annually to replace general decisions issued in the previous edition of the publication entitled General Wage Determinations Issued Under

the Davis-Bacon and Related Acts. Supersedeas project wage determinations may also be issued. Supersedeas decisions affecting determinations are effective under the same circumstances as "modifications." Whereas a modification to a wage determination may make changes in only selected provisions of the wage determination, a supersedeas determination replaces the entire existing wage decision.

Notice is published in the Federal Register each week (usually on Friday) to advise the public of the publication of general wage determinations, modifications, supersedeas actions, withdrawal actions, and corrections affecting such wage determinations.

Extensions of Wage Determinations

When a general wage determination has not been awarded within 90 days after bid opening, the head of the contracting/assisting agency may request an extension of the 90 day period from the Wage and Hour Administrator. When, due to unavoidable circumstances, a project wage determination expires before award but after bid opening, the head of the contracting/assisting agency may request an extension of the expiration date of the project wage determination in the bid specifications instead of issuing a new wage determination. (For projects assisted under the National Housing Act, and for projects to receive housing assistance payment under section 8 of the U.S. Housing Act of 1937, dates other than bid opening apply. See Regulations 29 CFR, Part 1, section 1.6.)

Extension requests should be supported by a written finding including a brief statement of the factual support, that extension of the expiration date of the determination is necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment in the conduct of Government business.

The Administrator will either grant or deny the request for an extension after consideration of all the circumstances, including an examination to determine if the previously issued rates remain prevailing. If a request for the extension of a project wage determination is denied, a new wage determination will be issued to replace an expired project wage determination.

Part II: How to Interpret General Wage Determinations

A. WAGE DETERMINATIONS ARE STRUCTURED ACCORDING TO THE FOLLOWING FORMAT:

Each wage determination begins with a cover sheet that defines its applicability. Included on this sheet are:

- The decision number.
- The number of the decision superseded, if applicable.
- State(s) covered.
- Type of construction (building, heavy, highway, and/or residential).

- County(ies) or city(ies) covered.
- Description of the construction to which the wage determination applies and/or construction excluded from its application.
- Record of modifications, including the initial publication date, modification numbers and dates.

In the body of each wage determination is the **listing of classifications (laborers and mechanics) and accompanying basic hourly wage rates and fringe benefit rates** that have been determined to be prevailing for the specified type(s) of construction in the geographic area(s) covered by the wage determination. Classification listings may also include classification groupings, fringe benefit footnotes, descriptions of the geographic areas to which subclassifications and different wage rates apply, and/or certain classification definitions. (See below for how to know the source of a rate.)

In wage determination modifications, an **asterisk ("*)** is used to indicate that the item marked is changed by that modification.

The wage determination appeals process is explained at the end of the wage determination. The explanation includes a description of the criteria for appeal and where to file the appeal.

The last page of each wage determination ends with **"END OF DECISION"** centered above the last page number for the determination. Users can refer to the page number at the bottom of that page to check back to be sure that they have all the preceding pages of the determination.

B. HOW TO FIND THE WAGE RATE FOR A PARTICULAR CLASSIFICATION AND UNDERSTAND THE BASIS FOR THE WAGE RATE:

Review the wage determination in light of the following information:

1. The body of each wage determination lists the classifications and wage rates that have been found 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 particular rates are union or non-union rates.

Many wage determinations contain only non-union wage rates, some contain only union-negotiated wage rates, and others contain both union and non-union wage rates that have been found prevailing in the area for the type of construction covered by the wage determination.

2. Above each classification (or group of classifications) listed, an alphanumeric "identifier" and date provide information about the source of the classification(s)

and wage rate(s) listed for it. (SU means the rates listed under that identifier were derived from survey data and are not union rates, although the survey data on which they are based may include both union and non-union data.)

a. The identifier is SUAR0037A. SU indicates rates that are not union rates; AR = Arkansas; 0037A is a sequential number and character used in producing the wage determination. Dates before 1993 that appear with such "SU" identifiers were generated in producing the wage determinations and are not meaningful to users. However, a 1993 or later date will indicate that the classification(s) and wage rate(s) under that identifier were issued in the general wage determination on that date and reflect the results of a survey.

b. Any identifier beginning with characters other than SU is used where union classification(s) and wage rate(s) have been found prevailing.

- In each such identifier, the first four letters indicate the international union (see listing, below) for the local union that negotiated the wage rates listed under that identifier. Then, there is a four-digit number that indicates the local union number. For example, the identifier is ELEV0101A. ELEV = Elevator Constructors; 0101 = the local union number (district council number where applicable); and "A" = a character used internally in processing the wage determination. The date shown is the effective date of the most current negotiated rate entered into the automated system that generates general wage determinations.
- Special identifiers are necessary for two trades because the same local union number(s) is accompanied by different wage rates in different states. Bricklayers local union numbers are not unique nationwide, but are unique within each State. Similarly, Sprinkler Fitters Local Union No. 669 has negotiated different wage rates in each State within its territorial jurisdiction. Therefore, the identifiers for the Bricklayers unions are in the format "BR + state abbreviation," (referenced below as BRXX), and the identifier "SF + state abbreviation" is used for Sprinkler Fitter Local No. 669's rates.
- It is common for many local unions to negotiate wage rates for more than one classification. Where this is done, all the classifications for which that union's wage rates are determined to be prevailing will appear under the identifier for that union.
- For example, the same union may negotiate wage and fringe benefits for painters and glaziers. In such a case, the wage rate for the glazier, as well as that for the painter will be found under a classifier beginning with "PAIN."

Similarly, users may need to look under an identifier beginning with "CARP" to find not only rates for carpenters, but also those for millwrights, piledrivermen and (marine) divers.

3. Following are the **identifier codes** used to reference the various craft unions. Examples of classifications for which their local unions commonly negotiate wage and fringe benefit rates are shown in parentheses.

ASBE = International Association of Heat and Frost Insulators and Asbestos Workers

BOIL = International Brotherhood of Boiler Makers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers

BRXX = International Union of Bricklayers, and Allied Craftsmen (bricklayers, cement masons, stone masons, tile, marble and terrazzo workers)

CARP = United Brotherhood of Carpenters and Joiners of America (carpenter, millwright, piledrivermen, soft floor layers, divers)

ELEC = International Brotherhood of Electrical Workers (electricians, communication systems installers, and other low voltage specialty workers)

ELEV = International Union of Elevator Constructors

ENGI = International Union of Operating Engineers (operators of various types of power equipment)

IRON = International Association of Bridge, Structural and Ornamental Iron Workers

LABO = Laborers' International Union of North America

PAIN = International Brotherhood of Painters and Allied Trades (painters, drywall finishers, glaziers, soft floor layers)

PLAS = Operative Plasterers' and Cement Masons' International Association of the United States and Canada (cement masons, plasterers)

PLUM = United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States

and Canada (plumbers, pipefitters, steamfitters, sprinkler fitters)

ROOF = United Union of Roofers, Waterproofers and Allied Workers

SHEE = Sheet Metal Workers International Association

SU.... = As discussed above, the "SU..." identifier is for rates derived from survey data where the union rate(s) were not determined to be prevailing for the classification(s) listed. (The data reported for such a classification and used in computing the prevailing rate may have included both union and non-union wage data.) Note that various classifications, for which non-union rates have been determined to be prevailing, may be listed in alphabetical order under this identifier, which the computer places into the wage determination in alphabetical order, as listed here.

TEAM = International Brotherhood of Teamsters

**Part III:
Questions and Answers on the use of Davis-Bacon
Wage Determinations**

Question. How do I obtain a wage determination for a construction project to be performed at a location not covered by a published determination?

Answer. If no general wage determination is listed for a given county and type of construction, the following procedure to obtain a project wage determination should be followed.

The Federal agency funding or financially assisting the construction project requests a wage determination under the Davis-Bacon Act or any of the related prevailing wage statutes by submitting a Standard Form (SF) 308 to the following address:

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
Branch of Construction Wage Determinations
200 Constitution Avenue, N.W., Room S-3014
Washington, D.C. 20210

In completing a SF-308, the agency must furnish:

- (1) A sufficiently detailed description of the project to indicate the type(s) of construction involved. Separate attachments, if necessary for identification of the type of project, must be furnished.

- (2) The county (or other civil subdivision) and State in which the proposed project is located. The time required for processing requests for wage determinations varies according to the facts and circumstances in each case. An agency should anticipate that such processing will take at least 30 days.

Question. The wage determination applicable to my project does not contain a class of workers which is needed to complete construction. Can other worker classification(s) and wage rate(s) be approved for use on the project?

Answer. **Prior to bid opening**, if the only classification that will perform work on a contract is not listed on a general wage determination for the type of construction in the area, the contracting/assisting agency may submit a SF-308 request for a project wage determination for application to that project. In order to assure special treatment of a request where this circumstance exists, a note explaining the special circumstances should be made in the project description block of the SF-308. (A similar note may be made on a SF-308 request for a project wage determination, where a general wage determination is not applicable, and all of the work on the project will be performed by a particular classification, as a means to assure that a wage rate for that classification will be issued for the project).

Example: An upcoming contract calls for repainting all the residences at a military base, and there is no painter classification in the general wage schedule issued for application to residential construction in the county where the project is located. A SF-308 may be submitted by the agency for application to that contract, and a project wage determination will be issued with a painter classification and wage rate for use prior to bid opening (or the other applicable date where certain assistance programs of the Department of Housing and Urban Development (HUD) are the basis for coverage under the Davis-Bacon and related Acts). If there is no general wage determination issued for that area and type of construction, the same procedure should be followed.

After contract award, if the contract wage determination does not contain a class of workers that is needed to complete the construction, a contractor shall submit to the contracting officer a request for the addition of the needed classification(s) of laborers or mechanics not listed in the wage determination, together with proposed wage rates and fringe benefits conformable to the wage determination.

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 be classified in conformance with the wage determination. **An additional classification action, even if undisputed, is not valid unless the Department of Labor has approved it. If a dispute exists, the matter must be referred to the Wage and Hour Division for resolution, together with the views of all interested parties and the recommendation of the contracting officer.** Approval of the additional classification and the proposed wage rate and fringe benefits requires that the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by any 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) There is evidence of agreement on the classification and proposed wage rate among the parties involved, or the views of those involved -- the contractor(s), employees (if known) or their representative, and the contracting officer/agency -- are forwarded for consideration to the Wage and Hour Division; and
- (5) The request does not involve wage rates for apprentices or trainees.

All conformance notices should be responded to in writing within 30 days of receipt. These responses either approve or deny the request or inform the submitting agency that additional time will be required. Failure to receive a response does not constitute approval. If a response is not received, the Wage and Hour Division should be contacted directly. Every conformance request is analyzed to verify that the criteria for approval are met.

Any interested person requesting reconsideration of a conformance should present their request in writing accompanied by supporting data or other pertinent information to the Wage and Hour Division. The Wage and Hour Division should respond within 30 days or notify the requestor within this time frame that additional time is needed.

If reconsideration of a conformance action has been sought and denied, an appeal for review may be filed with the Administrative Review Board. (See 29 CFR 1.8 and 1.9, and 29 CFR Part 7).

Question. How do workers on a construction site know that a project is covered by the Davis-Bacon Act? How do they know the prevailing wage to which they are entitled?

Answer. The wage determination (including any additional classifications and wage rates conformed) and a Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen. The WH-1321 poster may be obtained at no charge from offices of the Wage and Hour Division. In the absence of such posted information, any person who wants to determine if the project is covered should contact the federal agency funding or assisting the project or the Wage and Hour Division. Multi-year construction contracts that contain option provisions by which a contracting agency may unilaterally extend the term of the contract require

inclusion of a current wage determination at the time the option is exercised. (In contrast, in situations where a contractor is given additional time to complete original contract commitments, the wage determination in that contract applies).

Question: Once construction has begun, are the workers' wage rates affected when the wage determination for the area in which the project is located is changed?

Answer. As a general rule, the wage determination incorporated into a bid solicitation and related contract award establishes the minimum wage rates and fringe benefits which must be paid for the entire term of the contract.

Where the proper wage determination is incorporated into a contract prior to award of the contract, wage determination modifications issued after bid opening are not applicable to the contract -- except in the case of a general wage determination in a contract that has not been awarded within 90 days after the bid opening and an extension of the 90-day limit has not been granted. (Specific requirements involving dates other than bid opening apply for projects assisted under the National Housing Act and for projects that receive housing assistance payments under section 8 of the U.S. Housing Act of 1937).

Upon his or her own initiative or at the request of an agency, the Administrator may correct any wage determination if he or she finds that the determination contains an inadvertent clerical error. For example, a wage determination contains a wage rate where there is a transposition of numbers, such as a fringe benefit of \$2.53 appears in the wage determination as \$2.35.

Also, the Administrator may issue a wage determination after contract award or after the beginning of construction if:

- (a) the contracting/assisting Federal agency has failed to incorporate the applicable wage determination in a contract required to contain prevailing wage rates determined in accordance with the Davis-Bacon Act, or has used a wage determination which by its terms or the provisions of Regulations, 29 CFR Part 1, clearly does not apply to the contract, or
- (b) the wrong wage determination has been incorporated in the contract because of an inaccurate description of the project or its location in the agency's SF-308 request.

Under either of these two circumstances, the agency shall either terminate and resolicit the contract with the valid wage determination, or incorporate the valid wage determination retroactive to the beginning of construction through supplemental agreement or through change order, provided that the contractor is compensated for any increases in wages resulting from such change. The method of incorporation of the valid wage determination, and adjustment in contract price, where appropriate, should be in accordance with applicable procurement law.

Question. Is it possible for more than one wage schedule to apply to specifications for a particular contract?

Answer. Construction projects are generally classified as either Building, Heavy, Highway or Residential for purposes of issuing wage determinations. Wage schedules for one or more of these construction categories may have application to construction items contained in a proposed construction project. Guidelines for the selection of proper wage schedules are set forth in All Agency Memoranda Nos. 130 (March 17, 1978) and 131 (July 14, 1978). Any questions regarding the application of these guidelines to a particular project, or any disputes regarding the application of the wage schedules issued for the various construction categories are to be referred to the Wage and Hour Division, together with relevant information, including a complete description of the project and area practice.

Question. As the contracting officer/Federal agency representative, what is my obligation when the wage determination(s) applicable to a construction project contains multiple wage schedules (for different counties and/or types of construction)?

Answer. It is the responsibility of the contracting officer/Federal agency representative to advise contractors which schedule of prevailing wages shall be applied to the various construction items in the bid specifications. Because of the complexities in the application of multiple schedules, the contracting officer should consult with the Wage and Hour Division to resolve any questions.

Question. Can apprentices, trainees, and/or helpers work on a project covered by the Davis-Bacon or related Acts (DBRA), and what wage rates must they be paid?

Answer. Individuals who meet the following definition may be employed as **apprentices** on DBRA projects:

(a) A person employed 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

(b) A person in the 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 properly certified to be eligible for probationary employment as an apprentice.

Trainees employed must be persons registered in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Employment and Training Administration, as meeting its standards for on-the-job training programs and which have been so certified by that Administration.

Information on wage rates paid to apprentices and trainees is not reflected in Davis-Bacon wage determinations. Similarly, their addition through the additional classification procedure (conformance) is neither necessary nor appropriate. On projects funded by the Federal-Aid Highway Act, apprentices and trainees certified by the Secretary of Transportation are not covered by Davis-Bacon labor standards.

The proper wage rates to be paid to apprentices and trainees are those specified by the particular programs in which they are enrolled, expressed as a percentage of the journeyman rate on the wage determination. In the event employees reported as apprentices or trainees on a covered project have not been properly registered within the meaning of the Regulations and the contract stipulations, or are utilized at the job site in excess of the ratio to journeymen permitted under the approved program, they must be paid the applicable wage rates for laborers and mechanics employed on the project performing in the classification of work they actually performed. This applies regardless of work classifications which may be listed on the submitted payrolls and regardless of their level of skill.

Helper classifications may be issued in or added to a wage determination only where the (a) the duties of the helpers are clearly defined and distinct from those of the journeyman classification and from the laborer, (b) the use of such helpers is an established prevailing practice in the area, and (c) the term "helper" is not synonymous with "trainee" in an informal training program.

Question. What wage rates must be paid to supervisory employees (foremen, superintendents, etc.) employed on a covered project?

Answer. The wage rates for bona fide supervisory employees are not regulated under the Davis-Bacon and related Acts because their duties are primarily administrative or executive in nature rather than those of laborers or mechanics. However, such employees who devote more than 20 percent of their time during a workweek to mechanic or laborer duties are laborers and mechanics for the time so spent, and must be paid at least the appropriate wage rates specified in the wage determination. Employees who are bona fide executive, administrative, or professional employees as defined under the Fair Labor Standards Act at 29 CFR Part 541 are not covered by the Davis-Bacon Act.

Question. If it is believed that the rates on a wage determination do not accurately reflect those prevailing in the area, how may the wage determination be appealed?

Answer. Any interested person requesting reconsideration of a wage determination or of a ruling regarding application of a wage determination to a specific construction project should present their request in writing accompanied by supporting data or other pertinent information to the Wage and Hour Division. The Wage and Hour Division should respond within 30 days or notify the requestor within this time frame that additional time is needed.

An "interested person" is considered to include, without limitation:

- (1) Any contractor, or an association representing a contractor, who is likely to seek or to work under a contract containing a particular wage determination, or any laborer or mechanic, or any labor organization which represents a laborer or mechanic, who is likely to be employed or to seek employment under a contract containing a particular wage determination, and,
- (2) Any Federal, State, or local agency concerned with the administration of a proposed contract or contract containing a particular wage determination issued pursuant to the Davis-Bacon Act or any of its related statutes.

If reconsideration of a wage determination has been sought and denied, an appeal for review of the wage determination or its application may be filed with the Administrative Review Board, U.S. Department of Labor, Room N-1651, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Requests for review of wage determinations must be filed, and any new wage determination resulting from the appeal must be issued, before contract award or start of construction where there is no award (or under the National Housing Act, before the date of initial endorsement, or the beginning of construction, whichever occurs first; or under Section 8 of the U.S. Housing Act of 1937, before the date of the housing assistance payments agreement, or the beginning of construction, whichever occurs first).

The Wage Appeals Board (now the Administrative Review Board) was established by the Secretary of Labor in 1963 to decide, at its discretion, appeals concerning questions of fact and law related to final decisions of the Wage and Hour Division concerning:

- Controversies over the payment of prevailing wage rates, overtime pay, or proper classifications;
- Wage determinations issued under the Davis-Bacon and related Acts;
- Debarment cases arising under 29 CFR Part 5;
- Cases involving the assessment of liquidated damages under the Contract Work Hours and Safety Standards Act;
- Appeal of any other final decision under 29 CFR Parts 1, 3, or 5.

The Administrative Review Board consists of three members, one of whom is designated chairman. The members are appointed by the Secretary of Labor and majority vote of the Administrative Review Board is necessary for a decision, except that a decision to hear any appeal may be made by one member. The Board can act as fully and finally as the Secretary of Labor concerning the matters within its jurisdiction. The rules prescribed in 29 CFR, Part 7, "Practice Before Wage Appeals Board", govern the proceedings of the Board.

DOL WAGE RATES

"General Decision Number: TX20240249 01/05/2024

Superseded General Decision Number: TX20230249

State: Texas

Construction Type: Building

County: Grayson County in Texas.

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

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658.

Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered	. Executive Order 14026
into on or after January 30,	generally applies to
the	
2022, or the contract is	contract.
renewed or extended (e.g., an	. The contractor must
pay	
option is exercised) on or	all covered workers
at	
after January 30, 2022:	least \$17.20 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 2024.

If the contract was awarded on		Executive Order 13658
or between January 1, 2015 and		generally applies to
the		
January 29, 2022, and the		contract.
contract is not renewed or		The contractor must
pay all		
extended on or after January		covered workers at
least		
30, 2022:		\$12.90 per hour (or
the		
		applicable wage rate
listed		
		on this wage
determination,		
		if it is higher) for
all		
		hours spent
performing on		
		that contract in
2024.		

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for

performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/05/2024

ASBE0021-011 06/01/2023

Rates

Fringes

ASBESTOS WORKER/HEAT & FROST
INSULATOR (Duct, Pipe and
Mechanical System Insulation).....\$ 31.32
7.52

BOIL0074-003 07/01/2023

Rates

Fringes

BOILERMAKER.....\$ 37.00
24.64

ENGI0178-005 06/01/2020

Rates

Fringes

POWER EQUIPMENT OPERATOR
(1) Tower Crane.....\$ 32.85
13.10
(2) Cranes with Pile
Driving or Caisson
Attachment and Hydraulic

Crane 60 tons and above.....\$ 28.75
10.60
(3) Hydraulic cranes 59
Tons and under.....\$ 32.35
13.10

IRON0263-004 06/01/2023

Rates

Fringes

IRONWORKER, ORNAMENTAL.....\$ 27.89
7.93

PLUM0100-009 11/01/2022

Rates

Fringes

PIPEFITTER (Excludes HVAC
Pipe Installation).....\$ 35.73
13.07
PLUMBER (HVAC Pipe
Installation Only).....\$ 35.73
13.07

SUTX2014-025 07/21/2014

Rates

Fringes

BRICKLAYER.....\$ 19.95
0.00

CARPENTER.....\$ 15.81 **
0.00

CEMENT MASON/CONCRETE FINISHER...\$ 13.27 **
0.00

ELECTRICIAN.....\$ 20.59
3.36

IRONWORKER, REINFORCING.....\$ 12.33 **
0.00

IRONWORKER, STRUCTURAL.....\$ 16.83 **
4.58

LABORER: Common or General.....\$ 10.00 **
0.00

LABORER: Mason Tender - Brick...\$ 10.95 **
0.00

LABORER: Mason Tender -
Cement/Concrete.....\$ 10.76 **
0.00

LABORER: Pipelayer.....\$ 13.00 **
0.35

LABORER: Roof Tearoff.....\$ 11.28 **
0.00

OPERATOR:
Backhoe/Excavator/Trackhoe.....\$ 12.89 **
0.00

OPERATOR: Bobcat/Skid
Steer/Skid Loader.....\$ 13.93 **
0.00

OPERATOR: Bulldozer.....\$ 18.29
1.31

OPERATOR: Drill.....\$ 17.60
0.50

OPERATOR: Forklift.....\$ 13.63 **
0.00

OPERATOR: Grader/Blade.....\$ 12.95 **
0.00

OPERATOR: Loader.....\$ 13.39 **
0.90

OPERATOR: Mechanic.....\$ 17.52
3.33

OPERATOR: Paver (Asphalt,
Aggregate, and Concrete).....\$ 18.44
0.00

OPERATOR: Roller.....\$ 15.04 **
0.00

PAINTER (Brush, Roller, and
Spray).....\$ 13.46 **
2.49

PLUMBER, Excludes HVAC Pipe
Installation.....\$ 22.27
4.81

ROOFER.....\$ 16.53 **
0.00

SHEET METAL WORKER (HVAC Duct
Installation Only).....\$ 21.04
5.28

SHEET METAL WORKER, Excludes
HVAC Duct Installation.....\$ 21.31
4.66

TILE FINISHER.....\$ 11.22 **
0.00

TILE SETTER.....\$ 14.25 **
0.00

TRUCK DRIVER: Dump Truck.....\$ 12.39 **
1.18

TRUCK DRIVER: Flatbed Truck.....\$ 19.65
8.57

TRUCK DRIVER: Semi-Trailer
Truck.....\$ 12.50 **
0.00

TRUCK DRIVER: Water Truck.....\$ 12.00 **
4.11

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

=====

** Workers in this classification may be entitled to a
higher
minimum wage under Executive Order 14026 (\$17.20) or
13658
(\$12.90). Please see the Note at the top of the wage
determination for more information. Please also note
that the
minimum wage requirements of Executive Order 14026 are
not
currently being enforced as to any contract or
subcontract to
which the states of Texas, Louisiana, or Mississippi,
including
their agencies, are a party.

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 <https://www.dol.gov/agencies/whd/government-contracts>.

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 (29CFR 5.5 (a) (1) (iii)).

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 the ""SU"" identifier indicate 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.

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 National Office because National Office has 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, DC 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
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200 Constitution Avenue, N.W.
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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, DC 20210

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

=====

END OF GENERAL DECISION"

"General Decision Number: TX20240019 01/05/2024

Superseded General Decision Number: TX20230019

State: Texas

Construction Type: Heavy Sewer and Water Line
WATER & SEWER LINES:

County: Grayson County in Texas.

WATER AND SEWER LINES

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$17.20 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 2024.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

	Rates	Fringes
Air Tool Operator.....	\$ 7.50	**
Asphalt Heater Operator.....	\$ 8.00	**
Asphalt Raker.....	\$ 9.00	**
Asphalt Shoveler.....	\$ 8.25	**
Batching Plant Scale Operator....	\$ 8.50	**
Batterboard Setter.....	\$ 8.45	**
CARPENTER.....	\$ 9.10	**
Concrete Finisher (PAVING).....	\$ 9.20	**
Concrete Finisher (Structures)...	\$ 8.90	**
Concrete Rubber.....	\$ 7.25	**
ELECTRICIAN.....	\$ 11.95	**
Flagger.....	\$ 7.25	**
Form Builder (Structures).....	\$ 8.20	**
Form Liner - Paving & Curb.....	\$ 8.50	**
Form Setter - Paving & Curb.....	\$ 8.55	**
Form Setter-Structures.....	\$ 8.10	**
Laborers:		
Common.....	\$ 7.25	**
Utility.....	\$ 7.25	**
MECHANIC (Undefined).....	\$ 10.00	**
Oiler.....	\$ 8.50	**
PAINTER (STRUCTURES).....	\$ 10.00	**
Pipelayer.....	\$ 7.45	**
Pneumatic Mortar Operator.....	\$ 7.25	**
Power equipment operators:		
Asphalt Distributor.....	\$ 7.85	**
Asphalt Paving Machine.....	\$ 8.95	**
Broom or Sweeper Operator...	\$ 8.75	**

Bulldozer 150 HP or less....\$	8.05	**
Bulldozer over 150 HP.....\$	9.05	**
Concrete Paving Curing Machine.....\$	8.40	**
Concrete Paving Finishing Machine.....\$	9.05	**
Concrete Paving Form Grader.\$	9.75	**
Concrete Paving Joint Machine.....\$	8.00	**
Concrete Paving Saw.....\$	8.30	**
Concrete Paving Spreader....\$	8.60	**
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1.5 cu yd and over).....\$	9.80	**
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1.5 cu. yd.).....\$	9.10	**
Crusher or Screening Plant..\$	7.25	**
Form Loader.....\$	7.25	**
Foundation Drill Operator (Truck Mounted).....\$	10.05	**
Front End Load (Over 2.5 cu yd).....\$	9.05	**
Front End Loader (2.5 cu yd or less).....\$	8.30	**
Mixer (16 CF & less).....\$	7.25	**
Motor Grader Operator (Fine Grade).....\$	9.75	**
Motor Grader Operator.....\$	9.00	**
Roller, Pneumatic (self- propelled).....\$	7.25	**
Roller, Steel Wheel (Plant- Mix Pavement).....\$	8.10	**
Roller, Steel Wheel other- Flat Wheel or Tamping).....\$	8.05	**
Scraper (17 cu yd & less)...\$	7.90	**
Scraper (over 17 cu yd).....\$	8.30	**
Self-Propelled Hammer.....\$	7.25	**
Side Boom.....\$	7.25	**
Tractor (crawler) 150 HP & less.....\$	8.00	**
Tractor (crawler) over 150 HP.....\$	8.30	**
Tractor (pneumatic) 80 HP & less.....\$	7.35	**
Tractor (pneumatic) over 80 HP.....\$	7.40	**
Traveling Mixer.....\$	7.25	**
Trenching Machine, Heavy....\$	8.00	**
Trenching Machine, Light....\$	7.80	**
Reinforcing Steel Setter PAVING.....\$	7.25	**
STRUCT.....\$	9.60	**
Servicer.....\$	7.55	**
SIGN ERECTOR.....\$	8.30	**
Spreader Box Operator.....\$	7.30	**

Truck drivers:

Lowboy-Float.....	\$ 7.90 **
Single Axle, Heavy.....	\$ 7.40 **
Single Axle, Light.....	\$ 7.25 **
Tandem Axle or Semi-trailer..	\$ 7.25 **
Transit-Mix.....	\$ 7.25 **
Winch.....	\$ 7.25 **

WELDER.....\$ 9.85 **

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

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

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 <https://www.dol.gov/agencies/whd/government-contracts>.

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 (29CFR 5.5 (a) (1) (iii)).

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a survey rate (weighted average rate) or a union average rate (weighted union average rate).

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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 the "SU" identifier indicate 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.

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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.

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
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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, DC 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:

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Washington, DC 20210

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

END OF GENERAL DECISION"

"General Decision Number: TX20240058 01/05/2024

Superseded General Decision Number: TX20230058

State: Texas

Construction Type: Heavy

County: Grayson County in Texas.

HEAVY CONSTRUCTION PROJECTS.

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$17.20 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 2024.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number Publication Date
0 01/05/2024

SUTX1981-002 03/01/1981

	Rates	Fringes
BRICKLAYER.....	\$ 8.50	**
CARPENTER.....	\$ 7.79	**
Concrete Finisher.....	\$ 8.50	**
ELECTRICIAN.....	\$ 11.43	**
IRONWORKER.....	\$ 10.07	**
Laborers:		
Common.....	\$ 7.25	**
Form Setters.....	\$ 7.25	**
Pipelayers.....	\$ 7.50	**
MECHANIC (Undefined).....	\$ 9.20	**
PAINTER.....	\$ 7.50	**
Plumbers and Pipefitters.....	\$ 10.96	**
Power equipment operators:		
Cranes, Clamshells, Backhoes, Derricks, Draglines, & Shovel.....	\$ 8.08	**
Front End Loaders.....	\$ 7.25	**
Motor Graders.....	\$ 9.00	**
TRUCK DRIVER.....	\$ 7.25	**

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

=====

** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

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 <https://www.dol.gov/agencies/whd/government-contracts>.

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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.

WAGE DETERMINATION APPEALS PROCESS

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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.

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

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

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END OF GENERAL DECISION"

"General Decision Number: TX20240025 01/05/2024

Superseded General Decision Number: TX20230025

State: Texas

Construction Type: Highway

Counties: Archer, Callahan, Clay, Collin, Dallas, Delta, Denton, Ellis, Grayson, Hunt, Johnson, Jones, Kaufman, Parker, Rockwall, Tarrant and Wise Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

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If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

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Modification Number	Publication Date
0	01/05/2024

SUTX2011-007 08/03/2011

	Rates	Fringes
CONCRETE FINISHER (Paving and Structures).....	\$ 14.12	**
ELECTRICIAN.....	\$ 19.80	
FORM BUILDER/FORM SETTER		
Paving & Curb.....	\$ 13.16	**
Structures.....	\$ 13.84	**
LABORER		
Asphalt Raker.....	\$ 12.69	**
Flagger.....	\$ 10.06	**
Laborer, Common.....	\$ 10.72	**
Laborer, Utility.....	\$ 12.32	**
Pipelayer.....	\$ 13.24	**

Work Zone Barricade
Servicer.....\$ 11.68 **

POWER EQUIPMENT OPERATOR:

Asphalt Distributor.....\$ 15.32 **
Asphalt Paving Machine.....\$ 13.99 **
Broom or Sweeper.....\$ 11.74 **
Concrete Pavement
Finishing Machine.....\$ 16.05 **
Concrete Saw.....\$ 14.48 **
Crane Operator, Lattice
Boom 80 Tons or Less.....\$ 17.27
Crane Operator, Lattice
Boom over 80 Tons.....\$ 20.52
Crane, Hydraulic 80 Tons
or Less.....\$ 18.12
Crawler Tractor.....\$ 14.07 **
Excavator, 50,000 pounds
or less.....\$ 17.19 **
Excavator, over 50,000
pounds.....\$ 16.99 **
Foundation Drill , Truck
Mounted.....\$ 21.07
Foundation Drill, Crawler
Mounted.....\$ 17.99
Front End Loader 3 CY or
Less.....\$ 13.69 **
Front End Loader, over 3 CY.\$ 14.72 **
Loader/Backhoe.....\$ 15.18 **
Mechanic.....\$ 17.68
Milling Machine.....\$ 14.32 **
Motor Grader, Fine Grade....\$ 17.19 **
Motor Grader, Rough.....\$ 16.02 **
Pavement Marking Machine....\$ 13.63 **
Reclaimer/Pulverizer.....\$ 11.01 **
Roller, Asphalt.....\$ 13.08 **
Roller, Other.....\$ 11.51 **
Scraper.....\$ 12.96 **
Small Slipform Machine.....\$ 15.96 **
Spreader Box.....\$ 14.73 **

Servicer.....\$ 14.58 **

Steel Worker (Reinforcing).....\$ 16.18 **

TRUCK DRIVER

Lowboy-Float.....\$ 16.24 **
Off Road Hauler.....\$ 12.25 **
Single Axle.....\$ 12.31 **
Single or Tandem Axle Dump
Truck.....\$ 12.62 **
Tandem Axle Tractor with
Semi Trailer.....\$ 12.86 **
Transit-Mix.....\$ 14.14 **

WELDER.....\$ 14.84 **

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

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

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 <https://www.dol.gov/agencies/whd/government-contracts>.

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 (29CFR 5.5 (a) (1) (iii)).

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 the "SU" identifier indicate 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.

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 National Office because National Office has 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, DC 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, DC 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, DC 20210

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

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END OF GENERAL DECISION"

Section F

Certificate of Insurance Requirements:

Prior to beginning of work, the Contractor shall obtain the minimum insurance requirements and endorsements as specified and submit certificates to TAPS. The named insured on the certificate and the name of the contractors as it appears on the contract with TAPS, must be the same. All insurance requirements must remain in force until final acceptance. If the insurance lapses for any reason, all work must stop until TAPS receives an acceptable certificate of insurance.

Workers' Compensation Insurance Coverage

The Contractor is required to have Workers' Compensation Insurance. The Contractor shall carry workers' compensation insurance in at least the statutory amount and the employer's liability coverage. By signing the Contract, the Contractor certifies compliance with all applicable laws, rules, and regulations pertaining to workers' compensation insurance or legitimate alternates. This certification includes all subcontractors. Subcontractors must meet the requirements either through their own coverage or through the Contractor's coverage. Evidence of such insurance is to be furnished to TAPS in a manner described above.

Endorsed with a Waiver of Subrogation in favor of TAPS.

Commercial General Liability Commercial

General Liability Insurance if Combined Single Limit coverage, not less than \$600,000 combined single limit. In the event the coverage's are specified separately, they shall be *at least* these amounts:

Bodily Injury: \$500,000 each occurrence

Property Damage: \$100,000 each occurrence \$100,000 for aggregate

Manufacturers' and Contractors' Liability insurance is *not* an acceptable substitute for Commercial General Liability insurance.

Endorsed with TAPS as Additional Insured and a Waiver of Subrogation in favor of TAPS.

Builders Risk

All Risk Builders Risk Insurance for insurable building projects shall be insured in the amount of the contract price for such improvements. TAPS and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by Builders Risk Insurance required under this section, except as to such rights as they may have in the proceeds of such insurance. Contractor shall require similar waivers by Subcontractors and Sub-subcontractors. TAPS is to be named Lost Payable Cause for 100% of Contract Price.

Section G

PTN-130 ATTACHED



Consolidated Certification Form

Form PTN-130
(Rev. 8/23)
Page 1 of 22

This form is to assist subrecipients with managing the federal and state clauses related to the procurement they're interested in completing. This document complies with all pertinent federal and state regulations for each procurement type.

To begin, select the procurement's funding source. If TxDOT is the pass-through entity (Direct Recipient), both Federal and State must be checked.

☒ Federal and State ☐ State Only

Federal Clauses – Procurement Types Summary:

All FTA-Assisted Third-Party Contracts and Subcontracts

1. No Federal Government Obligations to Third Parties
2. Access to Third Party Contract Records
3. Changes to Federal Requirements
4. Civil Rights (EEO, Title VI & ADA)
5. Incorporation of FTA Terms
6. Energy Conservation
7. Trafficking in Persons
8. False or Fraudulent Statements or Claims
9. Disadvantaged Business Enterprises (DBE)
10. Fly America
11. Americans with Disabilities Act (ADA) Access
12. Special Notification Requirements for States
13. Safe Operation of Motor Vehicles
14. Federal Tax Liability and Recent Felony Convictions
15. Program Fraud and False or Fraudulent Statements and Related Acts
16. Prompt Payment
17. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment
18. Conformance with Intelligent Transportation Systems (ITS) National Architecture
19. Severability

Award Exceeding \$10,000

20. Terminating the Contract
21. Solid Wastes

Award Exceeding \$25,000

22. Debarment and Suspension
23. Resolution of Disputes, Breaches, or Other Litigation

☐ **Award Exceeding \$50,000**

24. Contracting with the Enemy

☐ **Award Exceeding \$100,000**

25. Lobbying Restrictions

☒ **Award Exceeding \$150,000**

26. Environmental Protection (Clean Air and Water Pollution Control)

All FTA-ASSISTED THIRD-PARTY CONTRACTS AND SUBCONTRACTS

1. No Federal Government Commitment or Liability to Third Parties

Except as the Federal Government expressly consents in writing, the Recipient agrees that:

- A. The Federal Government does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third-Party Participant at any tier, or to any other person or entity that is not a party (FTA or the Recipient) to the Underlying Agreement; and
- B. Notwithstanding that the Federal Government may have concurred in or approved any Solicitation or Third-Party Agreement at any tier that may affect the Underlying Agreement, the Federal Government does not and shall not have any commitment or liability to any Third-Party Participant or other entity or person that is not a party (FTA or the Recipient) to the Underlying Agreement.

2. Access to Third-Party Contract Records

The Recipient agrees to require, and assures that each of its Subrecipients will require, its Third-Party Contractors at each tier to provide:

- A. The U.S. Secretary of Transportation and the Comptroller General of the United States, the state, or their duly authorized representatives, access to all Third-Party Contract records (at any tier) as required under 49 U.S.C. § 5325(g); and
- B. Sufficient access to all Third-Party Contract records (at any tier) as needed for compliance with applicable federal laws, regulations, and requirements or to assure.
- C. The Recipient will retain and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third-party Contracts of any type, and supporting materials related to those records.
- D. The Recipient agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts, and reports required under this Contract for a period of at not less than three (3) 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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

3. Changes to Federal Requirements

The Recipient agrees to include notice in each Third-Party Agreement that:

- A. Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and
- B. Applicable changes to those federal requirements will apply to each Third-Party Agreement and parties thereto at any tier.

4. Civil Rights

The Recipient agrees to apply these Federal Civil Rights laws and regulations apply to all contracts.

- A. **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to: a. Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity. b. Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

- B. Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
- C. Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
- D. Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.
- E. Equal Opportunity: The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.
- I. Nondiscrimination. In accordance with 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, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- II. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., 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. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. 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, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, 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.
- III. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, 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.
- IV. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- V. Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

5. Incorporation of Federal Transit Administration (FTA) Terms

The provisions within 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 DOT, as set forth in the current FTA Circular 4220 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 Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

6. Energy Conservation

The Recipient agrees to, and assures that its Subrecipients will, comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

7. Trafficking in Persons

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- A. Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- B. Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- C. Use forced labor in the performance of the Recipient's Award or subagreements thereunder.

8. False or Fraudulent Statements or Claims

A. Civil Fraud. The Recipient acknowledges and agrees that:

- I. Federal laws, regulations, and requirements apply to itself and its Underlying Agreement, including 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.
- II. By executing the Underlying Agreement, the Recipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Recipient provides to the Federal Government.
- III. The Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient presents, submits, or makes available any false, fictitious, or fraudulent information.

B. Criminal Fraud. The Recipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Recipient provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

9. Disadvantaged Business Enterprises

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 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- A. Withholding monthly progress payments;
- B. Assessing sanctions;

C. Liquidated damages; and/or

D. Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. §26.13(b).

In accordance with 49 C.F.R. § 26.29(a), Prime contractors agree to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime contractor using direct federal funds, and no later than 10 days from receipt of payment the recipient makes to the prime contractor using state or federal funds pass-through the Texas Department of Transportation (TxDOT) per TxDOT policy.

Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the recipient's written consent; and that, unless the recipient's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f)(1).

10. Fly America

The recipient agrees to comply with the air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143.

11. ADA Access

The Recipient agrees to comply with the following federal prohibitions against discrimination based on disability:

A. Federal laws, including:

- I. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination based on disability in the administration of federally assisted Programs, Projects, or activities;
- II. The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - a. For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
 - b. For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of "employer;"
- III. The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
- IV. Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
- V. Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.

B. Federal regulations and guidance, including:

- I. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37;
- II. U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27;
- III. Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38;
- IV. U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39;
- V. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35;
- VI. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36;
- VII. U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R.

part 1630;

- VIII. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, subpart F;
- IX. U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194;
- X. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609;
- XI. FTA Circular 4710.1, "Americans with Disabilities Act: Guidance;" and
- XII. Other applicable federal civil rights and nondiscrimination regulations and guidance.

12. Special Notification Requirements for States

- A. Types of Information. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
 - I. The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 - II. The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 - III. The amount of federal assistance FTA has provided for a State Program or Project.
- B. Documents. The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

13. Safe Operation of Motor Vehicles

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

14. Federal Tax Liability and Recent Felony Convictions

- A. The contractor certifies that it:
 - I. Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
 - II. Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third-Party Agreement with the Third-Party Participant without FTA's written approval.
- B. Flow Down
 - I. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

15. Program Fraud and False or Fraudulent Statements and Related Acts

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.

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. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

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.

16. Prompt Payment

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. Per Texas Department of Transportation (TxDOT) policy, the 30-day payment window is reduced to 10-days from receipt of payment when the contractor is using state or federal funds pass-through TxDOT to reimburse subcontractors. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed. The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

17. Prohibition on certain telecommunications and video surveillance services or equipment

Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- A. Procure or obtain;
- B. Extend or renew a contract to procure or obtain; or
- C. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- E. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- D. Telecommunications or video surveillance services provided by such entities or using such equipment.
- E. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered telecommunications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

18. Conformance with ITS National Architecture

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a

regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

19. Severability

The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

Awards Exceeding \$10,000

20. Termination

A. Termination for Convenience

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency's best interest. The Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

B. Termination for Default [Breach or Cause]

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 Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only 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 by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

C. Opportunity to Cure

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

D. Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

21. Solid Wastes

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and

establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Awards Exceeding \$25,000

22. Debarment and Suspension

The Recipient agrees to the following:

- A. It will comply with the following requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200.
- B. It will not enter into any "covered transaction" (as that phrase is defined at 2 C.F.R. §§ 180.220 and 1200.220) with any Third-Party Participant that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions, except as authorized by—
 - I. U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200;
 - II. U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180; and
 - III. Other applicable federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third-Party Participants.
- C. It will review the U.S. GSA "System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs," if required by U.S. DOT regulations, 2 C.F.R. part 1200.
- D. It will ensure that its Third-Party Agreements contain provisions necessary to flow down these suspension and debarment provisions to all lower tier covered transactions.
- E. If the Recipient suspends, debars, or takes any similar action against a Third-Party Participant or individual, the Recipient will provide immediate written notice to the:
 - I. FTA Regional Counsel for the Region in which the Recipient is located or implements the Underlying Agreement;
 - II. FTA Headquarters Manager that administers the Grant or Cooperative Agreement; or
 - III. FTA Chief Counsel.

23. Resolution of Disputes, Breaches, or Other Litigation

A. FTA Interest

FTA has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.

B. Notification to FTA; Flow Down Requirement

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third-Party Agreements and must require each Third-Party Participant to include an equivalent provision in its sub-agreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

- I. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- II. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
- III. Additional Notice to U.S. DOT Inspector General. The Recipient must promptly notify the U.S. DOT Inspector General in

addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including divisions tasked with law enforcement or investigatory functions.

C. Federal Interest in Recovery

The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA's prior written concurrence.

D. Enforcement

The Recipient must pursue its legal rights and remedies available under any Third-Party Agreement or any federal, state, or local law or regulation.

E. Agency Process

*Vendors may view the dispute resolution process here:

Awards Exceeding \$50,000

24. Never Contract with the Enemy

The Recipient agrees to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

Awards Exceeding \$100,000

25. Lobbying Restrictions.

The Recipient agrees that neither it nor any Third-Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, according to the following:

A. Laws, Regulations, Requirements, and Guidance. This includes:

- I. The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended;
- II. U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended; and
- III. Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature;

and

B. Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Recipient's or Subrecipient's proper official channels.

C. Political Activity. The Recipient agrees to comply with:

- I. The Hatch Act, 5 U.S.C. chapter 15, which limits the political activities of state and local government agencies supported in whole or in part with federal assistance, including the political activities of state and local government officers and employees whose principal governmental employment activities are supported in whole or in part with federal assistance;
- II. U.S. Office of Personnel Management regulations, "Political Activity of State or Local Officers or Employees," 5 C.F.R. part 151; and
- III. 49 U.S.C. § 5323(l)(2) and 23 U.S.C. § 142(g), which limits the applicability of the Hatch Act, as follows:
 - a. The Hatch Act does not apply to nonsupervisory employees of a public transportation system, or any other agency or entity performing related functions, based upon the Award of federal assistance under 49 U.S.C. chapter 53 or 23 U.S.C. § 142(a)(2); but
 - b. Notwithstanding the preceding section 4(e)(3)(ii) of this Master Agreement, the Hatch Act does apply to a nonsupervisory employee if imposed for a reason other than the Award of federal assistance to its employer under 49 U.S.C. chapter 53 or 23 U.S.C. § 142(a)(2).

D. Lobbying and Disclosure Certification

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 undersigned 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. Section 3801, et seq., are applicable thereto.

Name of Company	Printed Name of Person Completing Form
Date	Signature

Awards Exceeding \$150,000

26. Environmental Protection (Clean Air and Clean Water)

The Recipient agrees to comply with the regulations within the Clean Air Act (42 U.S.C. §§ 7401 - 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 - 1388), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 - 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 - 1388). Violations must be reported to the 64 Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

State of Texas Procurement Contract Clauses

State of Texas - Procurement Types Summary:

All Texas-Assisted Third-Party Contracts and Subcontracts

1. Debarment
2. Family Code Child Support Obligation Certification
3. Debts and Delinquencies Affirmations
4. Disaster Recovery Plan
5. Disclosure of Prior State Employment
6. Entities that Boycott Israel
7. Federal Executive Order 13224 Excluded Parties
8. False Statements
9. Financial Participation Prohibited Affirmation
10. Foreign Terrorist Organizations
11. Disaster Relief Contract Violation
12. Public Information Act
13. Signature Authority
14. State Auditor's Right to Audit
15. Suspension and Debarment
16. Assignment
17. Contracting Information Responsibilities
18. Human Trafficking Prohibition
19. Energy Company Boycotts
20. Firearm Entities and Trade Association Discrimination

1. 34 TAC §20.585 Debarment

The Recipient agrees that The State of Texas, in order to protect the interests of the state may:

- A. Conduct an investigation upon a complaint regarding a contractor's acts and omissions in procurement or performance of that contract where the complaint may constitute cause for debarment;
- B. Cancel one or more of the contractor's active or pending contracts upon a complaint regarding the contractor's acts and omissions in procurement or performance of that contract where the complaint may constitute cause for debarment;
- C. Assess actual damages and costs incurred due to contractor's failure to perform as specified in the contract;
- D. Debar a contractor for a specified period of time; and
- E. Take any other action authorized by law.

2. §231.006 Family Code Child Support Obligation Certification

Under Section 231.006(d) of the Texas Family Code, the Sub-recipient certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified GRANT and acknowledges that this Agreement may be terminated and payment or grant funds may be withheld if this certification is inaccurate.

3. §2252.903 Gov't Code Debts and Delinquencies Affirmations

Sub-recipient agrees that any payments due it under the Agreement shall be applied toward any debt or delinquency that is owed to the State of Texas.

4. §444.190 Gov't Code Disaster Recovery Plan

In accordance with 13 TAC (Texas Administrative Code) §6.94(a)(9), Sub-recipient shall provide descriptions of its business continuity and disaster recovery plans

5. §2254.033 Gov't Code Disclosure of Prior State Employment

In accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, RESPONDENT certifies that it does not employ an individual who has been employed by TxDOT or another agency at any time during the two years preceding the submission of the Response or, in the alternative, RESPONDENT has disclosed in its Response the following:

- A. The nature of the previous employment with TxDOT or the other agency;
- B. The date the employment was terminated; and
- C. The annual rate of compensation for the employment at the time of its termination.

6. §2271.001 Gov't Code Entities that Boycott Israel

Pursuant to Section 2271.001 of the Texas Government Code, Sub-recipient certifies that either:

- A. It meets an exception criterion under Section 2271.002, or
- B. It does not boycott Israel and will not boycott Israel during the term of this Agreement. Sub-recipient shall in a writing to TxDOT state any fact(s) that make it exempt from the boycott certification.

7. Federal Executive Order 13224 Excluded Parties

Sub-recipient certifies that it is not listed on the prohibited vendors list authorized by Executive Order 13224, Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.

8. §2155.077(a)(2) Gov't Code False Statements

Sub-recipient represents and warrants that all statements and information prepared and submitted in this document are current, complete, true and accurate. Submitting a false statement or material misrepresentation made during the performance of a contract is a material breach of contract and may void this agreement.

9. §2155.004 Gov't Code Financial Participation Prohibited Affirmation

Under Section 2155.004(b) of the Texas Government Code, Sub-recipient certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified agreement/GRANT and acknowledges that this agreement may be terminated, and payment withheld if this certification is inaccurate.

10. §2252.152 Gov't Code Foreign Terrorist Organizations

Sub-recipient represents and warrants that is not engaged in business with Iran, Sudan, or a foreign terrorist organization as prohibited by Section 2252.152 of the Texas Government Code.

11. §2155.006 and 2261.053 Gov't Code Prior Disaster Relief Contract Violation

Under Sections 2155.006 and 2261.053 of the Texas Government Code, the Sub-recipient certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified agreement/GRANT and acknowledges that this agreement may be terminated and payment withheld if this certification is inaccurate.

12. Chapter 552, Gov't Code and §2252.907 Gov't Code Public Information Act

Information, documentation, and other material in connection with this Agreement may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act"). In accordance with Section 2252.907 of the Texas Government Code, the Sub-recipient is required to make any information created or exchanged with the State pursuant to the Agreement and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is

accessible by the public at no additional charge to the State.

13. §2252.0012 Gov't Code Signature Authority

The Sub-recipient represents and warrants that the individual executing this Agreement is authorized to sign this Agreement on behalf of the Sub-recipient and to bind the Sub-recipient.

14. §2262.154 Gov't Code State Auditor's Right to Audit

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. The acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

15. §2155.077 Gov't Code Suspension and Debarment

Sub-recipient certifies that it and its principals are not suspended or debarred from doing business with the State of Texas or federal government as listed on the State of Texas Debarred Vendor List as maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.

16. §2262.056 (b) Gov't Code Assignment

Sub-recipient shall not assign its rights under the Agreement or delegate the performance of its duties under the Agreement without prior written approval from the TxDOT. Any attempted assignment in violation of this provision is void and without effect.

17. §552.372 Gov't Code Contracting Information Responsibilities

In accordance with Section 552.372 of the Texas Government Code, Sub-recipient agrees to:

- A. preserve all contracting information related to the Agreement as provided by the records retention requirements applicable to TxDOT for the duration of the Agreement,
- B. promptly provide to TxDOT any contracting information related to the Agreement that is in the custody or possession of the Sub-recipient on request of TxDOT, and
- C. on termination or expiration of the contract, either provide at no cost to TxDOT all contracting information related to the Agreement that is in the custody or possession of the Sub-recipient or preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to TxDOT. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Government Code, may apply to the Agreement and the Sub-recipient agrees that the Agreement can be terminated if the Sub-recipient knowingly or intentionally fails to comply with a requirement of that subchapter.

18. §2155.0061 Gov't Code Human Trafficking Prohibition

Under Section 2155.0061 of the Texas Government Code, the Sub-recipient certifies that the individual or business entity named in the Agreement is not ineligible to receive the specified Agreement/GRANT and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

19. §2274.002 Energy Company Boycotts

If Respondent is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Respondent verifies that Respondent does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Respondent does not make that verification, Respondent must so indicate in its Response and state why the verification is not required.

20. §2274 Firearm Entities and Trade Association Discrimination

If Respondent is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Respondent verifies that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. If Respondent does not make that verification, Respondent must so indicate in its Response and state why the verification is not required.

21. §2252.908, 2254.032, 2261.252(b) No Conflict of Interest

Respondent represents and warrants that the provision of goods and services or other performance under the contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

Certification to Purchaser

1. The undersigned vendor certifies that the manufactured good(s) furnished will meet or exceed the specifications, and/or that services rendered will comply with the terms of the solicitation or contract.
2. The undersigned vendor certifies that it has read all of the bid, proposal, or contract documents and agrees to abide by the terms, certifications, and conditions thereof.

Name of Company:

Address:

Telephone:

SS# or Tax ID#:

Printed Name of Person Completing Form:

Signature

Date:

Description of Commodity Service:

Disadvantaged Business Enterprise Information

Type of Organization (check the application type of organization)

☐ Sole Proprietorship ☐ General Proprietorship ☐ Corporation ☐ Limited Partnership ☐ Limited Proprietorship

Is your firm a DBE? ☐ Yes ☐ No

If yes, what type?

Third Party Procurement Contract Provisions

Third Party Procurement Contracting Provisions

Select the additional third-party procurement contracting provisions based on the type of solicitation you're procuring:

**Procurements cannot be combined. Example: Construction procurement and Rolling Stock procurement, use separate PTN 130s for each.*

☒ **1. Construction Related Clauses**

☒ Federal and State

☐ State Clauses

☐ **2. Rolling Stock Related Clauses**

☐ Federal and State

☐ State Clauses

☐ **3. Professional Services / Architectural Engineering**

☐ Federal and State

☐ State Clauses

☐ **4. Materials & Supplies Related Clauses**

☒ Federal and State

☐ State Clauses

☐ **5. Operations / Management Related Clauses**

☐ Federal and State

☐ State Clauses

1a. Federal Construction Related Clauses

- A. Davis-Bacon Act
- B. Copeland Anti-Kickback Act Section 1 and Section 2
- C. Recycled Products
- D. Bonding
- E. Cargo Preference
- F. Seismic Safety
- G. Special DOL EEO Clauses
- H. Veterans Preference
 - ☐ Awards Exceeding \$100,000
- I. Contract Work Hours and Safety Standards Act
 - ☒ Awards Exceeding \$150,000
- J. Buy America
 - ☒ Disadvantaged Business Enterprise (DBE)
- K. Race Conscious DBE Goal

A. Davis Bacon

The contractor agrees that all prime construction contracts in excess of \$2,000 awarded by non-federal entities will comply with Davis-Bacon Act (40 U.S.C. §§ 3141 - 3144, and 3146 - 3148) as supplemented by Department of Labor regulations (29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors agree to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

The non-federal entity will place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

B. Copeland Anti-Kickback Act

The contractor agrees to comply with all provisions of the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). In complying with this requirement, the contractor will prohibit inducing, by any means, any person employed in the construction, completion, or repair of a public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity will report all suspected or reported violations to the awarding agency.

C. Recycled Products

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

D. Bonding

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or passthrough entity may accept the bonding policy and requirements of the non-Federal entity provided that

the Federal awarding agency or passthrough entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- I. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- II. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
- III. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

It is also understood and agreed that if the bidder should withdraw any part or all of their bid within [90] days after the bid opening without the written consent of the Agency, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent Agency's damages occasioned by such withdrawal, or refusal, or inability to enter into a Contract, or provide adequate security thereof.

It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense Agency for the damages occasioned by default, then the bidder agrees to indemnify Agency and pay over to Agency the difference between the bid guarantee and Agency's total damages so as to make Agency whole.

The bidder understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

Performance Guarantee. A Performance Guarantee in the amount of 100% of the Contract value is required by the Agency to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Contract. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the Agency within ten (10) business days from Contract execution. The Agency requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a Certificate of Authority as described hereunder. Agency may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder shall also provide a statement from the banking institution certifying that an Irrevocable Stand-By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable Stand-By Letter of Credit will only be accepted by the Agency if:

- a. A bank in good standing issues it. The Agency will not accept a Letter of Credit from an entity other than a bank.
- b. It is in writing and signed by the issuing bank.
- c. It conspicuously states that it is an irrevocable, nontransferable, "standby" Letter of Credit.
- d. The Agency is identified as the Beneficiary.
- e. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars.
- f. The effective date of the Letter of Credit is the same as the effective date of the Contract
- g. The expiration date of the Letter of Credit coincides with the term of the contract.
- h. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the Agency and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft to

the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds. A Labor and Materials Payment Bond equal to the full value of the contract must be furnished by the contractor to Agency as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (Agency) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

E. Cargo Preference

The contractor agrees to comply with the shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference - U.S.-Flag Vessels," 46 C.F.R. part 381.

F. 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 (DOT) Seismic Safety Regulations 49 C.F.R. 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.

G. Special DOL EEO Clauses

The contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

H. Veterans Preference

As provided in 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- I. Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a Third-Party Contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53; and
- II. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

Awards Exceeding \$100,000

I. Contract Work Hours and Safety Standards Act

All contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. part 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Awards Exceeding \$150,000

J. Buy America

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all 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.

Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements.

The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. For more information, please see the FTA's Buy America webpage at: <https://www.transit.dot.gov/buyamerica>.

- Except as the Federal Government determines otherwise in writing, the Recipient agrees to comply with FTA's U.S. domestic preference requirements and follow federal guidance of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with 49 U.S.C. § 5323(j);
- If steel, iron, or manufactured products (as defined in 49 CFR 661.3 and 661.5) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in 49 CFR 661.13(b).

(Check where Applicable)

- ☐ The vendor or offeror hereby certifies it will comply with the requirements of 49 USC 5323(j) and the applicable regulations in 49 CFR 661, providing Buy America compliant manufactured goods or rolling stock.
- ☐ The vendor or offeror cannot comply with the requirements 49 USC 5323(j), but may qualify for an exception to the requirement pursuant to the regulations in 49 CFR 661.

Davis-Bacon Act, Copeland Anti-Kickback Act, and Seismic Safety Certification	
Name of Company	Printed Name of Person Completing Form
Date	Signature

Construction Certification

The undersigned vendor certifies to abide by these clauses and include the following clauses in each subcontract financed in whole or in part with Federal Transit Administration (FTA) funds. Vendors are certifying by reference the entire list FTA's current fiscal year Certifications and Assurances (for fiscal year _____), and shall download at:

<https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>.

Name of Company	Printed Name of Person Completing Form
Date	Signature

Disadvantaged Business Enterprise (DBE)

1. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. A separate contract goal of _____ DBE participation has been established for this procurement.
2. Bidders/offers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following prior to award:
 - a. The names and addresses of DBE firms that will participate in this contract;
 - b. A description of the work each DBE will perform;
 - c. The dollar amount of the participation of each DBE firm participating;
 - d. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
 - e. Written documentation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
 - f. If the contract goal is not met, evidence of good faith efforts to do so. Bidders/Offerors must present the information required above prior to contract award (see 49 CFR 26.53(3)).
3. The contractor must promptly notify _____ insert agency name _____ whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the _____ insert agency name _____.
4. Prompt Payment (DBE and subcontractors) - The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 10 calendar days after the contractor's receipt of payment for that work from the _____ insert agency name _____. In addition, the contractor is required to return any retainage payments to those subcontractors within 10 calendar days after the subcontractor's work related to this contract is satisfactorily completed.

1b. State of Texas Required Clauses: Construction

Dispute Resolution

1. §2260.004 Gov't Code Dispute Resolution

The Recipient agrees to the dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute under this Agreement.

Construction Certification

The undersigned vendor certifies to abide by these clauses and include the following clauses in each subcontract financed in whole or in part with State of Texas funds.

Name of Company	Printed Name of Person Completing Form
Date	Signature