

INVITATION TO BID (ITB) NUMBER

2519N049

RETURN THIS BID TO THE ISSUING OFFICE AT:



Department of Transportation & Public Facilities
Northern Region Procurement Office
2301 Peger Road
Fairbanks, Alaska 99709

THIS IS NOT AN ORDER

DATE ITB ISSUED: June 21, 2019

ITB TITLE: Hot Mix, Tazlina Area – Federally Funded

SEALED BIDS MUST BE SUBMITTED TO THE DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES AT THE ABOVE ADDRESS AND MUST BE TIME AND DATE STAMPED BY THE PURCHASING SECTION PRIOR TO 10:00 AM ON July 3rd, 2019, AT WHICH TIME THEY WILL BE PUBLICLY OPENED.

DELIVERY LOCATION: See Bid Schedule

DELIVERY DATE: See Bid Schedule

F.O.B. POINT: FINAL DESTINATION

IMPORTANT NOTICE: If you received this solicitation from the State's "Online Public Notice" web site, you must register with the Procurement Officer listed on this document to receive notification of subsequent amendments. Failure to contact the Procurement Officer may result in the rejection of your offer.

BIDDER'S NOTICE:

Contracts for purchases resulting from this bid will be made utilizing Federal Funds. As such, and per AS 36.30.890, no State of Alaska Bidder or Product Preferences may apply.

Sec. 36.30.890. Federal Assistance

If a procurement involves the expenditure of federal funds or federal assistance and there is a conflict between a provision of this chapter or a regulation adopted under a provision of this chapter and a federal statute, regulation, policy, or requirement, the federal statute, regulation, policy, or requirement shall prevail.

2 AAC 12.730. Federal Assistance

If a procurement involves the expenditure of federal funds or requires federal assistance and there is a conflict between a provision of this chapter and federal statute, regulation, policy, or requirement, the procurement officer shall comply with the federal statute, regulation, policy, or requirement.

Authority: AS 36.30.040; AS 36.30.890



Eric Johnson
PROCUREMENT OFFICER

TELEPHONE NUMBER
(907) 451-5102

FAX NUMBER
(907) 451-5238

EMAIL: eric.johnson@alaska.gov

COMPANY SUBMITTING BID

AUTHORIZED SIGNATURE

PRINTED NAME

DATE

E-MAIL ADDRESS

ALASKA BUSINESS LICENSE NUMBER

FEDERAL TAX ID NUMBER

TELEPHONE NUMBER

Note: An Alaska Business License will be required prior to award. Out-of-State bidders must also comply with all corporate laws of the State of Alaska regarding performing business in the State.

INSTRUCTIONS TO BIDDERS:

1. INVITATION TO BID (ITB) REVIEW: Bidders shall carefully review this ITB for defects and questionable or objectionable material. Bidders' comments concerning defects and questionable or objectionable material in the ITB must be made in writing and received by the purchasing authority at least ten (10) days before the bid opening date. This will allow time for an amendment to be issued if one is required. It will also help prevent the opening of a defective bid, upon which award cannot be made, and the resultant exposure of bidders' prices. Bidders' original comments should be sent to the purchasing authority listed on the front of this ITB.

2. BID FORMS: Bidders shall use this and attached forms in submitting bids. A photocopied bid may be submitted.

3. SUBMITTING BIDS: Envelopes containing bids must be sealed, marked, and addressed as shown in the example below. Do not put the ITB number and opening date on the envelope of a request for bid information. Envelopes with ITB numbers annotated on the outside will not be opened until the scheduled date and time.

Bidder's Return Address

Department of Transportation & Public Facilities
Supply & Services
2301 Peger Road
Fairbanks, AK 99709

ITB Name & No.: Hot Mix, Tazlina Area – Federally Funded; 2519N049

Opening Date: July 3rd, 2019 at 10:00 AM

ELECTRONIC BID SUBMISSION: Bids may be emailed to eric.johnson@alaska.gov, no later than the date and time listed on page one of this ITB as the deadline for receipt of bids, and must contain the ITB number in the subject line of the email. Emailed bids must be submitted as an attachment in PDF format. Please note that the **maximum** size of a single email (including *all* text and attachments) that can be received by the state is **20mb (megabytes)**. If the email containing the bid exceeds this size, the bid must be sent in multiple emails that are each less than 20 megabytes and each email must comply with the requirements described above. The state is not responsible for unreadable, corrupt, or missing attachments. It is the bidder's responsibility to contact the issuing office at (907) 451-5102 to confirm that the bid has been received. Failure to follow the above instructions may result in the bid being found non-responsive and rejected.

FAX BID SUBMISSION: Bids may be faxed to (907) 451-2313, no later than the date and time listed on page one of this ITB as the deadline for receipt of bids. It is the bidder's responsibility to contact the issuing office at (907) 451-5102 to make arrangements prior to faxing the bid and to confirm that the bid has been received. Failure to follow the above instructions may result in the bid being found non-responsive and rejected.

4. PRICES: The bidder shall state prices in the units of issue on this ITB. Prices quoted for commodities must be in U.S. funds and include applicable federal duty, brokerage fees, packaging, and transportation cost to the FOB point so that upon transfer of title the commodity can be utilized without further cost. Prices quoted for services must be quoted in U.S. funds and include applicable federal duty, brokerage fee, packaging, and transportation cost so that the services can be provided without further cost. Prices quoted in bids must be exclusive of federal, state, and local taxes. If the bidder believes that certain taxes are payable by the State, the bidder may list such taxes separately, directly below the bid price for the affected item. The State is exempt from Federal Excise Tax except the following:

- Coal - Internal Revenue Code of 1986 (IRC), Section 4121 - on the purchase of coal;

- “Gas Guzzler” - IRC, Section 4064 - on the purchase of low m.p.g. automobiles, except that police and other emergency type vehicles are not subject to the tax;
- Air Cargo - IRC, Section 4271 - on the purchase of property transportation services by air;
- Air Passenger - IRC, Section 4261 - on the purchase of passenger transportation services by air carriers.
- Leaking Underground Storage Tank Trust Fund Tax (LUST) - IRC, Section 4081 - on the purchase of Aviation Gasoline, Diesel Fuel, Gasoline, and Kerosene.

5. VENDOR TAX ID NUMBER: If goods or services procured through this ITB are of a type that is required to be included on a Miscellaneous Tax Statement, as described in the Internal Revenue Code, a valid tax identification number must be provided to the State of Alaska before payment will be made.

6. FILING A PROTEST: A bidder may protest the award of a contract or the proposed award of a contract for supplies, services, or professional services. The protest must be filed in writing and include the following information: (1) the name, address, and telephone number of the protester; (2) the signature of the protester or the protester's representative; (3) identification of the contracting agency and the solicitation or contract at issue; (4) a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents; and (5) the form of relief requested. Protests will be treated in accordance with Alaska Statutes (AS) 36.30.560-36.30.610.

CONDITIONS:

1. AUTHORITY: This ITB is written in accordance with AS 36.30 and 2 AAC 12.

2. COMPLIANCE: In the performance of a contract that results from this ITB, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws; and be liable for all required insurance, licenses, permits and bonds; and pay all applicable federal, state, and borough taxes.

3. SUITABLE MATERIALS, ETC.: Unless otherwise specified, all materials, supplies or equipment offered by a bidder shall be new, unused, and of the latest edition, version, model or crop and of recent manufacture.

4. SPECIFICATIONS: Unless otherwise specified in the ITB, product brand names or model numbers specified in this ITB are examples of the type and quality of product required, and are not statements of preference. If the specifications describing an item conflict with a brand name or model number describing the item, the specifications govern. Reference to brand name or number does not preclude an offer of a comparable or better product, if full specifications and descriptive literature are provided for the product. Failure to provide such specifications and descriptive literature may be cause for rejection of the offer.

5. FIRM OFFER: For the purpose of award, offers made in accordance with this ITB must be good and firm for a period of ninety (90) days from the date of bid opening.

6. EXTENSION OF PRICES: In case of error in the extension of prices in the bid, the unit prices will govern; in a lot bid, the lot prices will govern.

7. BID PREPARATION COSTS: The State is not liable for any costs incurred by the bidder in bid preparation.

8. CONSOLIDATION OF AWARDS: Due to high administrative costs associated with processing of purchase orders, a single low bid of \$50 or less may, at the discretion of the State, be awarded to the next low bidder receiving other awards for consolidation purposes. This paragraph is not subject to the protest terms enumerated in “*INSTRUCTION TO BIDDERS*”, “*FILING A PROTEST*” above.

9. CONTRACT FUNDING: Bidders are advised that funds are available for the initial purchase and/or the first term of the contract. Payment and performance obligations for succeeding purchases and/or additional terms of the contract are subject to the availability and appropriation of funds.

10. CONFLICT OF INTEREST: An officer or employee of the State of Alaska may not seek to acquire, be a party to, or possess a financial interest in, this contract if (1) the officer or employee is an employee of the administrative unit that supervises the award of this contract; or (2) the officer or employee has the power to take or withhold official action so as to affect the award or execution of the contract.

11. ASSIGNMENT(S): Assignment of rights, duties, or payments under a contract resulting from this ITB is not permitted unless authorized in writing by the State of Alaska, Department of Administration, Division of General Services. Bids that are conditioned upon the State's approval of an assignment will be rejected as nonresponsive.

12. SUBCONTRACTOR(S): Within five (5) working days of notice from the state, the apparent low bidder must submit a list of the subcontractors that will be used in the performance of the contract. The list must include the name of each subcontractor and the location of the place of business for each subcontractor and evidence of each subcontractor's valid Alaska business license.

13. FORCE MAJEURE (Impossibility to perform): The contractor is not liable for the consequences of any failure to perform, or default in performing, any of its obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the contractor. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

14. LATE BIDS: Late bids are bids received after the time and date set for receipt of the bids. Late bids will not be accepted.

15. CONTRACT EXTENSION: Unless otherwise provided in this ITB, the State and the successful bidder/contractor agree: (1) that any holding over of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect and (2) to provide written notice to the other party of the intent to cancel such month-to-month extension at least thirty (30) days before the desired date of cancellation.

16. DEFAULT: In case of default by the contractor, for any reason whatsoever, the State of Alaska may procure the goods or services from another source and hold the contractor responsible for any resulting excess cost and may seek other remedies under law or equity.

17. DISPUTES: Any dispute arising out of this agreement shall be resolved under the laws of Alaska. Any appeal of an administrative order or any original action to enforce any provision of this agreement or to obtain any relief from or remedy in connection with this agreement may be brought only in the superior court for the State of Alaska.

18. CONSUMER ELECTRICAL PRODUCT: AS 45.45.910 requires that "...a person may not sell, offer to sell, or otherwise transfer in the course of the person's business a consumer electrical product that is manufactured after August 14, 1990, unless the product is clearly marked as being listed by an approved third party certification program." Electrical consumer products manufactured before August 14, 1990, must either be clearly marked as being third party certified or be marked with a warning label that complies with AS

45.45.910(e). Even exempted electrical products must be marked with the warning label. By signature on this bid the bidder certifies that the product offered is in compliance with the law. A list of approved third party certifiers, warning labels and additional information is available from: Department of Labor and Workforce Development, Labor Standards & Safety Division, Mechanical Inspection Section, P.O. Box 107020, Anchorage, Alaska 99510-7020, (907)269-4925.

19. SEVERABILITY: If any provision of the contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

SPECIAL CONDITIONS:

1.ORDER DOCUMENTS: Except as specifically allowed under this ITB, an ordering agency will not sign any vendor contract. The State is not bound by a vendor contract signed by a person who is not specifically authorized to sign for the State under this ITB. The State of Alaska Purchase Order, Contract Award and Delivery Order are the only order documents that may be used to place orders against the contract(s) resulting from this ITB.

2.BILLING INSTRUCTIONS: Invoices must be billed to the ordering agency's address shown on the individual Purchase Order, Contract Award or Delivery Order, not to the Division of General Services. The ordering agency will make payment after it receives the merchandise or service and the invoice. Questions concerning payment must be addressed to the ordering agency.

3.CONTINUING OBLIGATION OF CONTRACTOR: Notwithstanding the expiration date of a contract resulting from this ITB, the contractor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance and parts availability requirements have completely expired.

ALASKA VENDOR & PRODUCT PREFERENCES:

State and local preferences will not be applied to federally funded projects.

FEDERAL REQUIREMENTS AND CONDITIONS

FEDERALLY FUNDED PROJECT(S) / ALASKA BUSINESS LICENSE REQUIREMENTS

When Federal funds are involved, the Alaska Business License must be obtained prior to the award of a contract.

23 CFR 635.110; "Licensing and qualification of contractors", (c) reads:

"No contractor shall be required by law, regulation, or practice to obtain a license before submission of a bid or before the bid may be considered for award of a contract"

Offerors should contact the Department of Community and Economic Development, Division of Occupational Licensing, P. O. Box 110806, Juneau, Alaska 99811-0806, for information on obtaining applicable licenses.

CERTIFICATIONS

The Contractor must meet the following Federal certification requirements:

1. Debarment, suspension, and other responsibility matters for primary covered transactions

The Contractor certifies, to the best of its knowledge and belief, that it and its principles:

STANDARD TERMS AND CONDITIONS

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- b) Have not, within a three (3) year period preceding this certification, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction, violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses listed in subparagraph (1)(b) of this certification: and
- d) Have not within three (3)-year period preceding this certification had one or more public transaction (federal, state, or local) terminated from clause or default.
- e) Contractor also certifies that, if it later becomes aware of any information contradicting the statements of paragraph a) above, it will promptly provide that information to the Alaska Department of Transportation.

DISADVANTAGE BUSINESS ENTERPRISE ASSURANCE

In accordance with 49 CFR 26.13(a), contractor assures that it shall not discriminate on the basis of race, color, national origin, or sex in the implementation of the project and in the award and performance of any third party contract, or sub-agreement supported with Federal assistance derived from the U.S. DOT or in the administration of its DBE program or the requirement of 49 CFR part 26. The recipient assures that it shall take all necessary and reasonable steps under 49CFR part 26 to ensure nondiscrimination in the award and administration of all third party contracts and sub-agreement supported with Federal assistance derived from the U.S. Department of Transportation.

ALASKA BUSINESS LICENSE AND OTHER REQUIRED LICENSES: Prior to the award of a contract, a bidder must hold a valid Alaska business license. However, in order to receive the Alaska Bidder Preference and other related preferences, such as the Alaska Veteran and Alaskans with Disabilities Preference, a bidder must hold a valid Alaska business license at the time designated for bid opening. Bidders should contact the Department of Commerce, Community and Economic Development, Division of Corporations, Business, and Professional Licensing for information on these licenses.

Website: <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing.aspx>
Phone: (907) 465-2550
Email: license@alaska.gov

Acceptable evidence that the bidder possesses a valid Alaska business license may consist of any one of the following:

- (a) copy of an Alaska business license;
- (b) certification on the bid that the bidder has a valid Alaska business license and has included the license number in the bid (see front page);
- (c) a canceled check for the Alaska business license fee;
- (d) a copy of the Alaska business license application with a receipt stamp from the state's occupational licensing office; or
- (e) a sworn and notarized statement that the bidder has applied and paid for the Alaska business license.

You are not required to hold a valid Alaska business license at the time bids are opened if you possess one of the following licenses and are offering services or supplies under that specific line of business:

- fisheries business licenses issued by Alaska Department of Revenue or Alaska Department of Fish and Game,
- liquor licenses issued by Alaska Department of Revenue for alcohol sales only,
- insurance licenses issued by Alaska Department of Commerce, Community and Economic Development, Division of Insurance, or
- Mining licenses issued by Alaska Department of Revenue.

At the time designated for bid opening, all bidders must hold any other necessary applicable professional licenses required by Alaska Statute.

ALASKA BIDDER PREFERENCE: An Alaska Bidder Preference of five percent will be applied prior to evaluation. The preference will be given to a bidder who:

- (1) holds a current Alaska business license at the time designated for bid opening;

- (2) submits a proposal for goods or services under the name appearing on the bidder's current Alaska business license;
- (3) has maintained a place of business within the state staffed by the bidder, or an employee of the bidder, for a period of six months immediately preceding the date of the bid;
- (4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship and the proprietor is a resident of the state, is a limited liability company (LLC) organized under AS 10.50 and all members are residents of the state, or is a partnership under AS 32.06 or AS 32.11 and all partners are residents of the state; and
- (5) if a joint venture, is composed entirely of ventures that qualify under (1)-(4) of this subsection.

ALASKA BIDDER PREFERENCE STATEMENT: In order to receive the Alaska Bidder Preference, the bid must also include a statement certifying that the bidder is eligible to receive the Alaska Bidder Preference.

If the bidder is a LLC or partnership as identified in (4) of this subsection, the statement must also identify each member or partner and include a statement certifying that all members or partners are residents of the state.

If the bidder is a joint venture which includes a LLC or partnership as identified in (4) of this subsection, the statement must also identify each member or partner of each LLC or partnership that is included in the joint venture and include a statement certifying that all of those members or partners are residents of the state.

BIDDERS WITH DISABILITIES: The State of Alaska complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aids, services, and/or special modifications to participate in this procurement should contact the Department of Transportation & Public Facilities at one of the following numbers no later than Ten (10) days prior to bid opening to make any necessary arrangements.

Telephone: (907) 451-5102
Fax: (907) 451-2313
TDD: (907) 451-2363

COMPLIANCE WITH ADA: By signature of their bid the bidder certifies that they comply with the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government.

Services or activities furnished to the general public on behalf of the state must be fully accessible. This is intended to ensure that agencies are in accordance with 28 CFR Part 35

Section 35.130 and that services, programs or activities furnished to the public through a contract do not subject qualified individuals with a disability to discrimination based on the disability.

CONTRACT PERFORMANCE LOCATION: By signature on their bid, the bidder certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States.

If the bidder cannot certify that all work will be performed in the United States, the bidder must contact the procurement officer in writing to request a waiver at least 10 days prior to the deadline for receipt of bids.

The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with these requirements may cause the state to reject the bid as non-responsive, or cancel the contract.

HUMAN TRAFFICKING: By signature on their bid, the bidder certifies that the bidder is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <http://www.state.gov/g/tip/>

Failure to comply with this requirement will cause the state to reject the bid as non-responsive, or cancel the contract

CONTRACT INTENT: This Invitation to Bid (ITB) is intended to result in the purchase of Hot Mix, loaded into State trucks, in the Tazlina area, for the Department of Transportation & Public Facilities.

NOTICE OF INTENT TO AWARD: After the responses to this ITB have been opened and evaluated, a tabulation of the bids will be prepared. This tabulation, called a Notice of Intent to Award, serves two purposes. It lists the name of each company or person that offered a bid and the price they bid. It also provides notice of the state's intent to award a contract(s) to the bidder(s) indicated. A copy of the Notice of Intent will be mailed to each company or person who responded to the ITB. Bidders identified as the apparent low responsive bidders are instructed not to proceed until a Purchase Order, Contract Award, Lease, or some other form of written notice is given by the contracting officer. A company or person who proceeds prior to receiving a Purchase Order, Contract Award, Lease, or some other form of written notice from the contracting officer does so without a contract and at their own risk.

PAYMENT FOR STATE PURCHASES: Payment for agreements under \$500,000 for the undisputed purchase of goods or services provided to a state agency, will be made within 30 days of the receipt of a proper billing or the delivery of the goods or services to the location(s) specified in the agreement, whichever is later. A late payment is subject to 1.5% interest per

month on the unpaid balance. Interest will not be paid if there is a dispute or if there is an agreement that establishes a lower interest rate or precludes the charging of interest.

PROMPT PAYMENT FOR STATE PURCHASES: The state is eligible to receive a 5% discount for all invoices paid within 15 business days from the date of receipt of the commodities or services and/or a correct invoice, whichever is later. The discount shall be taken on the full invoice amount. The state shall consider payment being made as either the date a printed warrant is issued or the date an electronic funds transfer (EFT) is initiated

FEDERAL EXCISE TAX: The State of Alaska is exempt from Federal Excise Tax except for the following:

- Coal - Internal Revenue Code of 1986 (IRC), Section 4121 - on the purchase of coal;
- “Gas Guzzler” - IRC, Section 4064 - on the purchase of low m.p.g. automobiles, except that police and other emergency type vehicles are not subject to the tax;
- Air Cargo - IRC, Section 4271 - on the purchase of property transportation services by air;
- Air Passenger - IRC, Section 4261 - on the purchase of passenger transportation services by air charter.
- Leaking Underground Storage Tank Trust Fund Tax (LUST) - IRC, Section 4081 - on the purchase of Aviation gasoline, Diesel Fuel, Gasoline, and Kerosene.

The State of Alaska is also exempt from State Motor Fuel Taxes. The appropriate exemption forms will accompany a contract(s) resulting from this ITB. The state is not exempt from the Federal Superfund Tax.

CONTRACT ADMINISTRATION: The administration of this contract is the responsibility of Eric Johnson, Procurement Officer, Department of Transportation & Public Facilities.

INDEMNIFICATION: The contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the contractor under this agreement. The contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the contractor and the independent negligence of the Contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. “Contractor” and “Contracting agency”, as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term “independent negligence” is negligence other than in the Contracting agency’s selection, administration, monitoring, or controlling of the contractor and in approving or accepting the contractor’s work.

INSURANCE: Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains

higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with, and be issued by insurers licensed to transact the business of insurance under AS 21.

Proof of insurance is required for the following:

Workers' Compensation Insurance: The contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the state.

Commercial General Liability Insurance: covering all business premises and operations used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.

Commercial Automobile Liability Insurance: covering all vehicles used by the contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.

Failure to supply satisfactory proof of insurance within the time required will cause the state to declare the bidder non-responsible and to reject the bid.

ANNOTATED LITERATURE: Bidders must annotate their product literature to identify for the state the location of the supporting information regarding each product specification set out in this ITB. A bidder's failure to comply with this clause, within the time set by the state, will cause the state to consider the offer non-responsive and reject the bid.

SUPPORTING INFORMATION: The state strongly desires that bidders submit all required technical, specification, and other supporting information with their bid, so that a detailed analysis and determination can be made by the contracting officer that the product offered meets the ITB specifications and that other requirements of the ITB have been met. However, provided a bid meets the requirements for a definite, firm, unqualified, and unconditional offer, the state reserves the right to request supplemental information from the bidder, after the bids have been opened, to ensure that the products offered completely meet the ITB requirements. The requirement for such supplemental information will be at the reasonable discretion of the state and may include the requirement that a bidder will provide a sample product(s) so that the state can make a first-hand examination and determination.

A bidder's failure to provide this supplemental information or the product sample(s), within the time set by the state, will cause the state to consider the offer non-responsive and reject the bid.

FIRM, UNQUALIFIED AND UNCONDITIONAL OFFER: Bidders must provide enough information with their bid to constitute a definite, firm, unqualified and unconditional offer. To be responsive a bid must constitute a definite, firm, unqualified and unconditional offer to meet all of the material terms of the ITB. Material terms are those that could affect the price, quantity, quality, or delivery. Also included as material terms are those which are clearly identified in the ITB and which, for reasons of policy, must be complied with at risk of bid rejection for non-responsiveness.

NONDISCLOSURE AND CONFIDENTIALITY: Contractor agrees that all confidential information shall be used only for purposes of providing the deliverables and performing the services specified herein and shall not disseminate or allow dissemination of confidential information except as provided for in this section. The contractor shall hold as confidential and will use reasonable care (including both facility physical security and electronic security) to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, the confidential information. “Reasonable care” means compliance by the contractor with all applicable federal and state law, including the Social Security Act and HIPAA. The contractor must promptly notify the state in writing if it becomes aware of any storage, disclosure, loss, unauthorized access to or use of the confidential information.

Confidential information, as used herein, means any data, files, software, information or materials (whether prepared by the state or its agents or advisors) in oral, electronic, tangible or intangible form and however stored, compiled or memorialized that is classified confidential as defined by State of Alaska classification and categorization guidelines (i) provided by the state to the contractor or a contractor agent or otherwise made available to the contractor or a contractor agent in connection with this contract, or (ii) acquired, obtained or learned by the contractor or a contractor agent in the performance of this contract. Examples of confidential information include, but are not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data (infrastructure, architecture, operating systems, security tools, IP addresses, etc).

Additional information that the contractor shall hold as confidential during the performance of services under this contract include: N\A

If confidential information is requested to be disclosed by the contractor pursuant to a request received by a third party and such disclosure of the confidential information is required under applicable state or federal law, regulation, governmental or regulatory authority, the contractor may disclose the confidential information after providing the state with written notice of the requested disclosure (to the extent such notice to the state is permitted by applicable law) and giving the state opportunity to review the request. If the contractor receives no objection from the state, it may release the confidential information within 30 days. Notice of the requested disclosure of confidential information by the contractor must be provided to the state within a reasonable time after the contractor’s receipt of notice of the requested disclosure and, upon request of the state, shall seek to obtain legal protection from the release of the confidential information.

The following information shall not be considered confidential information: information previously known to be public information when received from the other party; information freely available to the general public; information which now is or hereafter becomes publicly known by other than a breach of confidentiality hereof; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public.

CONTRACT PERIOD: From date of award through September 30, 2019

CONTRACT PRICES: Contract prices are to remain firm through the duration the contract.

PRICE DECREASES: During the period of the contract all price decreases experienced by the contractor must be passed on to the state. A contractor's failure to strictly and faithfully adhere to this clause, within the time required, will be considered in breach of contract.

ACCEPTANCE TEST: Within Thirty (30) calendar days of the award, the contractor may be required to submit samples of the items offered for inspection and evaluation. The state may conduct an acceptance test. If so, the test will use appropriate means to determine if the product offered meets the ITB specifications. The contractor will be allowed to observe the tests.

If the product fails to meet the ITB specifications the state will, at its option, reject the bid, cancel the contract, allow the contractor to repair the defective product or allow the contractor to replace the defective product. In no instance will the state pay any cost associated with the remedy for the defective product. The state's acceptance of tested product may not be interpreted as evidence that the product is in perfect working order. The terms of the warranty will continue to apply.

ALTERATIONS: The contractor must obtain the written approval from the contracting officer prior to making any alterations to the specifications contained in this ITB. The state will not pay for alterations that are not approved in advance and in writing by the contracting officer.

AVAILABILITY OF PRODUCTS: Product must be available between the hours of 7:30 am and 5:30 pm, Monday through Friday, excluding State holidays. If material is required other than during normal working hours, the Contractor shall be given a minimum of Twenty-four (24) hours advance notice.

State vehicles shall be given preference at the Contractor's plant/pit for loading purposes. No State vehicle will be required to wait more than Fifteen (15) minutes for loading to begin. If, upon arrival, a line exists, which would result in the State vehicle waiting more than Fifteen (15) minutes to be loaded, the State vehicle will be allowed to proceed to the head of the line and begin loading.

BID GUARANTEE: Bids must be accompanied by a bid guarantee in the form of a Certified or Cashier's check, or Bid Bond in the amount of \$5,000.00 made payable to the State of Alaska. The bid guarantee of each successful bidder will be retained until that bidder has furnished a satisfactory Performance Bond or Individual Surety. If the successful bidder fails to deliver the

required Performance Bond or Individual Surety within the time required, the bid guarantee will be forfeited to the State of Alaska. The bid guarantee of each unsuccessful bidder will be returned as soon as practical after award has been made.

Bidders must submit their bid guarantee with their bid in order to be considered responsive.

F.O.B. POINT: The F.O.B. point for this ITB will be the awarded vendors Pit/Plant. No shipping will be required under this contract.

INVOICES: Invoices must be sent directly to the ordering agency's address shown on the individual Purchase Order, Contract Award or Delivery Order. The ordering agency will only make payment after it receives the merchandise or service and the invoice. Question concerning payment must be addressed to the ordering agency.

THIRD-PARTY FINANCING AGREEMENTS NOT ALLOWED: Because of the additional administrative and accounting time required of state agencies when third party financing agreements are permitted, they will not be allowed under this contract.

ESTIMATED QUANTITIES: The quantities referenced in this ITB are the state's estimated requirements and may vary more or less from the quantities actually purchased. The state does not guarantee any minimum purchase. Orders will be issued throughout the contract period on an as-needed basis.

WORKMANSHIP & MATERIALS: All work must be performed in a thorough and workmanlike manner and in accordance with current industry practices. The contractor will be held responsible for the quality of the finished item. The state will reject any item that does not meet the specifications of the ITB. Rejected items will be returned to the contractor at the contractor's risk and expense.

CONTRACT CANCELLATION: The state reserves the right to cancel the contract at its convenience upon Thirty (30) calendar days written notice to the contractor. The state is liable only for payment in accordance with the payment provisions of this contract for services or supplies provided before the effective date of termination.

METHOD OF AWARD: Award will be made by lot to the lowest responsive and responsible bidder. There is One (1) lot for this solicitation.

SPECIFICATIONS

Hot Mix: Type II, Class B shall conform to AK DOT&PF, Standard Specifications for Highway Construction, 2017, Sections **401** and **703**. Additionally, the minimum Liquid Asphalt content shall be **5.3%** as tested by **ATM 405/406**. The addition of Recycled Asphalt up to 15% by weight of mix is permitted and encouraged. Section 401 is labeled as Appendix A, Section 703 is labeled as Appendix B.

Lot 1: Contractor's Pit/Plant must be located within 120 road miles of the State of Alaska; DOT&PF Tazlina Camp, located at Mile 110 Richardson Highway.

Product will be loaded into State vehicles at the Contractor's location.

BID SCHEDULE

<u>Lot Number</u>	<u>Quantity</u>	<u>Unit of Measure</u>	<u>Description</u>	<u>Unit Price</u>	<u>Extended Price</u>
1	2,000	Ton	Hot Mix, Type II - Tazlina	\$_____	\$_____
Contractor Pit/Plant Location:					

GUARANTEED AVAILABILITY: _____ calendar days after receipt of order.

ORDERING ADDRESS: _____

Contact: _____

Phone: _____

Fax: _____

Email: _____

DIVISION 400-ASPHALT PAVEMENTS AND SURFACE TREATMENTS

SECTION 401 HOT MIX ASPHALT PAVEMENT

401-1.01 DESCRIPTION. Construct one or more courses of plant-produced Hot Mix Asphalt (HMA) pavement on an approved surface, to the lines, grades, and depths shown on the Plans.

MATERIALS

401-2.01 ASPHALT BINDER. Conform to Subsection 702-2.01. Asphalt binder may be conditionally accepted at the source providing a manufacturers certification of compliance according to Subsection 106-1.05, and test results of the applicable requirements of Section 702.

401-2.02 LIQUID ANTI-STRIP ADDITIVE. Use anti-strip agents in the proportions determined by ATM 414 and included in the approved Job Mix Design (JMD). At least 70 percent of the aggregate must remain coated when tested according to ATM 414. A minimum of 0.30 percent by weight of asphalt binder is required.

401-2.03 JOINT ADHESIVE. Conform to Subsection 702-2.05.

401-2.04 JOINT SEALANT. Conform to Subsection 702-2.06.

401-2.05 WARM MIX ASPHALT. Conform to Subsection 702-2.07.

401-2.06 ASPHALT RELEASE AGENT. Conform to Subsection 702-2.08.

401-2.07 AGGREGATES. Conform to Subsection 703-2.04. Use a minimum of three stockpiles of crushed aggregate (coarse, intermediate, and fine). Place blend material, if any, in a fourth pile.

401-2.08 RECYCLED ASPHALT PAVEMENT. Recycled asphalt pavement (RAP) may be used in the production of HMA. The RAP may be from pavements removed under the Contract, or from an existing stockpile. Conform to Subsection 703-2.16.

401-2.09 JOB MIX DESIGN. Provide target values for gradation that satisfy both the broad band gradation limits shown in Table 703-4 and the requirements of Table 401-1, for the Type and Class of HMA specified.

**TABLE 401-1
HMA MARSHALL DESIGN REQUIREMENTS**

DESIGN PARAMETER	CLASS "A"	CLASS "B"
HMA (Including Asphalt Binder)		
Stability, Pounds	1800 Min.	1200 Min.
Flow, 0.01 Inch	8 - 14	8 - 16
Voids in Total Mix (VTM), %	3.0 - 5.0	3.0 - 5.0
Compaction, Number of Blows Each Side of Test Specimen	75	50
Asphalt Binder		
Voids Filled with Asphalt (VFA), %	65 - 75	65 - 78
Asphalt Content, Min. %	5.0	5.0
Dust-Asphalt Ratio*	0.6 - 1.4	0.6 - 1.4

DESIGN PARAMETER	CLASS "A"	CLASS "B"
Voids in the Mineral Aggregate (VMA), %, Min.		
Type I	12.0	11.0
Type II	13.0	12.0
Type III, IV	14.0	13.0
Liquid Anti-Strip Additive**, %, Min.	0.30	0.30
RAP, %, Max.	15.0	25.0

*Dust-Asphalt ratio is the percent of material passing the No. 200 sieve divided by the percent of effective asphalt binder (calculated by weight).

** By Weight of Asphalt Binder

The approved JMD will specify the Target Values (TV) for gradation, the TV for asphalt binder content, the Maximum Specific Gravity (MSG) of the HMA, the additives, and the recommended mixing temperature range.

Submit the following to the Engineer at least 15 days before the production of HMA:

1. A letter stating the location, size, and type of mixing plant. The letter shall state whether or not WMA and/or RAP will be used. The letter shall include the proposed gradation for the JMD, gradations for individual stockpiles, and the blend ratio of each aggregate stockpile.
2. Representative samples of each aggregate (coarse, intermediate, fine, blend material and mineral filler, if any) in the proposed mix design. Furnish a total of 500 pounds of material in the proportional amounts in the proposed JMD.
3. Five separate 1-gallon samples of the asphalt binder proposed for use in the HMA. Include name of product, manufacturer, test results of the applicable quality requirements of Subsection 702-2.01, manufacturer's certificate of compliance according to Subsection 106-1.05, a temperature- viscosity curve for the asphalt binder or manufacturer's recommended mixing and compaction temperatures, and current Material Safety Data Sheet.
4. One sample, minimum one pint, of the anti-strip additive proposed, including name of product, manufacturer, and manufacturer's data sheet, and current Material Safety Data Sheet.
5. Testing results per Subsection 106-1.03.1 for each aggregate type proposed for use.
6. If applicable, a letter stating the WMA technology (Subsection 702-2.07) to be used, location where additive will be introduced and manufacturer's recommended usage rate for each type of HMA. Supply a minimum of 2-pint samples for each proposed additive.
7. If applicable, representative samples of any RAP proposed for use. Furnish a minimum of 200-pound sample of proposed RAP.

The Engineer will evaluate the material and the proposed gradation using ATM 417 and the requirements of Table 401-1 for the appropriate Type and Class of HMA specified, and establish the approved JMD which will become a part of the Contract.

Anti-strip evaluation (ATM 414) of HMA mix designs that include RAP will be completed without the inclusion of the RAP.

Obtain an approved JMD prior to shipment of aggregates to an asphalt plant site or producing HMA for payment.

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Contractor Mix Design. If a bid item for JMD appears in the contract, or if the Engineer approves a request from the Contractor to perform the JMD at no cost to the Department, provide a JMD following the requirements specified in this section. Submit the JMD to the Engineer at least 15 working days before HMA production. Submit samples to the Engineer upon request for JMD verification testing.

All Contractor-furnished JMDs must be sealed by a professional Engineer registered in the State of Alaska. The Professional Engineer shall certify that the JMD was performed according to the specified procedures, and meets all project specifications.

Changes. Submit a new JMD with changes noted and new samples in the same manner as the original JMD submittal when:

- a. The results of the JMD evaluation do not achieve the requirements specified in Table 401-1
- b. The asphalt binder source is changed
- c. The source of aggregate, aggregate quality, or gradation is changed

Changes to the JMD apply only to HMA produced after the approval of changes.

CONSTRUCTION REQUIREMENTS

401-3.01 PRE-PAVING MEETING. Meet with the Engineer for a pre-paving meeting in the presence of project superintendent and paving foreman at least five (5) working days before beginning paving operations. Submit a paving plan and pavement inspection plan (per 401-3.20) at the meeting.

Include the following elements in the paving plan and address these elements at the meeting:

- a. Sequence of operations
- b. List of equipment that will be used for production, transport, pick-up (if applicable), laydown, and compaction
- c. Summary of plant modifications (if applicable) for production of WMA
- d. Procedures to produce consistent HMA
- e. Procedures to minimize material and thermal segregation
- f. Procedures to minimize premature cooling
- g. Procedures to achieve HMA density
- h. Procedures for joint construction including corrective action for joints that do not meet surface tolerance requirements
- i. Quality control testing methods, frequencies and sample locations for gradation, asphalt binder content, and density, and
- j. Any other information or procedures necessary to provide completed HMA construction that meets the contract requirements

Include the following elements in the pavement inspection plan and address these elements at the meeting:

- a. Process for daily inspections
- b. Means and methods to remove and dispose of project materials

401-3.02 CONTRACTOR QUALITY CONTROL. Perform quality control (QC) of HMA materials in accordance with Subsection 106-1.03.

401-3.03 WEATHER LIMITATIONS. Place HMA on a stable/non-yielding roadbed. Do not place HMA when the base material is wet or frozen, or when weather conditions prevent proper handling or finishing of the mix. Do not place HMA leveling course when the roadway surface temperature is colder than 40° F.

401-3.04 EQUIPMENT, GENERAL. Use equipment in good working order and free of HMA buildup. Make all equipment available for inspection and demonstration of operation a minimum of 24 hours before placement of HMA.

401-3.05 ASPHALT MIXING PLANT. Meet AASHTO M 156. Use an HMA plant capable of producing at least 150 tons of HMA per hour noted on posted DEC air quality permit, designed to dry aggregates, maintain consistent and accurate temperature control, and accurately proportion asphalt binder and aggregates. Calibrate the HMA plant and furnish copies of the calibration data to the Engineer at least 24 hours before HMA production.

Provide a scalping screen at the asphalt plant to prevent oversize material or debris from being incorporated into the HMA.

Provide a tap on the asphalt binder supply line just before it enters the plant (after the 3-way valve) for sampling asphalt binder. Provide aggregate and asphalt binder sampling locations meeting OSHA safety requirements.

You may use belt conveyor scales to proportion plant blends and mixtures if the scales meet the general requirements for weighing equipment and are calibrated according to the manufacturer's instructions.

If WMA is approved by the Engineer, modify the mixing plant as required by the manufacturer and WMA additive manufacturer.

401-3.06 HAULING EQUIPMENT. Haul HMA in trucks with tight, clean, smooth metal beds. Keep beds free of petroleum oils, solvents, or other materials that would adversely affect the mixture. Apply a thin coat of approved asphalt release agent to beds as necessary to prevent mixture adherence. Provide trucks with covers attached and available for use.

Do not haul HMA on barges.

401-3.07 ASPHALT PAVERS. Use self-propelled asphalt pavers with heated vibratory screed assemblies to spread and finish HMA to the specified section widths and thicknesses without introducing thermal or material segregation.

Equip the paver with a receiving hopper having sufficient capacity for a uniform spreading operation and a distribution system to place the HMA uniformly in front of screed. Use a screed assembly that produces a finished surface of the required smoothness, thickness and texture without tearing, shoving or displacing the HMA. Heat and vibrate screed extensions. Place auger extensions within 20 inches of the screed extensions or per written manufacturer's recommendations.

Equip the paver with a means of preventing segregation of the coarse aggregate particles from the remainder of the HMA when carried from the paver hopper back to the augers.

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Equip the paver with automatic screed controls capable of operating from a reference line or a ski from either or both sides of the paver.

The use of a "Layton Box" or equivalent towed paver is allowed on bike paths, sidewalks, and driveways.

401-3.08 ROLLERS. Use rollers designed to compact HMA and capable of reversing without shoving or tearing the mixture. Select rollers that will not crush the aggregate or displace the HMA. Equip vibratory rollers with separate vibration and propulsion controls.

Equip the rollers with an infrared thermometer that measures and displays the surface temperature to the operator. Infrared thermometer may be hand-held or fixed to the roller.

Utilize a pneumatic roller in the complement of rollers to compact the leveling course. Use fully skirted pneumatic-tire roller having a minimum operating weight of 3000 pounds per tire.

401-3.09 RESERVED.

401-3.10 PREPARATION OF EXISTING SURFACE. Prepare existing surfaces according to the Contract. Prior to placing HMA, clean existing surfaces of loose material and uniformly coat contact surfaces of curbing, gutters, manholes and other structures with tack coat material meeting Section 402. Treat cold joint surfaces according to 401-3.17.

Before applying tack coat to an existing paved surface, clean and patch the surface. Remove irregularities to provide a reasonably smooth and uniform surface. Remove and replace unstable areas with HMA. Clean the edges of existing pavements, which are to be adjacent to new pavement, to permit the adhesion of asphalt materials. Clean loose material from cracks. Fill the cleaned cracks, wider than 1 inch, with HMA tamped in place. Wash and/or sweep the paved surface clean and free of loose materials.

Preparation of a milled surface:

1. Prelevel remaining ruts, pavement delaminations, and depressions having a depth greater than 1/2 inch with an approved HMA.
2. Notify the Engineer of pavement areas that appear thin or unstable. Where milling operation creates thin or unstable pavement areas, or where it breaks through existing pavement, remove thin and unstable pavement, and 2 inches of existing base material, compact and replace with an approved HMA.

401-3.11 PREPARATION OF ASPHALT. Provide a continuous supply of asphalt binder to the asphalt mixing plant at a uniform temperature, within the recommended mixing temperature range.

401-3.12 PREPARATION OF AGGREGATES. Dry the aggregate so the moisture content of the HMA, sampled at the point of acceptance for asphalt binder content, does not exceed 0.5 percent (by total weight of mix), as determined by ATM 407.

Heat the aggregate for the HMA to a temperature compatible with the mix requirements specified.

Adjust the burner on the dryer to avoid damage to the aggregate and to prevent the presence of unburned fuel on the aggregate. HMA containing soot or fuel is unacceptable per Subsection 105-1.11.

401-3.13 MIXING. Combine the aggregate, asphalt binder, and additives in the mixer in the amounts required by the JMD. Mix to obtain at least 98 percent coated particles when tested according to AASHTO T195.

For batch plants, put the dry aggregate in motion before addition of asphalt binder.

Mix the HMA within the temperature range determined by the JMD.

Upon the Engineer's request, provide daily burner charts showing start/stop times and temperatures.

401-3.14 TEMPORARY STORAGE OF HMA. Silo type storage bins may be used, provided the characteristics of the HMA remain unaltered.

Signs of visible segregation, heat loss, changes from the JMD, change in the characteristics of asphalt binder, lumpiness, and stiffness of the mixture, are causes for rejection.

Do not store HMA on barges.

401-3.15 PLACING AND SPREADING. Use asphalt pavers to distribute HMA, including leveling course and temporary HMA. Place the HMA upon the approved surface, spread, strike off, and adjust surface irregularities. The maximum compacted lift thickness allowed is 3 inches.

When multiple lifts are specified in the Contract, do not place the final lift until all lower lifts throughout that section, are placed and accepted.

Do not place HMA abutting curb and gutter until curb and gutter are installed, except as approved by the Engineer.

Do not pave against new Portland cement concrete curbing until it has cured for at least 72 hours.

When practicable, adjust elevation of metal fixtures before paving the final lift, so they will be between 1/4 and 1/2 inch below the top surface of the final lift. Metal fixtures include, but are not limited to manholes, valve boxes, monument cases, hand holes, and drains.

Use hand tools to spread, rake, and lute the HMA in areas where irregularities or unavoidable obstacles make mechanical spreading and finishing equipment impracticable.

Place HMA over bridge deck membranes according to Section 508 and the membrane manufacturer's recommendations.

Do not mix HMA produced from different plants for testing or paving.

401-3.16 COMPACTION. Thoroughly and uniformly, compact the HMA by rolling. In areas not accessible to large rollers, compact with mechanical tampers or trench rollers.

The Lower Specification Limit for density is 92.0 percent of the Maximum Specific Gravity (MSG) as determined by ATM 409. The MSG from the approved JMD is used for the first lot of each type of HMA. The MSG for additional lots is determined from the first subplot of each lot.

401-3.17 JOINTS. Place and compact the HMA to provide a continuous bond, texture, and smoothness between adjacent sections of the HMA.

Minimize the number of joints. Do not construct longitudinal joints in the driving lanes unless approved by the Engineer in writing at the pre-paving meeting. Offset the longitudinal joints in one layer from the joint in the layer immediately below by at least 6 inches. Align the joints of the top layer at the centerline or lane lines. Where preformed marking tape striping is required, offset the longitudinal joint in the top layer not more than 6 inches from the edge of the stripe.

Form transverse joints by saw-cutting back on the previous run to expose the full depth of the course or by using a removable bulkhead. Skew transverse joints 15 to 25 degrees.

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For all joints below the top lift, uniformly coat joint surfaces with tack coat material meeting Section 402.

When Item 401(14) appears in the bid schedule, uniformly coat the joint face of all top lift joints with a joint adhesive. Otherwise use tack coat material meeting Section 402. Follow joint adhesive manufacturer's recommendations for temperatures and application method. Remove joint adhesive applied to the top of pavement surface.

If infrared joint heaters are used and passing joint densities are achieved in each of the first three joint densities taken, then joint adhesive is not required.

The Lower Specification Limit for top lift longitudinal joint density is 91.0 percent of the MSG of the panel completing the joint. MSG will be determined according to ATM 409. Top lift longitudinal joints will be evaluated for acceptance according to Subsection 401-4.03.

When the longitudinal joint density test result for a top lift panel subplot is less than 91.0 percent, seal the surface of all longitudinal joints within that subplot using a joint sealant meeting Subsection 702-2.06. Apply joint sealant according to the manufacturer's recommendations while the HMA is clean, free of moisture and prior to final traffic marking. Place the sealant at a maximum application rate of 0.15 gallons per square yard, and at least 12 inches wide centered on the longitudinal joint. After surface sealing, inlay by grinding pavement striping into the sealed HMA. Use grooving equipment that grinds a dry cut to groove the width, length, and thickness of the striping within the specified striping tolerances.

Correct improperly formed joints that result in surface irregularities according to a corrective action plan.

Joints formed by paving in echelon while the mat temperature is over 200 degrees F as measured by the Engineer, within three inches of the joint, do not require tack coat and joint adhesive, and will receive the full longitudinal joint density price adjustment incentive without testing for joint density.

401-3.18 SURFACE REQUIREMENTS AND TOLERANCES. The finished surface of all HMA paving must match dimensions shown in the contract for horizontal alignment and width, profile grade and elevation, crown slope, and pavement thickness. Water must drain across the pavement surface without ponding. The surface must have a uniform texture, without ridges, puddles, humps, depressions, and roller marks. The surface must not exhibit raveling, cracking, tearing, asphalt bleeding, or aggregate segregation. Leave no foreign material, uncoated aggregate or oversize aggregate on the HMA surface.

The Engineer will test the finished surface after final rolling at selected locations using a 10-foot straightedge. Measurements will include spanning joints. The Engineer will identify pavement areas that deviate more than 3/16 inch from the straightedge, including joints, as defective work. Perform corrective work by removing and replacing, grinding, cold milling or infrared heating such areas as required. Do not surface patch. After the Contractor performs corrective work, the Engineer will retest the area.

If bid item Pavement Smoothness Price Adjustment appears in the contract, the Engineer will use an inertial profiler to measure the top lift HMA surface in the driving lanes for surface smoothness within 21 days after paving is complete and driving lanes are delineated.

Profiler measurements will be taken on through lanes identified in the contract. Profiler measurements will not be taken in turn lanes, intersections, ramps, lane transitions, or within 25 feet of bridge abutments and transverse joints with pre-existing pavement.

The Engineer will measure the pavement smoothness in both wheel paths of each lane. The smoothness is measured as International Roughness Index (IRI), reported as inches/mile, at 0.1 mile increments. Pavement smoothness is the average of all IRI measurements for the project.

The Engineer will identify areas requiring corrective action in accordance with Table 401-4. Perform full-width corrective action in those areas. The Engineer may waive corrective work for localized roughness for deficiencies resulting from manholes or other similar appurtenances near the wheel path.

Perform Corrective Actions according to one of the following or by a method approved by the Engineer:

1. Diamond Grinding. If the required pavement thickness is not decreased by more than 0.25", grind to the required surface tolerance and cross section. Remove and dispose of all materials resulting from the grinding process. Apply joint sealant and sand to exposed aggregates per the manufacturer's recommendations.
2. Overlaying. Mill or sawcut the existing pavement to provide a vertical transverse joint face to match the overlay to the existing pavement. Apply tack coat on the milled surface and joint adhesive to all vertical joints and overlay the full width of the underlying pavement surface. Use the same approved HMA for overlays. Place a minimum overlay thickness of 2.0 inches.
3. Mill and Fill. Mill the existing pavement to provide a vertical transverse joint face. Apply tack coat to the milled surface and joint adhesive to all vertical joints prior to inlay new HMA to match the existing pavement. Use the same approved HMA. Place a minimum thickness of 2.0 inches.

After completion of corrective work, the Engineer will measure the pavement surface with an inertial profiler for a smoothness price adjustment.

Price adjustments for pavement smoothness will be calculated according to Subsection 401-4.03.3.

401-3.19 REPAIRING DEFECTIVE AREAS. Remove HMA that is contaminated with foreign material, is segregated (determined visually or by testing), flushing, or bleeding asphalt. Remove and dispose defective HMA for the full thickness of the course. Cut the pavement so that edges are vertical and the sides are parallel to the direction of traffic. Coat edges with a tack coat according to Section 402. Place and compact fresh HMA so that compaction, grade and smoothness requirements are met.

401-3.20 ROADWAY MAINTENANCE. Inspect daily according to pavement inspection plan. Remove, and dispose of project materials incorrectly deposited on existing and new pavement surfaces(s) inside and outside the project area including haul routes.

The Contractor is responsible for damage caused by not removing these materials and any damage to the roadway from the removal method(s).

Repair damage to the existing roadway that results from fugitive materials or their removal.

401-4.01 METHOD OF MEASUREMENT. Section 109 and the following:

1. Hot Mix Asphalt.
 - a. By weight. No deduction is made for the weight of asphalt binder or anti stripping additive or cutting back joints. If the use of WMA is approved by the Engineer, WMA additives will not be measured and are considered subsidiary to the HMA pay item.

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b. By the final HMA surface area.

2. Asphalt Binder. By weight, as follows:

Method 1 will be used for determining asphalt binder quantity unless otherwise directed in writing. The procedure initially used will be the one used for the duration of the project. No payment is made for any asphalt binder more than 0.4 percent above the optimum asphalt binder content specified in the JMD.

Method 1: Percent of asphalt binder for each subplot multiplied by the total HMA weight represented by that subplot. The Engineer will use either ATM 405 or ATM 406 to determine the percent of asphalt binder. The same test method used for the acceptance testing of the subplot will be used for computation of the asphalt binder quantity. In the absence of testing, the percent of asphalt binder is the target value for asphalt binder in the JMD.

Method 2: Supplier's invoices minus waste, diversion and remnant. This procedure is an Engineer's option for projects where deliveries are made in tankers and the asphalt plant is producing HMA for one project only.

The Engineer may direct, at any time that tankers are weighed in the Engineer's presence before and after unloading. If the weight determined at the project varies more than 1 percent from the invoice amount, payment is based on the weight determined at the project.

Any remnant or diversion will be calculated based on tank stickings or weighing the remaining asphalt binder. The Engineer will determine the method. The weight of asphalt binder in disposed HMA is calculated using the target value for asphalt binder as specified in the JMD.

3. Job Mix Design. When specified, a Contractor furnished JMD is measured as one according to the HMA class and type.
4. Temporary Pavement. By weight, without deduction for the weight of asphalt binder or anti-strip additive.
5. Leveling Course. By Lane-Station (12 foot width) or by weighing without deduction for the weight of asphalt binder or anti-strip additive.
6. HMA Price Adjustment. Calculated by quality level analysis under Subsection 401-4.03.1.
7. Longitudinal Joint Density Price Adjustment. By the linear foot of top lift longitudinal joint under Subsection 401-4.03.2.
8. Joint Adhesive. By the linear foot of longitudinal and transverse joint.
9. Pavement Smoothness Price Adjustment. Calculated from inertial profiler data using FHWA's ProVAL software under Subsection 401-4.03.3.
10. Asphalt Material Price Adjustment. Determined under Subsection 401-4.04.
11. Liquid Anti-Strip Additive. Based on the number of tons of asphalt binder containing required additive.
12. Crack Repair. From end to end of the crack repaired according to 401-3.10, measured horizontally along the centerline of the crack. Cleaning loose material from cracks, asphalt binder, and HMA to fill cracks will not be measured separately but are subsidiary.

13. Prelevel for Ruts, Delaminations, and Depressions. By the surface area where prelevel is placed according to 401-3.10(1), measured according to Section 109. Asphalt binder, HMA, and cleaning loose material, will not be measured separately but are subsidiary.
14. Repair Unstable Pavement. By the surface area of pavement repaired according to 401-3.10(2), measured according to Section 109. Asphalt binder, HMA, and removal of pavement and base course will not be measured separately but are subsidiary.

401-4.02 ACCEPTANCE SAMPLING AND TESTING. The bid quantity of each type of HMA produced and placed will be divided into lots and the lots evaluated individually for acceptance.

A lot is normally 5,000 tons. The lot is divided into sublots of 500 tons, each randomly sampled and tested for asphalt binder content, density, and gradation according to this Subsection. The lot is evaluated for price adjustment according to Subsection 401-4.03.1. Seasonal startup or a new JMD requires starting a new lot.

If less than 8 sublots have been placed at the time a lot is terminated, the material in the shortened lot will be included as part of the prior lot. The price adjustment computed for the prior lot will include the samples from the shortened lot. If there is no prior lot, and there are at least 3 sublots, the material in the shortened lot will be considered as a lot and the price adjustment will be based on the actual number of test results in the shortened lot. If there are less than 3 sublots, the HMA will be accepted for payment based on the Engineer's approval of the JMD, and placement and compaction of the HMA to the specified depth, finished surface requirements and tolerances. The Engineer reserves the right to perform any testing required in order to determine acceptance.

If 8 or 9 sublots have been placed at the time a lot is terminated, they will be considered as a lot and the price adjustment will be based on the actual number of test results in the shortened lot.

If the bid quantity is between 1,500 to 4,999 tons, the quantity is considered one lot. The lot is divided into sublots of 500 tons, each randomly sampled and tested for asphalt binder content, density, and gradation according to this Subsection. The lot is evaluated for price adjustment according to Subsection 401-4.03.1.

For bid quantity less than 1,500 tons, HMA will be accepted for payment based on the Engineer's approval of the JMD, and placement and compaction of the HMA to the specified depth, finished surface requirements and tolerances. The Engineer reserves the right to perform any testing required in order to determine acceptance.

Sampling and testing include the following:

1. Asphalt Binder Content. HMA samples shall be taken randomly by the Contractor in the presence of the Engineer from behind the paver screed before initial compaction, or will be taken randomly by the Engineer from the windrow, according to ATM 402 or ATM 403, at the discretion of the Engineer. The location (behind the paver screed or windrow) will be determined at the pre-paving meeting. Random sampling locations will be determined by the Engineer.

Two separate samples will be taken, one for acceptance testing and one held in reserve for retesting if requested. Asphalt binder content will be determined according to ATM 405 or ATM 406, at the discretion of the Engineer.
2. Aggregate Gradation. Aggregates tested for gradation acceptance will have the full tolerances from Table 401-2 applied.
 - a. Drum Mix Plants. Samples will be taken from the combined aggregate cold feed conveyor via a diverter device, from the stopped conveyor belt or from the same location

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as samples for determination of asphalt binder content, at the discretion of the Engineer. Two separate samples will be taken, one for acceptance testing and one held in reserve for retesting if requested. The aggregate gradation for samples from the conveyor system will be determined according to ATM 304. For HMA samples, the gradation will be determined according to ATM 408 from the aggregate remaining after the ignition oven (ATM 406) has burned off the asphalt binder. Locate diverter devices for obtaining aggregate samples from drum mix plants on the conveyor system delivering combined aggregates into the drum. Divert aggregate from the full width of the conveyor system and maintain the diverter device to provide a representative sample of aggregate incorporated into the HMA.

- b. Batch Plants. Samples will be taken from dry batched aggregates according to ATM 301 or from the same location as samples for determination of asphalt binder content, at the discretion of the Engineer. Two separate samples will be taken, one for acceptance testing and one held in reserve for retesting if requested. The aggregate gradation for dry batch samples will be determined according to ATM 304. For HMA samples, the gradation will be determined according to ATM 408 from the aggregate remaining after the ignition oven (ATM 406) has burned off the asphalt binder.
3. Density. The Engineer will determine and mark the location(s) where the Contractor takes each core sample.
- a. Mat Cores: The location(s) for taking core samples is determined using a set of random numbers (independent of asphalt binder and aggregate sampling set of random numbers) and the Engineer's judgment. Take no mat cores within 1 foot of a joint or edge. Core samples are not taken on bridge decks.
 - b. Longitudinal Joint Cores: The Engineer will mark the location(s) to take the core sample, centered on the visible surface joint, and adjacent to the mat core sample taken in the panel completing the joint.

Take core samples according to ATM 413 in the presence of the Engineer. Cut full depth core samples, centered on the marks and as noted above, from the finished HMA within 24 hours after final rolling. Neatly core drill one six inch diameter sample at each marked location. Use a core extractor to remove the core - do not damage the core. The Engineer will immediately take possession of the samples. Backfill and compact voids left by coring with new HMA within 24 hours. The Engineer will determine density of samples according to ATM 410.

4. Retest. When test results have failed to meet specifications, retest of acceptance test results for asphalt binder content, gradation, and density may be requested provided the quality control requirements of Subsection 401-3.02 are met. Deliver this request in writing to the Engineer within 7 days of receipt of the final test of the lot. The Engineer will mark the sample location for the density retest within a 2 foot radius of the original core. The original test results are discarded and the retest result is used in the price adjustment calculation regardless of whether the retest result gives a higher or lower pay factor. Only one retest per sample is allowed. When gradation and asphalt binder content are determined from the same sample, a request for a retest of either gradation or asphalt binder content results in a retest of both. Both gradation and asphalt binder content retest results are used in the price adjustment calculation. Retesting will be performed by a department laboratory.
5. Asphalt Binder Grade. The lot size for asphalt binder is 200 tons. If a project has more than one lot and the remaining asphalt binder quantity is less than 150 tons, it is added to the previous lot and that total quantity will be evaluated as one lot. If the remaining asphalt binder quantity is 150 tons or greater, it is sampled, tested and evaluated as a separate lot.

If the bid quantity of asphalt binder is between 85 – 200 tons, the contract quantity is considered as one lot and sampled, tested, and evaluated according to this subsection. Quantities of asphalt binder less than 85 tons will be accepted based on manufacturer's certified test reports and certification of compliance.

Sample asphalt binder at the plant from the supply line in the presence of the Engineer according to ATM 401. The Engineer will take immediate possession of the samples. Take three samples from each lot, one for acceptance testing, one for Contractor requested retesting, and one held in reserve for referee testing if requested. Meet Subsection 702 requirements for asphalt binder quality.

6. Asphalt Binder Grade Retest. Retest of acceptance test results may be requested provided the quality control requirements of Subsection 401-3.02 are met. Deliver the request in writing to the Engineer within 7 days of receipt of notice of failing test. The original test results are discarded and the retest result is used for acceptance. Only one retest per sample is allowed.

If the contractor challenges the result of the retest, the referee sample held by the Engineer will be sent to a mutually agreed upon independent AASHTO accredited laboratory for testing. The original acceptance test result, the retest acceptance test result, and the referee sample test result will be evaluated according to ASTM D3244 to obtain an Assigned Test Value (ATV). The ATV value will be used to determine if the asphalt binder conforms to the contract. The Contractor shall pay for the referee sample test if the ATV confirms the asphalt binder does not meet contract requirements.

401-4.03 EVALUATION OF MATERIALS FOR ACCEPTANCE.

The following methods are applied to each type of HMA when Price Adjustment Pay Items are included in the Bid Schedule. These methods describe how price adjustments are determined based on the quality of the HMA, longitudinal joint density and pavement smoothness.

The Engineer may reject material which appears to be defective based on visual inspection. If a test of rejected material is requested, a minimum of two samples are collected from the rejected material and tested. If all test results are within specification limits, payment for the material is made.

1. HMA Price Adjustment. Acceptance test results for HMA asphalt binder content, gradation and mat density are used in HMA price adjustment. These test results for a lot are analyzed collectively and statistically by the Quality Level Analysis (QLA) method as specified in Subsection 106-1.03.3 to determine the total estimated percentage of the lot that is within specification limits. The values for percent passing the #200 sieve, asphalt binder content and density test results are reported to the nearest 0.1 percent. All other sieves used in QLA are reported to the nearest whole number.

The HMA price adjustment is based on the lower of two pay factors. The first factor is a composite pay factor (CPF) for HMA that includes gradation and asphalt binder content. The second is the density pay factor (DPF).

A lot containing material with less than a 1.00 pay factor is accepted at an adjusted price, provided that pay factor is at least 0.80 and there are no isolated defects identified by the Engineer. A lot containing material that fails to obtain the minimum pay factor is considered unacceptable and rejected under Subsection 105-1.11.

HMA pay factors are computed as follows:

- a. All statistical Quality Level Analysis (QLA) is computed using the Engineer's Price Adjustment programs.

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- b. The USL and LSL are equal to the Target Value (TV) plus and minus the allowable tolerances in Table 401-2, or as shown below. The TV is the specification value shown in the approved Job Mix Design.

**TABLE 401-2
HMA LOWER SPECIFICATION LIMIT (LSL) & UPPER SPECIFICATION LIMIT (USL)**

Measured Characteristics	LSL	USL
¾" or largest sieve size	99	100
½ inch sieve or first sieve retaining aggregate	TV-6	TV+6
3/8 inch sieve	TV-6	TV+6
No. 4 sieve	TV-6	TV+6
No. 8 sieve	TV-6	TV+6
No. 16 sieve	TV-5	TV+5
No. 30 sieve	TV-4	TV+4
No. 50 sieve	TV-4	TV+4
No. 100 sieve	TV-3	TV+3
No. 200 sieve	TV-2.0	TV+2.0
Asphalt Binder Content, %	TV-0.4	TV+0.4
Mat Density, %	92.0	100.0

- c. The percent within limits (PWL), Quality Levels and characteristic pay factors (PFs) are determined by the Engineer for each Lot in accordance with Subsection 106-1.03.3. The Composite Pay Factor (CPF) for the lot is determined from gradation and asphalt binder content (ac) acceptance test results using the following example formula:

$$\text{CPF} = \frac{[f_{3/4 \text{ inch}} (\text{PF}_{3/4 \text{ inch}}) + f_{1/2 \text{ inch}} (\text{PF}_{1/2 \text{ inch}}) + \dots + f_{\text{ac}} (\text{PF}_{\text{ac}})]}{\Sigma f}$$

Table 401-3 gives the weight factor (f) for each test property considered.

**TABLE 401-3
WEIGHT FACTORS**

Property	Type I Factor "f"	Type II Factor "f"	Type III Factor "f"
1 inch sieve	4	-	-
¾ inch sieve	4	4	-
½ inch sieve	4	5	4
3/8 inch sieve	4	5	5
No. 4 sieve	4	4	5
No. 8 sieve	4	4	5
No. 16 sieve	4	4	5
No. 30 sieve	4	5	6
No. 50 sieve	4	5	6
No. 100 sieve	4	4	4
No. 200 sieve	20	20	20
Asphalt Content, %	40	40	40

The Density Pay Factor (DPF) is computed using HMA mat core compaction acceptance test results.

The CPF and DPF are rounded to the nearest 0.001. The price adjustment for each individual lot is calculated as follows:

$$\begin{aligned} \text{HMA Price Adjustment} &= [(\text{CPF or DPF}) * -1.00] \times (\text{tons in lot}) \times (\text{PAB}) \\ &\quad * \text{CPF or DPF, whichever is lower} \\ \text{PAB} &= \text{Price Adjustment Base} = \\ &= [\text{Bid Unit Price for 401(1)} + (n/100) \times \text{Bid Unit Price for 401(4)}], \end{aligned}$$

Where

n = Optimum asphalt binder content percent, established by the JMD.

The HMA Price Adjustment is the sum of the price adjustments for each lot and paid for under Item 401(8).

2. Longitudinal Joint Density Price Adjustment. A longitudinal joint density price adjustment will be based on the project average of all top lift joint densities and determined as follows:

- a. If project average top lift joint density is less than 91.0 percent MSG, apply the following disincentive:

Longitudinal joint density price adjustment equal to \$3.00 per lineal foot is deducted.

- b. If project average top lift joint density is greater than 92.0 percent MSG, apply the following incentive:

Longitudinal joint density price adjustment equal to \$1.50 per linear foot is added.

The Longitudinal Joint Density Price Adjustment is the total price adjustment paid for under Item 401(9).

3. Pavement Smoothness Price Adjustment. Pavement smoothness will be measured by the Engineer and reported as IRI (inches/mile), according to Subsection 401-3.18. Incentive for pavement smoothness shall apply only if both the project average CPF and DPF are greater than or equal to 1.000. Disincentive for pavement smoothness shall apply regardless of the project average CPF or DPF.

The Engineer will calculate the pavement smoothness price adjustment according to Method 1 or Method 2 below, as identified in the bid schedule.

Method 1: $\text{SPA} = \text{PAB} \times \text{PQ} \times \text{SF}$,

Where:

SPA = Pavement Smoothness Price Adjustment

PAB = Price Adjustment Base

PAB = $[\text{Bid Unit Price for 401(1)} + (n/100) \times \text{Bid Unit Price for 401(4)}]$,

n = optimum asphalt binder content, percent, established by the JMD

PQ = Top layer HMA quantity, tons

SF = Smoothness Factor (Table 401-4)

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**TABLE 401-4
SMOOTHNESS FACTOR (SF)**

IRI (in./mile)	SF
Less than 40	0.05
40 to 70	$0.05 - (IRI - 40)/600$
70 to 90	0.00
90 to 120	$(90 - IRI)/120$
Greater than 120*	-

* Corrective Work required, see Subsection 401-3.18

Method 2: $SPA = PAB \times PQ \times SF$,

Where:

SPA = Pavement Smoothness Price Adjustment

PAB = Price Adjustment Base

$PAB = [\text{Bid Unit Price for } 401(1_) + (n/100) \times \text{Bid Unit Price for } 401(4_)]$,

n = optimum asphalt binder content, percent, established by the JMD

PQ = Top layer HMA quantity, tons

SF = Smoothness Factor = $0.12 \times RR - 0.02$; SF not to exceed 0.05

RR = Roughness Reduction = $(\text{Initial IRI} - \text{Final IRI}) / \text{Initial IRI}$

Initial IRI = Pre-project average IRI as measured and reported by the Engineer. The Initial IRI will either be included in the bid documents or the timeline for when the Initial IRI will be measured will be identified in the bid documents.

Final IRI = Top layer HMA average IRI as measured and reported by the Engineer according to Subsection 401-3.18.

The Pavement Smoothness Price Adjustment is the total price adjustment paid for under Item 401(10).

401-4.04 ASPHALT MATERIAL PRICE ADJUSTMENT.

Asphalt Material Price Adjustment. This subsection provides a price adjustment for asphalt material by: (1) additional compensation to the contractor or (2) a deduction from the contract amount.

1. This provision shall apply:
 - a. To asphalt material meeting the criteria of Section 702, and is included in items listed in the bid schedule of Sections 306, 307, 308, 401 thru 408, 520, 608 and 609.
 - b. To cost changes in asphalt material that occur between the date of bid opening and the date on the certified bill of lading from the asphalt material refiner/producer.
 - c. When there is more than a 7.5 percent increase or decrease in the Alaska Asphalt Material Price Index, AAMPI, from the date of bid opening to the date on the certified bill of lading from the asphalt refiner/producer.
2. Provide the certified bill of lading from the asphalt material refiner/producer.
3. The AAMPI is calculated bimonthly on the first and third Friday of each month, and will remain in effect from the day of calculation until the next bimonthly calculation. The AAMPI is posted on the Department's Statewide Materials website at and calculated according to the formula posted there. http://www.dot.state.ak.us/stwddes/desmaterials/aprice_index.shtml

4. Price adjustment will be cumulative and calculated with each progress payment. Use the AAMPI in effect on the date of the certified bill of lading from the asphalt material refiner/producer, to calculate the price adjustment for asphalt material. The Department will increase or decrease payment under this contract by the amount determined with the following asphalt material price adjustment formula:

For an increase exceeding 7.5 percent, additional compensation = $[(IPP - IB) - (0.075 \times IB)] \times Q$

For a decrease exceeding 7.5 percent, deduction from contract = $[(IB - IPP) - (0.075 \times IB)] \times Q$

Where:

Q = Quantity of Asphalt Material incorporated into project during the pay period, in tons as measured by the Engineer

IB = Index at Bid: the Bi-monthly AAMPI in effect on date of bid, in dollars per ton

IPP = Index at Pay Period: The bi-monthly AAMPI in effect on the date shown on the certified bill of lading from the asphalt refiner/producer, in dollars per ton

5. Method of measurement for determining Q (quantity) is the weight of asphalt material that meets the criteria of this subsection and is incorporated into the project. The quantity does not include aggregate, mineral filler, blotter material, thinning agents added after material qualification, or water for emulsified asphalt. The quantity for emulsified asphalts will be based on the asphalt residue material only and will be calculated using the percent residue from testing, or if not tested, from the manufacturer's certificate of compliance.

401-5.01 BASIS OF PAYMENT.

Asphalt binder, liquid anti-strip additives and tack coat are subsidiary to HMA Item 401 (1_) and 401 (6) unless specified as Pay Items. Asphalt binder and liquid anti-strip are subsidiary to HMA for Items 401 (2), 401 (3), 401 (5), 401 (11), and 401 (12).

Item 401(8_) HMA price adjustment is the sum of the price adjustments for each material lot and for deductions and fees assessed. Deductions and fees assessed include:

1. The Department will bear the cost of the initial JMD evaluation for each type of HMA. All subsequent evaluations required to obtain an approved JMD will be assessed a fee of \$6,000 per evaluation. Failed retest will result in a fee of \$2,500.
2. Failure to cut core samples within the specified period will result in a deduction of \$100 per sample per day.
3. Failure to backfill voids left by sampling within the specified period will result in a deduction of \$100 per hole per day.
4. If an asphalt binder referee test is requested and the ATV confirms the asphalt binder does not meet contract requirements, a fee of \$500 will be assessed.

Item 401(8_) HMA price adjustment does not apply to:

1. HMA, when contract quantity is less than 1500 tons
2. HMA for leveling course 401(2) and 401(3)
3. Temporary HMA 401(5)
4. Driveway HMA 401(11) and 401(12)

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Payment will be made under:

Pay Item	Pay Unit
401(1) HMA, Type __; Class __	Ton
401(2) HMA, Leveling Course, Type __, Class __	Lane-Station
401(3) HMA, Leveling Course, Type __, Class __	Ton
401(4) Asphalt Binder, Grade __	Ton
401(5) HMA, Temporary, Type __; Class __	Ton
401(6) HMA, Type __; Class __	Square Yard
401(7) Liquid Anti-Strip Additive	Contingent Sum
401(8) HMA Price Adjustment, Type __; Class __	Contingent Sum
401(9) Longitudinal Joint Density Price Adjustment	Contingent Sum
401(10) Pavement Smoothness Price Adjustment, Method __	Contingent Sum
401(11) HMA, Driveway, Type __; Class __	Lump Sum
401(12) HMA, Driveway, Type __; Class __	Ton
401(13) Job Mix Design	Each
401(14) Joint Adhesive	Linear Foot
401(15) Asphalt Material Price Adjustment	Contingent Sum
401(16) Crack Repair	Linear Foot
401(17) Prelevel for Ruts, Delaminations, and Depressions	Square Yard
401(18) Repair Unstable pavement	Square Yard

SECTION 703 AGGREGATES

703-2.01 FINE AGGREGATE FOR CONCRETE. Meet AASHTO M 6, Class A, except as follows:

Delete paragraph 8.2 of AASHTO M 6.

Delete the following methods of sampling and testing:

AASHTO T 11 Amount of Material Finer than No. 200 Sieve
AASHTO T 27 Sieve Analysis
AASHTO T 103 Soundness (freezing and thawing)

And substitute the following:

ATM 304 (Method A) Sieve Analysis of Fine and Coarse Aggregates and Material Finer Than No. 200 Sieve in Mineral Aggregates by Washing

Add the following: Meet AASHTO T 104 using sodium sulfate solution.

In AASHTO M 6, Section 7.1, table entitled "Deleterious Substances Limits", change the maximum percent of material by mass finer than No. 200 Sieve in a. (concrete subject to surface abrasion), from 2.0 to 3.0.

703-2.02 COARSE AGGREGATE FOR CONCRETE. AASHTO M 80, Class B, except as follows:

Delete the following methods of sampling and testing:

AASHTO T 11 Amount of Material Finer than No. 200 Sieve
AASHTO T 27 Sieve Analysis

And substitute the following:

ATM 304 (Method A) Sieve Analysis of Fine and Coarse Aggregates and Material Finer Than No. 200 Sieve in Mineral Aggregates by Washing

Add the following: Meet AASHTO T 104 using sodium sulfate solution.

703-2.03 AGGREGATE FOR BASE AND SURFACE COURSE. Crushed stone or crushed gravel, consisting of sound, tough, durable pebbles or rock fragments of uniform quality. Free from clay balls, vegetable matter, or other deleterious matters. Meet Table 703-1:

**TABLE 703-1
AGGREGATE QUALITY PROPERTIES FOR BASE AND SURFACE COURSE**

PROPERTY	BASE COURSE	SURFACE COURSE	TEST METHOD
L.A. Wear,%	50, max.	45, max.	AASHTO T 96
Degradation Value	45, min.	45, min.	ATM 313
Fracture,%	70, min.	70, min., 1 Face	ATM 305
Liquid Limit	---	35, max.	ATM 204
Plastic Index	6, max.	10, max.	ATM 205
Sodium Sulfate Loss,%	9, max. (5 cycles)	9, max. (5 cycles)	AASHTO T 104

Meet Table 703-2 aggregate gradation requirements, as determined by ATM 304:

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**TABLE 703-2
AGGREGATE GRADATION FOR BASE AND SURFACE COURSE**

Percent Passing By Weight

SIEVE	GRADATION			
	BASE COURSE		SURFACE COURSE	
	C-1	D-1	E-1	F-1
1-1/2 in.	100			
1 in.	70-100	100	100	100
3/4 in.	60-90	70-100	70-100	85-100
3/8 in.	45-75	50-80	50-85	60-100
No. 4	30-60	35-65	35-65	50-85
No. 8	22-52	20-50	20-50	40-70
No. 50	6-30	6-30	15-30	25-45
No. 200	0-6	0-6	8-15	8-20

703-2.04 AGGREGATE FOR HOT MIX ASPHALT. Process and crush aggregate that is free from clay balls, organic matter, other deleterious material, and not coated with dirt or other finely divided mineral matter. Aggregate used must consist of sound, tough, durable rock of uniform quality.

Remove all natural fines passing a No. 4 sieve before crushing aggregates for Type IV mixes.

Coarse Aggregate. Aggregate retained on the No. 4 Sieve.

Meet Table 703-3 requirements:

**TABLE 703-3
COARSE AGGREGATE QUALITY FOR HMA**

Description	Specification	Type II, Class A	Type I, Type II Class B, Type III	Type IV	Type V	Type SP
LA Wear, % max.	AASHTO T 96	45	45	45	45	45
Degradation Value, min.	ATM 313	30	30	30	30	30
Sodium Sulfate Loss % max. (5 cycles)	AASHTO T 104	9	9	9	9	9
Fracture, % min.	ATM 305	90, 2 face	80, 1 face	90, 2 face	98, 2 face	90, 2 face
Flat-Elongated Pieces, % max. 1:5	ATM 306	8	8	8	8	8
Absorption, % max.	ATM 308	2.0	2.0	2.0	2.0	2.0
Nordic Abrasion, % max.	ATM 312	-	-	-	8.0	8.0

Fine Aggregate. Aggregate passing the No. 4 sieve. Fine aggregate shall meet the quality requirements of AASHTO M 29, including S1.1, Sulfate Soundness.

Fine aggregate for Type II, Class A mix shall not contain more than 20 percent natural fines (blend sand and mineral filler) added to the crushed aggregate, and shall not exhibit rut depth larger than 6.0 mm, as determined by ATM 419.

Fine aggregate for Type IV mixes:

- do not blend back natural sand
- shall be non-plastic as determined by ATM 205
- shall have a minimum uncompacted void content (Fine Aggregate Angularity) determined by AASHTO T 304, Method A, of 45 percent

TABLE 703-4
BROAD BAND GRADATIONS FOR HOT MIX ASPHALT AGGREGATE
Percent Passing by Weight

Sieve	Gradation					
	Type I	Type II	Type III	Type IV	Type V	Type SP
1 inch	100	-	-	-	-	-
3/4 inch	80-90	100	-	-	100	100
1/2 inch	60-84	75-90	100	100	65-90	90-100
3/8 inch	48-78	60-84	80-90	80-95	55-80	74-90
No. 4	28-63	33-70	44-81	55-70	40-60	42-54
No. 8	14-55	19-56	26-70	35-50	≤ 45	25-35
No. 16	9-44	10-44	16-59	20-40	≤ 35	-
No. 30	6-34	7-34	9-49	15-30	≤ 25	-
No. 50	5-24	5-24	6-36	10-24	≤ 20	-
No. 100	4-16	4-16	4-22	5-15	≤ 12	-
No. 200	4-7	4-7	4-7	4-7	4-7	2-10

703-2.05 AGGREGATE FOR COVER COAT AND SURFACE TREATMENT. Crushed stone or crushed gravel, consisting of sound, tough, durable pebbles or rock fragments of uniform quality. Free from clay balls, vegetable matter, or other deleterious matters, and with no adherent films or coatings of dirt, clay, dust or other deleterious matter that could impede adherence of the bituminous material. Wash the aggregate if necessary. Meet Table 703-5.

TABLE 703-5
QUALITY PROPERTIES FOR COVER COAT AND SURFACE TREATMENT

L.A. Wear, %	AASHTO T 96	45, max.
Degradation Value	ATM 313	50, min.
Sodium Sulfate loss, %	AASHTO T 104	9, max. (5 cycles)
Fracture, %	ATM 305	90, min. (single face)

Cover Coat Material. Meet the gradation requirements of Table 703-6, as determined by ATM 304.

TABLE 703-6
AGGREGATE GRADATION FOR COVER COAT MATERIAL
 Percent Passing By Weight

SIEVE	TYPE 2 COVER	TYPE 3 COVER AGGREGATE		
	AGGREGATE	Grading A	Grading B	Grading C
1/2 in.	--	--	--	100
3/8 in.	100	100	100	90-100
No. 4	85-100	85-100	60-100	10-30
No. 8	--	0-25	0-10	0-8
No. 50	0-20	--	--	--
No. 200	0-1	0-1	0-1	0-1

Surface Treatment Material. Meet the gradation requirements of Table 703-7, as determined by ATM 304.

TABLE 703-7
AGGREGATE GRADATION FOR ASPHALT SURFACE TREATMENT

SIEVE	GRADING						
	Percent Passing by Weight						
	A	B	C	D	E	F	G
1-1/2 in.	100	--	--	--	--	--	--
1 in.	90-100	100	--	--	--	--	--
3/4 in.	--	90-100	100	--	--	--	--
1/2 in.	0-15	20-55	90-100	100	100	--	--
3/8 in.	--	0-15	40-75	90-100	90-100	100	100
No. 4	--	--	0-15	0-10	10-30	75-100	85-100
No. 8	--	--	0-5	0-5	0-8	0-10	60-100
No. 200	0-1	0-1	0-1	0-1	0-1	0-1	0-10

703-2.06 MINERAL FILLER. Meet AASHTO M 17. Determine material grading using AASHTO T 37.

703-2.07 SELECTED MATERIAL. Meet the following requirements for the type specified. Obtain the Engineer's approval for the intended purpose, prior to use on the project.

1. Type A. Aggregate containing no muck, frozen material, roots, sod or other deleterious matter and with a plasticity index not greater than 6 as tested by ATM 204 and ATM 205. Meet the following gradation as tested by ATM 304:

<u>Sieve</u>	<u>Percent Passing by Weight</u>
No. 4	20-60%
No. 200	0-6%, determined on the minus 3-inch portion of the sample

2. Type B. Aggregate containing no muck, frozen material, roots, sod or other deleterious matter and with a plasticity index not greater than 6 as tested by ATM 204 and ATM 205. Meet the following gradation as tested by ATM 304:

<u>Sieve</u>	<u>Percent Passing by Weight</u>
No. 200	0-10% determined on the minus 3-inch portion of the sample

3. Type C. Earth, sand, gravel, rock, or combinations thereof containing no muck, peat, frozen material, roots, sod, or other deleterious matter and is compactable under the provisions of Subsections 203-3.04 or 203-3.05.

703-2.08 FILTER BLANKET. Meet AASHTO M 80, Class A. Meet the following gradation: AASHTO M 43, size No. 467.

703-2.09 SUBBASE. Hard, durable particles or fragments of stone or gravel. Do not use materials that break up when alternately frozen and thawed or wetted and dried. Do not include muck, frozen material, roots, sod, or other deleterious matter. Meet Table 703-8.

**TABLE 703-8
QUALITY PROPERTIES FOR SUBBASE**

L.A. Wear, %	AASHTO T 96	50, max.
Liquid Limit	ATM 204	25, max.
Plasticity Index	ATM 205	6, max.
Degradation Value	ATM 313	40, min.

Meet the grading requirements of Table 703-9 as determined by ATM 304.

Grading C and Grading D: Crushed aggregate with at least 50 percent by weight of the particles retained on the No. 4 sieve having at least one fractured face as tested by ATM 305.

**TABLE 703-9
AGGREGATE GRADATION FOR SUBBASE**
Percent Passing by Weight

SIEVE	GRADING				
	A	B	C	D	E
4 in.	100	--	--	--	--
2 in.	85-100	100	--	--	--
1 in.	--	--	100	--	--
3/4 in.	--	--	--	100	--
No. 4	15-60	15-60	40-75	45-80	--
No. 16	--	--	20-43	23-50	--
No. 200 *	10 Max.	0-6	4-10	4-12	0-6

* Gradation shall be determined on that portion passing the 3-inch screen.

703-2.10 POROUS BACKFILL MATERIAL. Gravel consisting of crushed or naturally occurring granular material containing not more than 1 percent clay lumps or other readily decomposed material (AASHTO T 112). Meet the grading requirements of Table 703-10 as determined by ATM 304.

**TABLE 703-10
AGGREGATE GRADATION FOR POROUS BACKFILL MATERIAL**

SIEVE	PERCENT PASSING BY WEIGHT
3 in.	100
1 in.	0-10
No. 200	0-5

703-2.11 GABION BACKFILL. Stone and gravel, uniformly graded from 4 to 12 inches in least dimension and having no more than 60 percent wear (AASHTO T 96).

703-2.12 SAND BLANKET. Sand containing no muck, frozen material, roots, sod or other deleterious matter and with a plasticity index not greater than 6 as determined by ATM 204 and ATM 205. Meet the grading requirements of Table 703-11 as determined by ATM 304.

**TABLE 703-11
SAND BLANKET MATERIAL GRADATION**

SIEVE	PERCENT PASSING BY WEIGHT
3/8 in.	100
No. 4	95-100
No. 200	0-6

703-2.13 STRUCTURAL FILL. Aggregate containing no muck, frozen material, roots, sod or other deleterious matter and with a plasticity index not greater than 6 as determined by ATM 204 and ATM 205. Meet the grading requirements of Table 703-12 as determined by ATM 304.

**TABLE 703-12
AGGREGATE GRADATION FOR STRUCTURAL FILL**

SIEVE	PERCENT PASSING BY WEIGHT
3 in.	100
3/4 in.	75-100
No. 4	15-60
No. 16	10-30
No. 200	0-6

703-2.14 AGGREGATE FOR ABRASIVE FINISH. Crushed silica sand, oven dried, and stored in moisture-proof bags. Free from clay balls, vegetative matter, or other deleterious matter (AASHTO T 112). Not coated with dirt or other finely divided mineral matter. Meet the grading requirements of Table 703-13 as determined by ATM 304.

**TABLE 703-13
GRADATION FOR SAND FOR ABRASIVE FINISH**

SIEVE	PERCENT PASSING BY WEIGHT
No. 12	100
No. 40	0-5

703-2.15 CRUSHED GLASS. Up to 10 percent by weight crushed glass (cullet) smaller than 3/8-inch may be uniformly blended with natural soil-aggregate material prior to project delivery and placement. Glass cullet must be free of soil, paper, plastic, metals, organic material and other deleterious and hazardous substances. No more than 2.0 percent debris should be present as determined by Section X3 of AASHTO M318.

Eligible glass products from which glass cullet might be produced include: food and beverage container glass; plain ceramic or china dinnerware; or building window glass.

Prohibited glass products include: automobile windshields or other glass from automobiles; light bulbs of any type; porcelain products; laboratory glass; television, computer or other cathode ray monitor tubes.

Provide documentation identifying the origin of the glass products and certifying the glass cullet:

1. Does not contain prohibited materials,
2. Meets debris content requirement.

Uniformly blend glass cullet and natural soil-aggregate and meet the gradation requirements of Table 703-14.



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
REQUIRED CONTRACT PROVISIONS
for
FEDERAL-AID (FHWA) CONTRACTS

FHWA-1273 -- Revised May 1, 2012
Supplement , Cargo Preference Act – Effective February 15, 2016

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

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

immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

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

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

II. NONDISCRIMINATION

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

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

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

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

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

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27)

and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

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

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

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

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

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

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

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

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

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

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of

employees by means of meetings, employee handbooks, or other appropriate means.

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

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

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

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

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

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

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

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

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

6. Training and Promotion:

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

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should

represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that

the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

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

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

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed,

as specified in the applicable wage determination incorporated into the contract.

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

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

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

b. Trainees (programs of the USDOL).

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

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

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

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

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity

requirements of Executive Order 11246, as amended, and 29 CFR part 30.

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

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

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

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

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

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

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

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

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

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

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

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

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

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

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

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

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

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

SUPPLEMENT to Form FHWA -1273
CARGO PREFERENCE ACT REQUIREMENTS

This provision requires compliance with the Cargo Preference Act (CPA) and its implementing regulations in 46 CFR 381 for all Federal Aid Projects awarded after February 15, 2016.

In accordance with 46 CFR 381.7, the following language must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of 46 CFR 381.7 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

(a) Agreement Clauses. Use of United States-flag vessels:

(1) Pursuant to Pub. L. 664 (43 U.S.C. 1241(b)) at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available.

(2) Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a)(1) of this section shall be furnished to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590."

(b) Contractor and Subcontractor Clauses. Use of United States-flag vessels: The contractor agrees—

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

(2) To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b) (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

(3) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract."