

# LABOR REQUIREMENTS

## SECTION 00820

### PART 1 - EQUAL OPPORTUNITY

#### 1.01 GENERAL

The Contractor will maintain policies of employment as follows:

- A. The Contractor and all Subcontractors will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin or age. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.
- B. The Contractor and all Subcontractors will, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants receive consideration for employment without regard to race, religion, color, sex, national origin or age.

### PART 2 - DAVIS-BACON ACT REGULATIONS

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#### 5.5 CONTRACT PROVISIONS AND RELATED MATTERS

- (a) 1. **Minimum Wages:** (i) All mechanics and laborers 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 amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision 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, and the wage determination decision will be posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated 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 29 CFR 5.5 (a) (1) (iv). Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly periods.
- (ii) The contracting officer will require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination and which is to be employed under the contract, will be classified or reclassified conformably to wage determination and a report of the action taken will be sent by the State Agency to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees to be used, the question, accompanied by the recommendation of the contracting officer, will be referred to the Secretary for final determination.
- (iii) The contracting officer will require, 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 wage rate and the Contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for determination.
- (iv) If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this Contract. Provided, however, 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 State may withhold or cause to be withheld from the Contractor so much of the accrued payments or advances as may be considered necessary to laborers and mechanics, including apprentices and trainees, employed by the Contractor or any Subcontractor on the work the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice or trainee, employed or working on the site of the work in the construction or development of the Project, all or part of the wages required by the Contract, the State may, after written notice to the Contractor, sponsor, applicant of Owner, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds until such violations have ceased.

3. **Payrolls and Basic Records:** (i) Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work in the construction or development of the Project. Such records will contain the name and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in Section 1 (b) (2) 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 will 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.

(ii) The Contractor will submit weekly a copy of all payrolls to the Project Architect/Engineer or will submit payrolls to the applicant, sponsor or Owner as the case may be, for transmission to the State. The copy will be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of a "Weekly Statement of Compliance" which is required under this Contract and the Copeland regulations of the Secretary of Labor (29 DFR, Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under 29 CFR 5.5 (a) (1) (iv) will satisfy this requirement. The Prime Contractor will be responsible for the submission of copies of payrolls of all Subcontractors. The Contractor will make the records required under the labor standards clauses of the Contract available for inspection by authorized representatives of the State and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.

4. **Apprentices and Trainees:** (i) Apprentices: Apprentices will be permitted to work as such only when they are registered individually under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor or, if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification will not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subdivision (kk) of this subparagraph or is not registered as above, will be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or Subcontractor will be required to furnish to the contracting officer written evidence of the registration of his program and apprentices, as well as of the appropriate ratios and wage rates, for the area of construction prior to using any apprentices on the contract work.

(ii) **Trainees:** Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and where subdivision (iii) of this subparagraph is applicable, in accordance with the provisions of Part 5a of this subtitle.

(iii) **Application of 29 CFR part 5a:** On contracts in excess of \$10,000, the employment of all laborers and mechanics, including apprentices and trainees, as defined in 5.2 (c), will also be subject to the provisions of Part 5a of this subtitle. Apprentices and trainees will be hired in accordance with the requirements of Part 5a of this subtitle.

5. **Compliance With Copeland Regulations 29CFR Part 3:** The Contractor will comply with the Copeland Regulations (29 CFR Part 3) of the Secretary of Labor which are herein incorporated by reference.

6. **Subcontracts:** The Contractor will insert in any subcontracts the clauses contained in 29 CFR 5.5 (a) (1) through (5) and (7) and such other clauses as the State may, by appropriate instructions, require and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

7. **Contract Termination, Debarment:** A breach of clauses (1) through (6) may be grounds for termination of the Contract for debarment as provided in 29 CFR 5.6.

**PART 5a - LABOR STANDARDS FOR RATIOS OF APPRENTICES  
AND TRAINEES TO JOURNEYMEN  
ON FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION**

**5a.3 APPRENTICE AND TRAINEE EMPLOYMENT REQUIREMENTS**

(a) The following Contract clauses will be conditions of each Federal or Federally assisted construction Contract in excess of \$10,000 and each Federal agency concerned will include the clauses, or provide for their inclusion in each such Contract.

(1) The Contractor agrees: (i) That he will make a diligent effort to hire for the performance of the Contract a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the Contract the applicable ratio as determined by the Secretary of Labor.

(ii) That he will assure that twenty-five percent (25%) of such apprentices or trainees in each occupation are in their first year of training, where feasible. Feasibility here involves a consideration of: (a) the availability of training opportunities for first year apprentices; (b) the hazardous nature of the work for beginning workers; and (c) excessive unemployment of apprentices in their second and subsequent years of training.

(iii) That during the performance of the Contract, he will, to the greatest extent possible, employ the number of apprentices or trainees necessary to meet currently the requirements of subdivisions (i) and (ii) of this subparagraph.

(2) The Contractor agrees to maintain records of employment by trade of the number of apprentices and trainees, apprentices and trainees by first year of training, and of journeymen and the wages paid and hours of work of such apprentices, trainees and journeymen. The Contractor agrees to make these records available for inspection upon request of the Department of Labor and the Federal agency concerned.

(3) The Contractor who claims compliance based on the criterion stated in 5a.4(a) agrees to maintain records of employment, as described in 5a.3(a)(2), on non-Federal and Non-federally assisted construction work done during the performance of this Contract in the same labor market area. The Contractor agrees to make these records available for inspection upon request of the Department of Labor and the Federal agency concerned.

**5a.4 CRITERIA FOR MEASURING DILIGENT EFFORT**

(a) The Contractor employs, on all his public and private construction work combined in the labor market area of this Project, an average number of apprentices and trainees by craft as required by the Contract clauses, at least equal to the ratios established in accordance with 5a.5.

**5a.5 DETERMINATION OF RATIOS OF APPRENTICES OR TRAINEES TO JOURNEYMEN**

The Secretary of Labor has determined that the applicable ratios of apprentices and trainees to journeymen in an occupation will be as follows:

(a) In any occupation the applicable ratio of apprentices and trainees to journeymen will be equal to the predominant ratio for the occupation in the area where the construction is to be undertaken, set forth in collective bargaining agreements or other employment agreements, and available through the Regional Manager for the Bureau of Apprenticeship and Training for the applicable area.

(b) For any occupation for which no such ratio is found, the ratio of apprentices and trainees to journeymen will be determined by the Contractor in accordance with the recommendations set forth in the standards of the National Joint Apprenticeship Committee for the occupation, which are filed with the U.S. Department of Labor's Bureau of Apprenticeship and Training.

(c) For any occupation for which no such recommendations are found, the ratio of apprentices and trainees to journeymen will be at least one (1) apprentice or trainee for every five (5) journeymen.

### **PART 3 - WAGE RATES**

#### **3.01 GENERAL**

The following pages are the Federal Government Wage Determination for this project:

#### **ADDENDA SECTION 00900**

#### **1.01 ADDENDA**

Any Addendum issued on this Project will be included in Section 00900 and become a part of the *Standard Form of Agreement Between the Owner and the Contractor*.