



Title VI
Non-Discrimination Plan
City of New Braunfels, Texas

Adopted: November 24, 2025

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Section 1: Introduction

The City of New Braunfels, as a recipient of Federal Financial Assistance and under Title VI, 42 U.S.C. § 2000d et. seq., of the Civil Rights Act of 1964 and related statutes, affirms no person shall on the grounds of race, color, and national origin be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the City regardless of whether these projects and activities are federally funded or not.

The City of New Braunfels must not restrict an individual in any way from the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under its programs or projects. Individuals may not be subjected to criteria or methods of administration which cause adverse impact because of their race, color, or national origin, or have the effect of defeating or substantially impairing the accomplishment of the objectives of the program on the grounds of race, color, or national origin. Therefore, the primary goals and objectives of the City of New Braunfels Title VI Non-Discrimination Plan are:

1. To assign responsibilities and procedures for ensuring compliance with Title VI of the Civil Rights Act of 1964 and pertinent directives.
2. To ensure that people affected by the City's programs and projects receive the services, benefits, and opportunities to which they are entitled without regard to race, color, or national origin.
3. To prevent discrimination in City programs and activities, whether those programs and activities are federally funded or not.
4. To establish procedures for identifying impacts in any program, service, or activity that may create an illegal adverse impact on any person because of race, color, or national origin and all affected Title VI populations.
5. To establish procedures to annually review Title VI compliance of specific program areas within the City of New Braunfels.
6. To set forth procedures for filing and processing complaints by persons who believe they have been subjected to illegal discrimination under Title VI in a City-provided service, project, program, or activity.

The authorities applicable to the City's Title VI/Nondiscrimination Program include:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. §2000d et seq., 78 state 252), prohibits discrimination on the basis of race, color, national origin.
- **49 CFR Part 21** (entitled Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of The Civil Rights Act of 1964).
- **23 CFR Part 200** (FHWA's Title VI/Nondiscrimination Regulation).
- **28 CFR Part 50.3** (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964).

- **Texas Administrative Code §9.4**, Civil Rights – Title VI Compliance

Section 2: Title VI Plan Revision Log

The Title VI Plan was adopted by New Braunfels City Council on *November 24, 2025*. A copy of the Resolution is included as **Attachment A**.

The City will review and update the Title VI plan every three (3) years or as necessary. The following log will be maintained, indicating the date, section, and summary of revisions.

Date	Section Revised	Summary of Revisions	Date Adopted

Section 3: Policy Statement

Title VI Policy Statement
City of New Braunfels

It is the policy of the City of New Braunfels, Texas, to provide reasonable assurances it will comply with the requirements and provisions of Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d-42 U.S.C 2000d-4, and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally- Assisted Programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964 and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person who resides in, or does business with, the City of New Braunfels on the grounds of race, color, or national origin, be excluded from the participation in, be denied the benefits of, or otherwise be subjected to discrimination under any of our programs or activities.

Robert Camareno, City Manager
City of New Braunfels

Date

Declaración de Política del Título VI
Ciudad de New Braunfels

Es política de la Ciudad de New Braunfels, Texas, brindar garantías razonables de que cumplirá con los requisitos y disposiciones del Título VI de la Ley de Derechos Civiles de 1964, 78Stat. 252, 42 U.S.C 2000d-42 U.S.C 2000d-4, y todos los requisitos impuestos por o de conformidad con el Título 49 de los Reglamentos Federales del Departamento de Transporte, Subtítulo A, Oficina del Secretario, Parte 21, No Discriminación en Programas con Asistencia Federal del Departamento de Transporte - Realización del Título VI de la Ley de Derechos Civiles de 1964 y otras directrices pertinentes, a fin de que y de conformidad con la Ley, Reglamentos, y otras directrices pertinentes, ninguna persona que resida en, o que haga algún negocio con la Ciudad de New Braunfels sea excluido de participar, o se le niegue alguna prestación o, de otra manera esté sujeto a discriminación en cualquiera de nuestros programas o actividades por su raza, color, u origen nacional.

Robert Camareno, Administrador de la Ciudad
de New Braunfels

Fecha

Section 4: Organizational Responsibilities

The Title VI Program Coordinator is empowered by the City Manager and is responsible for managing and monitoring all aspects of compliance with the Title VI program, plan, and assurance for the City of New Braunfels.

Complaints

If any individual believes that he/she or any other program beneficiaries have been the object of unequal treatment or discrimination as to the receipt of benefits and/or service, or on the grounds of race, color, or national origin (including Limited English Proficiency), he/she may exercise his/her right to file a complaint with the City's Title VI Coordinator. The City's complaint handling procedure is outlined in *Section 7* of this document. Every effort will be made to resolve complaints informally and at the lowest level first. Complaints may also be filed with the Federal Transit Administration, Texas Department of Transportation, and Federal Highway Administration, depending on the source of program funding.

Program Reviews

Special emphasis program reviews will be conducted on activities, accomplishments, and issues. The reviews will be conducted by the Title VI Program Coordinator to ensure effectiveness in their compliance with Title VI provisions. The Title VI Program Coordinator will coordinate efforts to ensure equal participation in all programs and activities at all levels. The City will conduct reviews annually following the City's fiscal year calendar.

Title VI Reviews on Sub-Recipients (if applicable)

The City does not have any sub-recipients. In the future, should the City utilize sub-recipients, a Title VI compliance review will be conducted annually by the Title VI Coordinator.

Limited English Proficiency Program

The City has developed an evaluation and implementation program to ensure Limited English Proficiency (LEP) persons who are served by federal aid programs administered by the City are provided, free of charge, meaningful access to programs and services. Specifically, the LEP program will address language barriers that could prevent LEP persons from obtaining services and information relating to services, programs, and projects, and understanding the benefits to which they are entitled.

Title VI Plan Updates: The City will review the need for any updates to its Title VI Assurances every three (3) years or as necessary.

Public Participation Plan and Policy

The City of New Braunfels believes that effective community involvement improves the quality of decision-making processes and builds public trust in the City. The City has developed a public participation plan and policy to inform, consult, involve, collaborate, and empower the public in understanding the problem, alternatives, opportunities, and/or solutions.

Remedial Action: The City will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program's administrative requirements. When deficiencies are found, procedures will be promptly implemented to correct the deficiencies and to put in writing the corrective action(s).

Non-Discrimination Requirements: The City will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the service, facility, and performance of any contract on the grounds of race, color, or national origin. In administering its Title VI Program, the City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of the Title VI Program.

Environmental Justice in Minority and Low-Income Populations

The City will develop strategies to address disproportionately high and adverse human health or environmental effects on minority and low-income populations, to promote nondiscrimination in Federal-aid programs substantially affecting human health and the environment, and to provide minority and low-income communities access to public information and an opportunity for public participation in matters relating to human health or the environment.

Non-Discrimination Training

The City will provide training on Title VI and its related statutes for managers, supervisors, and transit staff on a biannual basis. The City provides information to the public detailing its Title VI obligations and notifies members of the public of the protections afforded to them by Title VI and other nondiscrimination requirements. A Notice of the Public's Rights under Title VI is found on the City's website:

www.newbraunfels.gov/titlevi.

Title VI Contract Provisions

The Purchasing Manager will ensure all standard U.S. DOT Title VI assurance clauses are included in project bid documents and contracts funded by TxDOT, U.S. Department of Transportation, or Federal Transit Administration (FTA). These clauses will include provisions that require compliance with Title VI after contractor or consultant selection is made. The Purchasing Manager will review the contract documents to ensure inclusion of the required clauses. In addition, any subcontracts of the contractor or consultant will be reviewed to ensure the required clauses are included.

Site and Facility Location

The City shall not select a site or location of a facility for participants and beneficiaries of the City's federal aid programs if that selection could exclude individuals from participation in, or deny them the benefits of, or subject them to discrimination on the grounds of race, color and national origin or could substantially impair the accomplishment of the objectives of nondiscrimination on the aforesaid grounds.

Data Collection

Statistical data on race, color, and national origin, and English language proficiency of participants in and beneficiaries of City programs, e.g., impacted citizens and affected communities, will be gathered and maintained by the City. The gathering procedures will be reviewed periodically to ensure the sufficiency of the data in meeting the requirements of the Title VI program.

Transit-related, non-elected Committees or Councils

The City does not have any transit-related, non-elected, planning boards, advisory councils, or committees.

List of Complaints, Title VI Investigations and Lawsuits

The City maintains a complaint log, which documents all activity related to the complaint. The complaint log in this plan shall include the following information:

- Date complaint filed.
- Complainant identification – race, color or national origin.
- Nature of complaint.
- Who the complaint is against.
- Date investigation completed.
- Result of investigation.
- Date complainant notified of the result of the investigation.

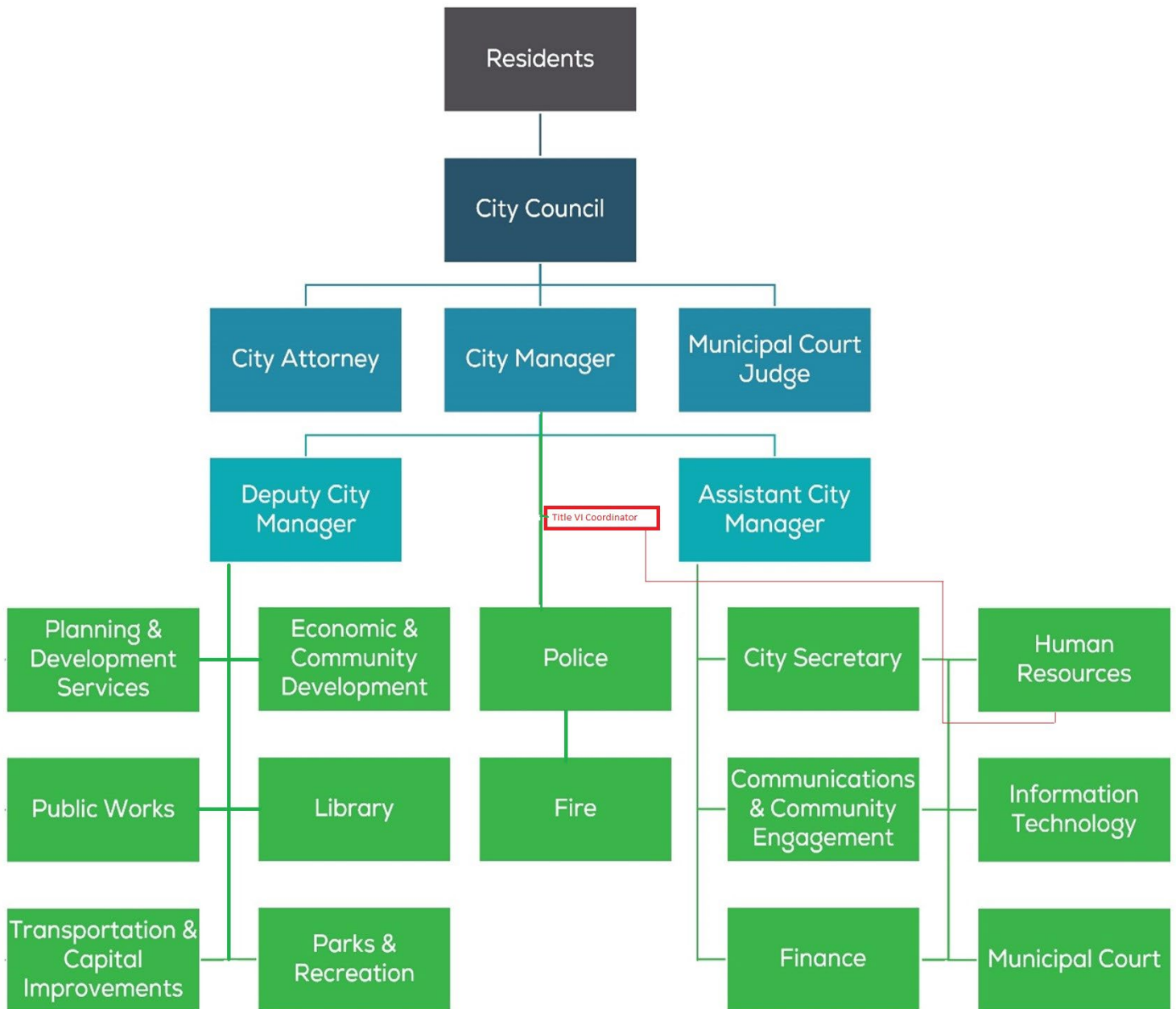
Record & Summary of Title VI Complaints Investigation, Lawsuits from 2020 through the initial adoption of this Title VI Plan by City.

The City has not received nor been notified by the Department of Transportation or Federal Transit Administration or other programs of any Title VI complaints during the time period referenced above. The City’s legal team keeps records of any lawsuits regarding Title VI and there are no such lawsuits during the time period referenced above. The Title VI Coordinator will keep information as reflected below regarding any applicable complaints, investigations, or lawsuits on a go-forward basis.

	Date (month, day, year)	Summary (include basis of complaint: race, color, or national origin)	Status	Action(s) Taken
Investigations				
1.				
Lawsuits				
1.				
Complaints				
1.				

Section 5: Organization Chart

The Title VI Coordinator works to ensure the actions of the City are in compliance with the requirements of Title VI and related laws. The City's Title VI Coordinator has unimpeded access to the City Manager concerning any Title VI related issues.



Section 6: Monitoring Program

The City will employ the following monitoring and enforcement mechanisms to ensure compliance with Title VI Program requirements:

1. The City reserves the right to inspect all records of the contractor and subcontractors concerning any TxDOT, U.S. Department of Transportation, or Federal Transit Administration (FTA) assisted contracts, in addition to an annual questionnaire to be completed and returned to the department by January 31st.
2. The City will bring to the attention of the USDOT Office of the Inspector General any false, fraudulent, or dishonest conduct in connection with the Title VI Program.
3. If a firm uses, or attempts to use, false, fraudulent, or deceitful statements or representations to meet the Title VI requirement of the contract, the City reserves the right, under the provisions of Title VI Assurances, to report such actions to the USDOT or its designee. The USDOT or its designee may, at its discretion, initiate suspension, or debarment proceedings against the firm. The City may also pursue all means available to address such unprofessional and unethical behavior.
4. The City will consider similar action under our own legal authorities, including responsibility determinations in future contracts in accordance with the City's established purchasing policies.

Section 7: Complaint Procedures & Notice of Public Rights

Any person who believes they, or any specific class of persons, to be subjected to prohibited discrimination on the grounds of race, color, or national origin by the City of New Braunfels may file a written Title VI complaint individually or through a representative by completing and submitting the City's Title VI Complaint Form. Title VI complaints must be filed within 180 days of the date of alleged act of discrimination, unless the discrimination is ongoing, or the time for filing is extended by FHWA. Written complaints must include the facts and circumstances surrounding the alleged discrimination. Complaints can be filed individually or through a representative by completing and submitting the City's Title VI Complaint Form. Anonymous complaints will not be accepted. Complaint procedures and forms can be found at www.newbraunfels.gov/titlevi or requested from the Title VI Coordinator, 550 Landa Street, New Braunfels, TX 78130, by email at titlevicoordinator@newbraunfels.gov or by calling 830-387-5570.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of the complainant and location, date and description of the problem including whether it is related to race, color, or national origin. Alternative means of filing complaints will be made available for persons with disabilities upon request.

The City of New Braunfels reviews external complaints it receives alleging violations of Title VI. Once the complaint is received, the Title VI Coordinator, or designee, will review it to determine if the City has jurisdiction. A copy of each Title VI complaint received will be forwarded to TxDOT/FHWA or FTA, depending on the nature of the complaint within ten (10) working days of receipt. The complainant will receive an

acknowledgment letter informing him/her whether the complaint will be investigated by the City. Highway-related Title VI complaints will be forwarded to TxDOT/FHWA for handling and investigation. All other Title VI complaints, including transit-related complaints, will be forwarded to the FTA and also investigated by the City as described below. The City's complaint and investigation files are to be kept confidential to the extent allowed by applicable Federal and State law. The City will retain files in accordance with record retention schedules and all Federal guidelines.

The city has sixty (60) business days to investigate the complaint. If more information is needed to resolve the case, the city may contact the complainant. The complainant has fifteen (15) business days from the date of the letter to send the additional information requested to the investigator assigned to the case.

If the investigator is not contacted by the complainant or does not receive the additional information within fifteen (15) business days, the City can administratively close the case. A case can also be administratively closed if the complainant no longer wishes to pursue their case.

After the investigator reviews the complaint, she/he will issue one of two letters to the complainant: a closure letter or a letter of finding (LOF).

- ✓ A closure letter summarizes the allegations and states that there was not a Title VI violation and that the case will be closed.
- ✓ A letter of finding (LOF) summarizes the allegations and the interviews regarding the alleged incident, and explains whether any disciplinary action, additional training of the staff member, or other action will occur.

If the complainant wishes to appeal the decision, she/he has fifteen (15) calendar days after the date of the closure letter or the LOF to do so. The appeal should be submitted in writing by mail to the current City Manager using the Title VI Coordinator address below. Within fifteen (15) calendar days of receipt of an appeal, the City Manager or her/his designee will meet with the complainant to discuss the complaint and possible resolutions. Within fifteen (15) calendar days after the meeting, the City Manager or her/his designee will respond in writing with a final resolution of the complaint.

Filing a Discrimination Complaint with the Federal Transit Administration

Any person who believes they have been discriminated against, on the grounds of race, color, and national origin (where the primary objective of the financial assistance is to provide employment per 42 U.S.C. § 200d-3) can file a complaint with the Federal Transit Administration (FTA). A complaint may also be filed by a representative on behalf of such a person.

1. Complaints shall be submitted in writing on the FTA's [Civil Rights Complaint Form](#) and must be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination.

2. Mail the completed form to Office of Civil Rights, Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE, Washington, DC 20590 OR Federal Transit Administration, Region VI, 819 Taylor Street, Room 8A36, Fort Worth, TX 76102.

Filing a Discrimination Complaint with the Texas Department of Transportation

Any person who believes they have been discriminated against, on the grounds of race, color, and national origin (where the primary objective of the financial assistance is to provide employment per 42 U.S.C. § 200d-3) can file a complaint with the Texas Department of Transportation (TxDOT). A complaint may also be filed by a representative on behalf of such a person.

1. Complaints shall be submitted in writing on TxDOT's [Complaint Form \(English & Spanish\)](#) and must be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination.
2. Mail the completed form to Texas Department of Transportation, Office of Civil Rights, 125 East 11th Street, Austin, Texas 78701 OR Federal Highway Administration, Attention: HCR-20, Room E81-320, 1200 New Jersey Avenue, SE Washington, DC 20590.

If information is needed in another language, contact: Si necesita información en otro idioma, póngase en contacto:

Title VI Coordinator
550 Landa Street
New Braunfels, TX 78130
titlevicoordinator@newbraunfels.gov
830-387-5570

The City of New Braunfels Notice to the Public is as follows:

Notifying the Public of Rights Under Title VI

- ✓ The City of New Braunfels operates its programs and services without regard to race, color, and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with the City of New Braunfels.
- ✓ For more information on the City of New Braunfels civil rights program, the procedures to file a complaint, or to file a complaint contact 830-387-5570, (TTY 711); email titlevi coordinator@newbraunfels.gov ; or visit our administrative office at City Hall ,550 Landa Street , New Braunfels, Texas 78130. For more information, visit www.newbraunfels.gov.
- ✓ A complaint may also be filed directly with the:

Texas Department of Transportation, Civil Rights Division, Attn: Title VI Program Administrator, 125 E. 11th Street, Austin, TX 78701-2483, or

Federal Transit Administration—Region VI, 819 Taylor Street, Room 8A36, Fort Worth, TX 76102, or

Federal Highway Administration, Office of Civil Rights, Attention: HCR-20, Room E81-320, 1200 New Jersey Ave., SE Washington, DC, 20590.
- ✓ If information is needed in another language, contact 830-387-5570.

Notificación para el Público de los Derechos bajo el Título VI

La Ciudad de New Braunfels opera sus programas y servicios sin consideración de raza, color, origen nacional en base al Título VI de la Ley de Derechos Civiles. Cualquier persona que crea que ha sido perjudicada por cualquier práctica discriminatoria ilegal bajo el Título VI puede presentar formalmente una queja ante la Ciudad de New Braunfels.

Para recibir más información sobre el programa de derechos civiles de la Ciudad de New Braunfels, el procedimiento para presentar formalmente una queja, o para presentar formalmente una queja llame al 830-387-5570, (TTY 711); envíe un correo electrónico a: titlevi coordinator@newbraunfels.gov ; o visite nuestras oficinas administrativas en el Ayuntamiento de la Ciudad en el 550 Landa Street, New Braunfels, Texas 78130. Para mayores informes, visite www.newbraunfels.gov

Además, se puede presentar formalmente una queja directamente al:

Departamento de Transporte de Texas, División de Derechos Civiles, Att: Administrador: Title VI Program
Administrator, 125 E. 11th Street, Austin, TX 78701-2483, or
Administración Federal de Tránsito —Region VI, 819 Taylor Street, Room 8A36, Fort Worth, TX 76102, or
Administración Federal de Carreteras, Oficina de Derechos Civiles, Atención: HCR-20, Room E81-320, 1200 New Jersey Ave., SE Washington, DC, 20590.

Si necesita información en otro idioma, llame al: 830-387-5570.

✓

The City of New Braunfels Notice to the Public is posted in the following locations:

Required:

- ☒ Agency website: www.newbraunfels.gov/titlevi
- ☒ Public areas of the agency's office
- ☒ Reception desk
- ☒ Inside transit vehicles

Optional:

- ☒ Rider Guides/Schedules
- ☒ Other, _____

Section 8: Limited English Proficiency Plan (LEP)

Purpose

As a recipient of federal funds from the Department of Transportation, the City is subject to legal requirements to provide language assistance to those having Limited English Proficiency (LEP). Most individuals living in the United States read, write, speak, and understand English; however, there are many individuals for whom English is not their primary

language. Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be LEP. Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities. Recipients of federal financial assistance, such as the City, have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government services.

Language barriers prohibit persons from obtaining services and information relating to a variety of services and programs because they may not be able to read instructions or correspondence written in English and may not understand verbal information. Many times, they are not aware of regulatory requirements and the legal implications of the services they seek. When LEP persons receive legal documents, they often do not understand the contents of the correspondence and its implication to their daily lives. LEP persons may not be able to take advantage of services, which can affect different aspects of their lives.

Title VI of the Civil Rights Act of 1964 and its implementing regulations require that “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes discrimination on the grounds of national origin. Title VI and its implementing regulations require the City take responsible steps to ensure meaningful access to the benefits, services, information and activities for individuals who have LEP. In certain circumstances, failure to ensure LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C.2000d, and Title VI regulations against national origin discrimination.

Department of Transportation (DOT) Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons (DOT LEP Guidance)

In 2005, the DOT published updated guidance for its recipients. This document provides suggestions to best comply with the statutory and regulatory obligations to provide meaningful access to the benefits, services and information, and other important portions of their programs and activities for individuals who are LEP. A defining component of this guidance is a recommendation to use a four-factor analysis framework to conduct a LEP needs assessment.

The City’s Limited English Proficiency (LEP) Plan is established based on guidance “On an effective Language Implementation Plan” expressed in Sections V and VII of the U.S. Department of Transportation’s Policy Guidance Concerning Recipients' Responsibilities to Limited English.

Using the LEP guidance in 70 FR 74087 and the FTA handbook on implementing an LEP plan, the following tasks were used to address the needs of the LEP population served:

1. Identifying LEP individuals who need language assistance
2. Providing language assistance measures
3. Staff Training
4. Providing notice to LEP persons of the availability of language assistance
5. Monitoring and updating the LEP plan

The LEP regulation mandates that all federal agencies and recipients of federal funding identify any need for services to those persons and households for whom English proficiency is limited. The City performed the above tasks, which provided the results, findings, commitments/actions, and analysis.

Goals

It is essential that City staff be informed about their diverse clientele from a linguistic, cultural, and social perspective. The goal in providing meaningful access is to ensure that LEP persons can communicate effectively, and act appropriately based on that communication. The minimum reasonable measures would be to ensure that LEP persons are given adequate information, are able to understand that information, and are able to participate effectively in programs or activities.

The City will take reasonable steps to ensure that LEP persons are given adequate information, are able to understand that information, and are able to participate effectively in recipient programs or activities, where appropriate.

Four Factor Analysis

In an effort to identify LEP individuals who may need language assistance, the City looked to the DOT's Four Factor Analysis guidance. Furthermore, this analysis aids transit agencies receiving federal financial assistance in taking reasonable steps to ensure meaningful access to all of its services, programs, and activities utilized by LEP persons. The DOT guidance states transit agencies will provide written translation of vital documents for each eligible LEP language group that meets the Department of Justice (DOJ) Safe Harbor provision of five percent (5%) of the population or 1,000 persons, whichever is less, identified as a limited English proficiency speaker within the service area. Such practices will be considered strong evidence of compliance with written-translation obligations. The City defines the LEP population as those individuals that speak English less than "very well."

Using the Four Factor Analysis, the City came away with the following findings:

Factor 1: The number or proportion of LEP persons in the service area who may be served by the City.

Factor 1 assesses the number and proportion of persons that are LEP and likely to be encountered within New Braunfels. In accordance with policy guidance, the initial step for providing meaningful access to services for LEP persons and maintaining an effective LEP program is to identify LEP populations and describe their language characteristics. This process began by collecting and analyzing data provided by the U.S. Census

Bureau. The U.S. Census Bureau collects information about non-English speakers and defines those that are LEP as those that speak a language other than English and can only speak English “less than very well.” To characterize the LEP population from the Census data, the number of individuals, age five and older, that are LEP were examined.

City staff reviewed the 2020 United States Census Bureau data to determine the approximate number of LEP persons aged 5 years and older in the City of New Braunfels. 21.1% of the City’s population spoke a language other than English. However, the population that identified as speaking English less than “very well” totaled 4,415 individuals aged 5 or older or 5.1% of the total population. Further breakdown of the data shows that there are 16,920 (19.4%) individuals who speak Spanish. Of Spanish speakers, there are 4,186 (4.8%) individuals who identified as speaking English less than “very well.” Other identified populations that speak a language other than English include Other Indo-European languages with 161 individuals (0.18%) speaking English less than well, and Asian and Pacific Island languages with 68 individuals (0.08%) speaking English less than well.

Table 1 presents the data that describes the number of individuals that are LEP. As shown in Table 1, approximately 87,075 people, age five and older, lived within the City limits of New Braunfels, Texas; of which most (94.9 %) speak English “Very Well” and a small percentage spoke English less than “very well” (5.1%). The largest LEP population in the City is Spanish speakers, followed by Other Indo-European, and Asian and Pacific Language speakers. The LEP speakers speaking Other Indo-European, and Asian and Pacific languages together account for 229 people or 0.26 of all speakers 5 years or older. Of the LEP speakers 4186 speak Spanish and 229 speak other languages. According to the Safe Harbor Provision Spanish would be the only language needed to be translated for vital documents. Others upon request can be translated orally.

Table 1: Characteristics of People by Language Spoken at Home in New Braunfels, Texas, 2018-2022

	New Braunfels city, Texas											
					Percent of specified language speakers							
	Total		Percent		Speak English only or speak English "very well"		Percent speak English only or speak English "very well"		Speak English less than "very well"		Percent speak English less than "very well"	
Label	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error	Estimate	Margin of Error
Population 5 years and over	87,075	±643	(X)	(X)	82,660	±969	94.9%	±0.9	4,415	±775	5.10%	±0.9
Speak only English	68,726	±1,654	78.9%	±1.8	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)
Speak a language other than English	18,349	±1,526	21.1%	±1.8	13,934	±1,344	75.9%	±3.7	4,415	±775	24.10%	±3.7
SPEAK A LANGUAGE OTHER THAN ENGLISH												
Spanish	16,920	±1,555	19.4%	±1.8	12,734	±1,340	75.3%	±3.9	4,186	±769	24.70%	±3.9
5 to 17 years old	2,338	±479	2.7%	±0.6	2,008	±461	85.9%	±7.1	330	±169	14.10%	±7.1
18 to 64 years old	12,347	±1,146	14.2%	±1.3	9,115	±1,023	73.8%	±4.7	3,232	±647	26.20%	±4.7
65 years old and over	2,235	±358	2.6%	±0.4	1,611	±306	72.1%	±8.5	624	±223	27.90%	±8.5
Other Indo-European languages	1,109	±352	1.3%	±0.4	948	±319	85.5%	±9.4	161	±112	14.50%	±9.4
5 to 17 years old	22	±51	0.0%	±0.1	22	±51	100.0%	±78.4	0	±35	0.00%	±78.4
18 to 64 years old	632	±269	0.7%	±0.3	556	±266	88.0%	±11.8	76	±72	12.00%	±11.8
65 years old and over	455	±181	0.5%	±0.2	370	±150	81.3%	±17.8	85	±93	18.70%	±17.8
Asian and Pacific Island languages	245	±164	0.3%	±0.2	177	±106	72.2%	±21.9	68	±80	27.80%	±21.9
5 to 17 years old	22	±40	0.0%	±0.1	22	±40	100.0%	±78.4	0	±35	0.00%	±78.4
18 to 64 years old	193	±139	0.2%	±0.2	141	±93	73.1%	±17.0	52	±56	26.90%	±17.0
65 years old and over	30	±59	0.0%	±0.1	14	±22	46.7%	±53.3	16	±48	53.30%	±53.3
Other languages	75	±99	0.1%	±0.1	75	±99	100.0%	±42.5	0	±35	0.00%	±42.5
5 to 17 years old	0	±35	0.0%	±0.1	0	±35	-	**	0	±35	-	**
18 to 64 years old	75	±99	0.1%	±0.1	75	±99	100.0%	±42.5	0	±35	0.00%	±42.5
65 years old and over	0	±35	0.0%	±0.1	0	±35	-	**	0	±35	-	**
CITIZENS 18 YEARS AND OVER												
All citizens 18 years old and over	67,406	±1,163	(X)	(X)	65,293	±1,209	96.9%	±0.7	2,113	±468	3.10%	±0.7
Speak only English	54,321	±1,500	80.6%	±1.5	(X)	(X)	(X)	(X)	(X)	(X)	(X)	(X)
Speak a language other than English	13,085	±967	19.4%	±1.5	10,972	±960	83.9%	±3.5	2,113	±468	16.10%	±3.5
Spanish	11,827	±963	17.5%	±1.5	9,892	±922	83.6%	±3.8	1,935	±468	16.40%	±3.8
Other languages	1,258	±383	1.9%	±0.6	1,080	±349	85.9%	±8.3	178	±114	14.10%	±8.3

Factor 2: The frequency with which LEP persons come into contact with the City.

Through the analysis of demographic data in Factor 1 the City identified the LEP populations it serves. The second step of the four-factor LEP needs assessment is to evaluate the frequency with which LEP individuals come into contact with the programs, activities, and services. To date, City employees have had (0) requests for translated program documents.

Factor 3: Importance of City Projects to LEP Persons

Per the Federal Transit Administration, regarding Title VI prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, transportation and transit programs play a critical role in the community as well as other projects and programs that occur in the city and may be important to LEP persons.

Factor 4: Resources Available to the City of New Braunfels

This step will allow the City to weigh the demand for language assistance against the current and projected financial and personnel resources. This analysis will help determine if the current language assistance measures are cost-effective and help plan for future investments that will provide the most needed assistance to the greatest number of LEP persons within the resources available to the City. Following this guidance, the City has described in the sections below the language assistance services currently available as well as additional measures it is considering that would help in providing assistance to LEP persons.

Four-Factor Conclusion

This four-factor analysis will help develop new language assistance services and/or suggest modifications to the existing language assistance measures currently being provided. The information gathered from the Census Bureau, feedback from surveys of community organizations and citizens (including LEP persons) will define the steps that will be implemented in the LEP Plan.

Language Assistance Measures

City staff have the following options available to them to help assist someone who is having trouble communicating due to a language barrier:

- Google Translate – Translates words, phrases, and web pages between English and 100 other languages.
- City website offers Google Translate buttons on the bottom of every page.
- Bilingual City Staff – Spanish-speaking City staff are available to communicate with the public over the phone, through email, and in person. The City administers testing to verify that the employee can pass a standardized written and oral test at the 12th grade level. A list of qualified interpreters is distributed to staff annually.

Qualified Interpreter

A qualified interpreter means an interpreter who can interpret effectively, accurately, and impartially, either for individuals with disabilities or for individuals with limited English skills. The interpreter should be able to interpret both receptively and expressively, using any necessary specialized vocabulary. We do request an advance notice for an interpreter to attend meetings.

Non-English Language Relay Service

A telecommunications relay service may be implemented if needed that would allow persons with hearing or speech disabilities or who use languages other than English to communicate with voice telephone users in a shared language other than English, through a communications assistant who is fluent in that language.

Written Language Translation of Vital Documents

Pursuant to the aforementioned Safe Harbor Analysis, the City has identified the following as Vital Documents that will be translated into Spanish. Such documents will be made available on the City's website and also in hard copy within appropriate City administrative offices and other reasonably appropriate City areas frequented by the public.

FORMS [Identify specifically, as appropriate]	Languages	Timeframe
Documents relating to service changes and general information:	English Spanish	At least within 30 days of change
Documents relating to routes and schedules, including riding rules.	English Spanish	At least within 30 days of change
Title VI Complaint and Appeal Process	English Spanish	Ongoing
Title VI Complaint form	English Spanish	Ongoing
Title VI Policy Statement	English Spanish	Ongoing
Documents relating to fare changes or fare media changes	English Spanish	At least within 30 days of change
Notifying the Public of Rights	English Spanish	Ongoing

Staff Training Programs

Ongoing and thorough training will be important to ensure that staff members are knowledgeable about LEP processes and procedures. Training on the Policy and the LEP Plan will be provided for new transit employees upon hire and to other staff as part of the City's regular training programs biannually.

Providing Notice to LEP Persons

Based on the analysis of demographic data, surveys of community organizations and citizens (including LEP persons), the City can provide notification of the availability of interpretive services, upon request and free of charge. These notices will be placed on public meeting announcements and/or other outreach materials including media releases. A notice to that effect will be posted at City administrative offices and other locations likely to encounter LEP persons.

LEP Plan Re-evaluation and Revision Policy

Evaluation can help track outreach efforts, discover dissemination problems early, and find out whether language services have impacted relations with local LEP communities. The Title VI Coordinator will monitor and consider the following when addressing changes:

- Frequency of encounters with LEP language groups. Nature and the importance of activities to LEP persons.
- Availability of resources, including technological advances and sources of additional resources, and the costs imposed.
- Whether existing assistance is meeting the needs of LEP persons.

- Whether staff understands the LEP plan and how to implement it.
- Effectiveness of City Staff training.
- Whether identified sources for assistance are still available and viable.
- Updates in demographic information from sources such as the US Census Bureau.
- Feedback from City Staff, community organizations, the public, LEP individuals, or other sources.

Following this guidance, and based on monitoring data received, the Title VI Coordinator should reconsider the effectiveness of language assistance measures every two and a half years and determine if any modifications are needed.

Make Modifications to LEP Plan as Necessary

Based on the feedback received from the internal monitoring and feedback from community organizations, the City may make changes to the type of written and oral language assistance measures provided as well as staff training and community outreach programs. The cost and effectiveness of language assistance measures should be considered during this process.

Section 9: Public Participation Plan (PPP)

Introduction

As a recipient of federal funds from the Department of Transportation (DOT), the City is subject to legal requirements to create and implement a public participation plan that identifies and describes the City's policies and procedures for public participation and to ensure meaningful access to benefits, services, and information. The City has written a separate LEP Plan to address the specific communication needs of LEP populations; the communication strategies identified in this Public Participation Plan (PPP) will be coordinated with the policies and procedures identified in the LEP Plan.

Public Participation Plan and Policy

The City of New Braunfels believes that effective community involvement improves the quality of decision-making processes and builds public trust in the City. The goal of the public participation policy is to inform, consult, involve, collaborate, and empower the public in each aspect of the decision, including the development of alternatives and the identification of the preferred solutions.

The City of New Braunfels will maintain a comprehensive community involvement program for its transportation system that includes plans for receiving public comments for major decision-making processes, including, but not limited to, policy development, strategic planning, budgeting, capital projects planning, fare adjustments, and transit service changes. The City will also develop methods to provide the public with access to accurate, understandable, and timely information to facilitate effective involvement in the decision-making process.

Public Involvement Strategies

The City uses a mix of print and electronic media as well as in-person communication strategies to share information about planned events, City news and happenings, and to provide notification, background, and progress information about City projects.

Public Outreach Activities

The public outreach and involvement activities conducted by the City of New Braunfels will be summarized, beginning with the adoption of this policy in the table below:

Event Date	Reason for Outreach	Communication Method Used (Public Notice, Social Media)	City Staff Members Present	Notes

Electronic & Web-based Media

The City uses electronic and web-based media to communicate information about planned activities and ongoing projects.

Press Releases are used to announce events that will occur or to communicate project milestones, immediate releases of information and/or to provide notice of closures and other changes.

Social Media – Blogs/Facebook is used to provide communications about project progress and allow for interaction among stakeholders and the City. These social media outlets can also be used to generate a historical record of project progress and commentary provided by the community.

Online Public Engagement Tools, included on the City’s website and third-party websites, provide the ability to host virtual meeting materials and gather comments from the public on projects or topics of interest.

Public Meetings

The City employs two different types of public meetings based on the communication needs.

Public Meetings generally involve a discussion between City staff and community members about specific concerns related to projects that directly impact them. The function of these meetings is to provide information and receive feedback about a proposed project, ensure public participation in the development of the project, and to keep the community informed during the project’s life cycle.

Open Houses are generally informal meetings that allow for participants to come and go as they please, ask questions of City staff, and provide written and/or verbal comments. The City uses this meeting format to provide information to the community and to solicit community feedback on proposed projects. The function of these meetings is to provide information and receive feedback about a proposed project, ensure public participation in the development of the project, and to keep the community informed during the project’s life cycle. This type of public meeting is the primary meeting type utilized by the City.

Close the Loop

It is very important after a public involvement activity to let the participants know what information was gained from this activity and how it will be used in the decision-making process. This can be accomplished by sending letters to participants, posting information on the city’s website, or through social media, or, in the case of an ongoing committee, it could be a regular agenda item.

The City also tracks comments and responses provided using the following matrix.

Add header

Project Name					
Meeting Location					
Meeting Date			Preparer		
			Date		
Committer Number	Committer Name	Date Received	Source	Comment Topic	Response
1	John Doe	1/01/20XX	Online	I think this is just what the City needs to get people out and about	Comment noted.
2	James Smith	01/20120XX	Mail	Information on the water release, cost, time tables, flood risk, environmental impact, and restoration planning; would all be very nice to know. Having the same map and diagrams 7 times was great!	The additional details mentioned will be developed once the project progresses through design. Comment noted regarding public meeting format.

Communication Strategies and Considerations for Minority, Low-Income, LEP, or Persons with Disabilities Populations

There are many ways the City can help ensure meaningful communication is provided to minority, low-income and LEP populations. One way the City can provide effective communication to the local minority, low-income, and LEP community is to tailor public involvement activities to the local population they are trying to reach. The City can tailor neighborhood meetings based on demographic information and input from stakeholder interviews. Locations should be convenient to transit, which could be a community center, a church or local recreation center.

Chart of demographic and income from the 2020 decennial Census data

Median Household Income	\$90,330	-	\$101,041	-
Average Household Income	\$114,531	-	\$125,227	-
Per Capita Income	\$45,166	-	\$50,646	-

Race and Ethnicity	Census 2020	
	Number	Percent
White Alone	61,750	67.3%
Black Alone	2,591	2.8%
American Indian	664	0.7%
Asian Alone	1,312	1.4%
Pacific Islander	159	0.2%
Some Other Race	8,183	8.9%
Two or More Races	17,130	18.7%
Hispanic (Any Race)	32,588	35.5%

All meetings should be held in ADA-compliant facilities. Invitation and meeting announcements will offer accommodations for interpreting services and other special needs upon request. Special needs could include those related to physical, mental, sensory, and other disabilities. Meetings should be set up in a format that a person with a wheelchair would be able to fully participate in all activities.

Translate Outreach Materials

A Spanish interpreter can be present to provide interpretive services for other public involvement activities, such as surveys and meetings. The City has many employees who are fluent in Spanish and are available for interpretation. The presence of the interpreter should be identified at meetings with notices posted to let participants know that this service can be made available.

Meeting materials (including exhibits, agendas, comment cards, handouts, presentations, pocket cards, postcards, newsletters, etc.) can be translated into Spanish or other languages, as needed and if requested in advance, or the interpreter would provide competent oral translation of meeting materials. Other technical exhibits could use pictograms and photos to communicate the intended message with fewer words.

Public meeting announcements should be translated into Spanish. Translated notification could be added to the English version of these announcements, indicating that interpretive services are available upon request and free of cost. The City should reconsider the effectiveness of its communication strategies and procedures every three (3) years (on the same schedule as the re-evaluation of the Title VI & LEP Plan).

Conduct Internal Monitoring

It is important to obtain informal feedback from internal as well as external stakeholders. This could be in the form of a team meeting including City staff and any consultants who may be involved in the process. Questions that could be discussed in this meeting include:

- Is the input received from the public useful in the decision-making process? If so, how has it been useful? If not, how could it be improved?
- Did the public receive the information they needed to provide meaningful input?
- Has anything occurred to warrant changes to the existing plan?
- Is the internal commitment of all parties still in place?

Obtain Feedback from Community Organizations

Community and civic organizations and businesses may be useful outlets to contact when planning and/or implementing future public involvement activities. This outreach would allow the City to determine if there have been any noticeable changes in the demographics of the population in their service area. It would provide input on whether the public involvement strategies currently in place and efforts to inform the EJ and LEP communities of the availability of language assistance are working, and to continue to inform the LEP community of new or updated language assistance.

Meeting Evaluations

A short, to-the-point questionnaire could be used at the end of public meetings to get a sense of how effective the meeting was perceived by the public. This questionnaire could be placed on the back of a comment card or provided as a separate handout. Possible questions could include:

- How did you hear about tonight's meeting?
- On a scale from 1 (did not like) to 5 (liked very much), rate the location of this meeting?
- On a scale from 1 to 5, rate the information presented and on display?
- On a scale from 1 to 5, how would you rate the "Open House" format used for tonight's meeting?
- In which language do you prefer to receive project information?
- Do you have any other comments?

Make Modifications to PPP Plan as Necessary

Based on the feedback received from the internal monitoring and feedback from community organizations, the City would likely need to make incremental changes to the public involvement strategy. Please review the LEP Plan for more information on how language assistance measures will be monitored and reevaluated.

Alamo Area Metropolitan Planning Organization (AAMPO)

AAMPO serves as the Federally designated MPO to encompass all of Bexar County, Comal County, Guadalupe County, and a portion of Kendall County. In cooperation with the Texas Department of Transportation (TxDOT) and transit operators, AAMPO develops the Transportation Improvement Program (TIP). The four-year program lists all federally funded highway and transit projects in addition to regionally significant projects. This program must also be consistent with the long-range Regional Transportation Plan. In developing the TIP, AAMPO provides citizens, affected public agencies, representatives of transportation

agencies, and other interested parties with a reasonable opportunity to comment on the proposed program. According to the Texas Administrative Code, Title 43, Chapter 16, Section 101(b), the TIP shall be updated and approved at least every two (2) years. The City of New Braunfels participates in AAMPO's planning projects by providing and listing City transit projects.

Section 10: Title VI Complaint Form

The City of New Braunfels Title VI Complaint Form is made available in the following locations :

Required:

- ☒ Agency website: www.newbraunfels.gov/titlevi
- ☒ Hard copy in the central office 550 Landa Street New Braunfels TX 78130
- ☒ Available in appropriate languages for LEP populations meeting the Safe Harbor Threshold
- ☐ Other _____

Section 11: TxDOT & FHWA Specific Requirements

The City of New Braunfels includes all standard U.S. DOT Title VI assurance clauses in project bid documents and contracts which are funded by TxDOT or U.S. Department of Transportation (DOT) dollars. The City's signed U.S. DOT Standard Title VI Assurances and related Appendices are attached below as Attachment B. Additionally, Form FHWA-1273, attached as Attachment C, shall be physically attached by the City to all Federally funded transit or construction contracts of \$10,000 or more.

Section 12: FTA Specific Requirements

Transit-related, Non-elected, Committees or Councils

The City does not have any transit-related, non-elected, planning boards, advisory councils, or committees. New Braunfels City Council provides oversight of the New Braunfels Transit District for the City.

Transit Service Provided

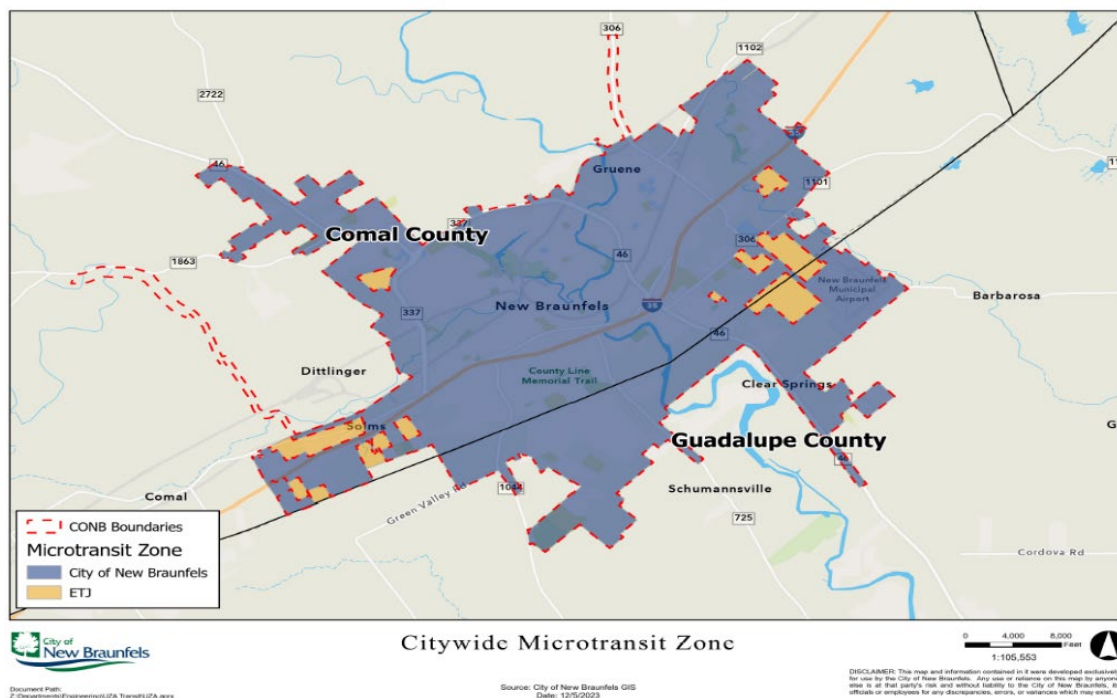
Transit services have been provided to residents of New Braunfels by Alamo Regional Transit (ART) through an Interlocal Agreement with the Alamo Area Council of Governments (AACOG) as part of the San Antonio Large Urbanized Area (UZA) since 2013. The current service is a demand-response curb-to-curb service within ART's 12-county service area.

The City will implement a microtransit, on-demand shared ride service in 2025. Transit services will be provided within the microtransit zone. This service will be provided using a turnkey operations model, and it is anticipated that eight (8) revenue service vehicles will be used. The City will coordinate with Comal and Guadalupe Counties to expand into those areas that are part of the New Braunfels UZA. The City of New Braunfels does not directly operate or own any transit vehicles and has one full-time transit employee.

Public Participation & Outreach

The City completed a Transit Development Plan (TDP) in 2023. As part of the plan, extensive outreach and community engagement were conducted. Transit surveys were conducted both in English and Spanish.

New Braunfels Microtransit Zone



Policy Fare & Services Changes

The purpose of this policy is to establish guidelines and standards to assist the New Braunfels Transit District in making decisions regarding adjustments to transit services and fares. The City will follow any Title VI requirements as set forth in FTA Circular 4702.1B as it applies to the transit agency size and number of fixed route vehicles operating in peak service, if applicable.

Policy

This policy will apply to proposed changes in fares or to a major change in service. Minor service and fare changes are excluded from this policy. Such fare and service changes proposed shall not be implemented until after public input and consideration of any comments received, and after New Braunfels City Council approval.

Public Participation

The New Braunfels Transit District will utilize the Public Participation Plan for soliciting public comments and input on proposed service changes/reductions as defined below.

Service and Fare Equity Analyses

The New Braunfels Transit District will conduct a Service and Fare Equity Analysis prior to making changes to ensure there is no disproportionate impact on access to mobility for minority or low-income populations.

Facility Construction Site Equity Analysis

The New Braunfels Transit District does not have any transit facilities.

Service Changes

A major service reduction is defined as a reduction in service of 25% or more of vehicle revenue hours of any route or demand-responsive service, including the deletion of a route or major alteration of a portion thereof.

Objective

The New Braunfels Transit District and staff will consider the impact reducing service has on customers and the community.

Major Service Reduction Process

The New Braunfels Transit District will review its public transportation service annually and the following guidelines outline the required steps for developing, evaluating, and implementing a service reduction:

1. Recommendations for major service reductions will be developed by transit staff, in keeping with this policy.
2. Transit staff will complete or have completed an analysis to evaluate the overall impact of the service reduction.
3. A public hearing is required for any major service reduction.
4. All major service reductions must be approved by the City Council.
5. Once major service reductions have been approved by the City Council, appropriate ads will be placed with local media outlets, posted on public transportation vehicles, and posted on the transit website 30 days prior to the effective date of the service reduction.

Emergencies

Notwithstanding the above policy, the City Council or City Manager may with no notice, make reductions in service in times of emergencies, such as adverse weather, mass evacuations, etc. Once the emergency has ended, the service will be returned to its pre-emergency service level. The return to pre-emergency service level may be done in stages.

Distribution of Transit Amenities

The following guidelines will be used when placing amenities at bus stops when used:

- Bus stops generating at least 20-50 daily boardings qualify for a shelter.
- Bus stops generating at least 10-15 daily boardings qualify for a bench.

Amenities may be placed at locations not meeting these guidelines if the stop is located nearby:

- Major activity/employment centers
- Hospitals or social service agencies
- Apartments with 250+ units
- Schools

- Route intersections
- Service frequency greater than 30 minutes
- Low income as defined by CDBG guidelines.

Service Standards

At this time, the City does not operate any fixed route services.

Vehicle Assignment:

As part of the New Braunfels Transit District planning process and when service changes are made, transit staff will recommend the type and size of vehicle to be used in service. Transit staff will monitor vehicles put into service in New Braunfels to ensure there are no problems with the assigned vehicles.

Fare Policy

The following objectives are designed to support the City of New Braunfels' goal and desire to keep fares affordable for public transportation customers, with the need to maximize fare revenue to help maintain and expand operations.

Fare Policy Review

The City of New Braunfels will review the fare policy and pricing with the expectation fares may be adjusted as necessary to keep pace with the rate of increase in the cost of operations. Generally, fare changes will become effective at the beginning of the fiscal year or calendar year. The City reserves the right to make fare adjustments at any time due to unexpected operational impacts. All fare adjustments will follow the process as outlined in this policy.

1. Customer/Community: City staff will consider what the impact of setting or restructuring fares have on customers and the community. The City seeks to set fares that are equitable to the widest possible range of existing and potential users. The fare structure will always take into account the socioeconomic makeup of our customers. The City will establish fares that are uniform and easy to understand for all public transportation options provided by the City.
2. Financial: Fare revenue is an important component of the operating budget for public transportation provided by the City. Fare revenue helps offset the cost of operating the system; the City's fare structure will support a predictable fare revenue stream. Presently, the New Braunfels Transit District's third-party contractor will obtain the fares received and deduct that amount from the monthly invoice. This agreement may change in the future depending on data obtained from the transit system, Rio!.
Setting or restructuring fares should ensure the total fare revenue stream is maintained at an appropriate level. The City Council and staff will consider what the financial impact of setting or restructuring fares has on the long-term sustainability of public transportation provided by the City. The City will monitor ridership, operational productivity, and efficiency and propose fare adjustments, as necessary.

Fare Change Process

The following guidelines outline the required steps for developing, evaluating, and implementing fare changes.

1. Recommendations for setting or restructuring fares will be developed by City staff, in keeping with this policy. Multi-year increases may be proposed.
2. City staff will complete or have completed an operations and ridership analysis to evaluate the overall costs of operating the service and levels of ridership.
3. Public outreach will be conducted to solicit public comments on any fare increases. Public outreach can be in the form of a public meeting, survey, social media, newspapers, and/or email, mail and phone. All public comments will be considered by the City before any fare adjustments are made.
4. All fare structure changes, adjustments or increases must be approved by the City Council.
5. Once the fare increase has been approved by City Council, appropriate notice will be placed with local media outlets, posted on public transportation vehicles and posted on the City's website 30 days prior to the effective date of the fare increase.

Monitoring Report of Service Standards and Policies

The City of New Braunfels does not have a population greater than 200,000 people, the City does not operate 50 or more vehicles. For this reason, this section is not required.

Public Engagement Process for Recipient's Title VI Policies

See The City Public Participation Policy.

Results of Service and Fare Equity Analyses

The following can be concluded based on the findings of the Title VI equity analysis for New Braunfels Transit:

- No disproportionate impact on access to mobility for minority or low-income populations
- Mobility On-Demand (MOD) service greatly increases access to mobility for all socioeconomic groups.
- The introduction of MOD service increases access to mobility for all.

City Management Approval of the Title VI Program

The Title VI Program will be presented to the City Council for approval. Once approved it will be submitted to TxDOT and FTA. Any updates or changes will be submitted upon City Council approval.

Conclusion

The Title VI Program represents the City's continued efforts to maintain strict compliance with all Title VI regulations. Furthermore, this program also shows the City's continued commitment to serving the diverse population within its service area. The City of New Braunfels strives to ensure individuals of all backgrounds have equal access to programs, services, and activities.



Attachment A Resolution



Attachment B
DOT 1050.2A Assurances

Standard Title VI/Nondiscrimination Assurances

DOT Order No. 1050.2A

The City of New Braunfels (herein referred to as the “Recipient”), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), they are subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the grounds of race, color, and national origin).
- 49 C.F.R. Part 21 (entitled Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of The Civil Rights Act of 1964).
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964).

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above General Assurance, the Recipient agrees with and gives the following Assurances with respect to its federally assisted Department of Transportation programs:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regards to an “activity”) facilitated or will be (with regards to a “facility”) operated or will be (with regards to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals (RFP) for work, or material subject to the Acts and the Regulations made in connection with all Department of Transportation (DOT) programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The City of New Braunfels, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

3. The Recipient will insert the clauses of **Appendix A** and **Appendix E** of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of **Appendix B** of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. Where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. The Recipient will include the clauses set forth in **Appendix C** and **Appendix D** of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

- a. The period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. The period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, City of New Braunfels also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the DOT access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the DOT. You must keep records, reports, and submit the material for review upon request to DOT, or its designee in a timely, complete, and accurate way.

Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.

City of New Braunfels gives this ASSURANCE in consideration of and for obtaining any federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under all Department of Transportation programs. This ASSURANCE is binding on City of New Braunfels, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in all Department of Transportation programs. The person signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Robert Camareno
City Manager, City of New Braunfels

Date

APPENDIX A

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

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

respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

Clauses for Deeds Transferring US Property

The following clauses will be included in deeds affecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the City of New Braunfels will accept title to the lands and maintain the project constructed thereon in accordance with all applicable federal statutes, the Regulations for the Administration of all Department of Transportation programs, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d- 4), does hereby remise, release, quitclaim and convey unto the City of New Braunfels all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto City of New Braunfels and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the City of New Braunfels, its successors and assigns.

The City of New Braunfels, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed and (2) that the City of New Braunfels will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may

be amended.

In the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter, or re-enter said lands and facilities on said land, and that above-described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction. *

(*Reverted clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

Clauses for Transfer Real Property Acquired or Improved under the Activity, Facility, or Program

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the City of New Braunfels pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, City of New Braunfels will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the City of New Braunfels will have the right to enter or re-enter the lands and facilities thereon, and the above-described lands and facilities will there upon revert to and vest in and become the absolute property of the City of New Braunfels and its assigns. *

(*Reverted clause and related language to be used only when it is determined that such a clause is

necessary in order to make clear the purpose of Title VI.)

APPENDIX D

Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by City of New Braunfels pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases, add, “as a covenant running with the land”) that:
 - (1) no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
 - (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
 - (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Nondiscrimination covenants, City of New Braunfels will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, City of New Braunfels will thereupon revert to and vest in and become the absolute property of City of New Braunfels and its assigns. *

(*Reverted clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX E

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

Pertinent Nondiscrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex).
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not).
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100).
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).



Attachment C
FHWA 1273 Form

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated 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. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

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, United States Code, as required in 23 CFR 633.102(b) (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). 23 CFR 633.102(e).

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. 23 CFR 633.102(e).

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) in accordance with 23 CFR 633.102. 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 solicitation-for-bids or request-for-proposals 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). 23 CFR 633.102(b).

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. 23 CFR 633.102(d).

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. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A 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 Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 230, Subpart A, 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 (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 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 Part 35 and 29 CFR Part 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. 23 CFR 230.409 (g)(4) & (5).

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, sexual orientation, gender identity, 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 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 or other knowledgeable company official.

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, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure 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. 23 CFR 230.409. 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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 thereunder. 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, sexual orientation, gender identity, 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, 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. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient 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 recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

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 more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, 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, sexual orientation, gender identity, 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), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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 (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), 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 basic hourly 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. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. 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 must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. 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 classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

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

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must 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 be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate 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 used 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) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) 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 will be sent by the contracting officer by email to DBAconformance@dol.gov. 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.

(4) 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 will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must 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.

d. *Fringe benefits not expressed as an hourly rate.* 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 may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* 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, in accordance with the criteria set forth in § 5.28, 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.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and 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.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

3. Records and certified payrolls (29 CFR 5.5)

a. Basic record requirements (1) Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) Information required. Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under paragraph 1.e. of this section 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must 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.

(4) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. Certified payroll requirements (1) Frequency and method of submission. The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) Information required. The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHDL/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) Statement of Compliance. Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working 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 [29 CFR part 3](#); and

(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(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

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

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, 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, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices (1) Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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 (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must 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, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must 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 this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. 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. 23 CFR 230.111(e)(2). 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 journeyworkers 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 as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 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 as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, 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 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 [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), 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 watchpersons 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. 29 CFR 5.5.

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 and interest from the date of the underpayment. 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 watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* 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.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, 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 that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

- a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;
- b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;
- c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or
- d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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" in paragraph 1 of Section VI 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: (based on longstanding interpretation)

- (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. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), 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. Pursuant to 23 CFR 635.116(c), 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. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

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 Part 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. 23 CFR 635.108.

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 Part 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). 29 CFR 1926.10.

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 Part 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 11, 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 (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

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. 2 CFR 180.220 and 1200.220.

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. 2 CFR 180.320.

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. 2 CFR 180.325.

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. 2 CFR 180.345 and 180.350.

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, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient 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 recipient or subrecipient 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. 2 CFR 180.330.

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. 2 CFR 180.220 and 180.300.

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. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. 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 System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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 CFR 180.325.

* * * * *

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 CFR 180.335;.

(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, 2 CFR 180.800;

(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, 2 CFR 180.700 and 180.800; 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. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. 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). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant 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. 2 CFR 180.365.

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, Subpart I, 180.900 – 180.1020, 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 recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "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 recipient or subrecipient 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. 2 CFR 1200.220 and 1200.332.

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. 2 CFR 180.220 and 1200.220.

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 System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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. 2 CFR 180.325.

* * * * *

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

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should 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 Part 20, App. A.

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.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor 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. 46 CFR 381.7.

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 Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

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.