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Committed to the future of rural communities

Rural Development is an Equal Opportunity Lender, Provider, and Employer. Complaints of discrimination should be sent to USDA, Director, Office of Civil Rights, Washington, D. C. 20250-9410

SUBJECT: **ARCHITECTURAL TECHNICAL GUIDE 0010 (January 1, 2005)**
List of Exhibits Required to Be Included in the Construction Contract Documents (Project Manual) for New and Existing Construction Projects
Funded by the Rural Rental Housing Program and Farm Labor Housing Program

PURPOSE:

The purpose of this Architectural Technical Guide (ATG) is to itemize construction related exhibits required by Rural Development to be included in the construction contract documents for projects funded by Multi-Family Housing Programs. These exhibits would normally appear in the " front boilerplate" section of the project manual prepared by the project architect. This list should not be considered all-inclusive, but rather, augmentative.

IMPLEMENTATION RESPONSIBILITIES:

The attached document, *"U.S. Department of Agriculture, Rural Development, Rural Housing Service.....Construction Documents - Boilerplate Forms",* should be included in the "front boilerplate" section of the project manual for each project funded by the Rural Rental Housing Program and the Farm Labor Housing Program. It should be modified as appropriate to reflect the actual bidding condition and development method being utilized for the specific project.

Any questions in this regard should be referred to the Rural Development State Architect.

DAVID W. RIGIROZZI
State Architect
USDA/Rural Development

Attachment: *"U.S. Department of Agriculture, Rural Development, Rural Housing Service.....Construction Documents - Boilerplate Forms"*

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U.S. DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
Rural Housing Service
Colorado State Office

MULTI-FAMILY HOUSING PROGRAMS
Section 515 Rural Rental Housing Lending Program
Sections 514 and 516 Farm Labor Housing Lending Programs

THIS PACKET CONTAINS:

Table of Contents
Construction Documents - Boilerplate Forms

U.S. DEPARTMENT OF AGRICULTURE
RURAL HOUSING SERVICE

MULTI-FAMILY HOUSING PROGRAMS

Table of Contents: Construction Documents - Boilerplate Forms

Rural Development Instruction 1924-A exhibits modify selected documents published by the American Institute of Architects (AIA) to conform with USDA/Rural Development/Rural Housing Service (RHS) regulations and policies. The AIA documents, with applicable RHS modifications, may be used for RHS-financed building construction projects. The AIA documents, which are copyrighted, must be used in accordance with current AIA copyright rules. No AIA documents are, therefore, included in this set of documents. RHS documents may be copied as needed without prior written consent from the RHS.

The need to witness agreements depends upon State and local requirements for validation of the documents. Where appropriate, a copy of the resolution authorizing the individual to act on behalf of the firm or entity should be attached to the agreement.

The Rural Housing Service (RHS) is a federal agency operating under the authorities of the Rural Development mission area of the United States Department of Agriculture. All construction related documents bearing RHS concurrence signature blocks should use the wording, "Rural Housing Service" in lieu of "Rural Development".

Construction documents for RHS Rural Rental Housing Program and Farm Labor Housing Program funded construction projects should contain the following documents in addition to other required exhibits. It is preferred that these appear at the front of the construction project manual and be indexed in the project manual:

Table of Contents	RD Colorado Form, Table of Contents: Construction Documents – Boilerplate Forms
Invitation for Bids	RD Colorado Form, Invitation for Bids
Instructions to Bidders	AIA Document A701, 1997 Edition (Included by reference)
Attachment to AIA Document A701-1997, Instructions to Bidders	RD Colorado Form, Attachment to….Bidders
Bid	RD Colorado Form, Bid
Bid Bond	RD Colorado Form, Bid Bond
Bidders Qualification Statement	RD Colorado Form, Bidder's Qualification Statement

Performance Bond	RD Colorado Form, Performance Bond
Payment Bond	RD Colorado Form, Payment Bond
Notice of Award	RD Colorado Form, Notice of Award
Standard Form of Agreement between Owner and Contractor	AIA Document A101, 1997 Edition (Included by reference)
Attachment to AIA Document A101-1997, Standard Form of Agreement between Owner and Contractor	RD Colorado Form, Attachment to…..Contractor
Certificate of Owner's Attorney	RD Colorado Form Certificate of Owner's Attorney
Contract Concurrence	RD Colorado Form, Contract Concurrence
General Conditions of the Contract for Construction	AIA Document A201, 1997 Edition (Included by reference)
Attachment to AIA Document A201-1997, General Conditions of the Contract for Construction	RD Colorado Form, Attachment to AIA Document A201-1997, General…..Construction
Notice to Proceed	RD Colorado Form, Notice to Proceed
Compliance Statement	Form RD 400-6 .pdf format version available @ http://rdinit.usda.gov/regs/forms/0400-06.pdf
Equal Opportunity Clause/Goals and Timetables for Women and Minorities/Equal Employment Opportunity Contract Compliance Notices	RD Colorado Form, Equal Opportunity Clause/Goals and Timetables for Women…..Compliance Notices
United States Department of Agriculture, USDA Financed Contract	RD Colorado Form, USDA Financed Contract
United States Department of Labor, Office of Federal Contract Compliance Programs	Equal Employment Opportunity Requirements
Davis-Bacon Act Labor Standards Provisions (Applicable for Farm Labor Housing grant funds only)	RD Instruction 1940-C, Exhibit A
Davis-Bacon Act: Requesting Special Classification Rates (Applicable for Farm Labor Housing grant funds only)	RD Colorado Form Requesting Davis-Bacon Act Special Wage Rates from the U.S. Department of Labor
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions	Form AD 1048 .pdf format version available @ http://rdinit.usda.gov/regs/forms/1048.pdf

New Restrictions on Lobbying	RD Instruction 1940-Q, Exhibit A .pdf format version available @ http://rdinit.usda.gov/regs/regs/exh/ex1940q.pdf
Disclosure of Lobbying Activities	SF-LLL pdf format version available @ http://www.whitehouse.gov/omb/grants/sflllin.pdf
Certification for Contracts, Grants and Loans	RD Instruction 1940-Q, Exhibit A-1
Environmental Requirements during the Construction Period	RD Colorado Form, Environmental Requirements during the Construction Period
USDA Concurrence with Application for Periodic Payment	RD Colorado Form, USDA Concurrence with Application for Periodic Payment
Builder's Warranty	RD Colorado Form, Builder's Warranty
Construction Sign Design	RD Colorado Form, Construction Sign Design
Additional USDA/Rural Development Conditions	RD Colorado Form, Additional USDA/ Rural Development Conditions
Estimate of Funds Needed	RD Colorado Form, Estimate of Funds Needed
Acknowledgement of the Receipt of Full Payment of the Contract for Construction	(Untitled form) Form RD 1924-9 pdf format version available @ http://rdinit.usda.gov/regs/forms/1924-09.pdf
Release by Claimants	Form RD 1924-10 pdf format version available @ http://rdinit.usda.gov/regs/forms/1924-10.pdf
Latent Defects and Maintenance Bonds (applicable in selected cases where performance and payment sureties have been waived)	RD Colorado Form, Guidance on Latent Defects or Maintenance Bonds

[NOTE: The terms, "Rural Development" and "RD" refer to an U.S. Department of Agriculture mission area, which oversees the operation of the Rural Housing Service (RHS).]

******

INVITATION FOR BIDS

_____
(Name of Owner)

_____

_____
(Address, Including ZIP Code)

SEALED BIDS, subject to the conditions contained herein, will be received until _____ (a.m./p.m.)

(Standard Time - Daylight Savings Time) _____, _____
(Date) (Year)

at the office of

_____

_____ and then publicly opened and read aloud, for furnishing all materials and performing all work for the construction of (briefly

describe the nature, scope, and major elements of the work) _____

_____

_____

The Construction Contract Documents may be obtained at the following location _____

_____ upon payment of $_____

for each set and examined at the following location(s): _____

_____

_____

Any Bidder, upon returning the Construction Contract Documents promptly and in good condition, will be refunded the payment , and any non-bidder upon so returning the Construction Contract Documents will be

refunded $_____.

_____
Date

Bids must be submitted on the Bid Form and the successful Bidder will be required to execute American Institute of Architect (AIA) Document, A101-1997, *"Standard Form of Agreement Between Owner and Contractor"*, as modified by U.S. Department of Agriculture (USDA), Rural Development (RD), Instruction 1942-A, Guide 27, Attachment 3, *"Attachment to AIA Document A101-1997, Standard Form of Agreement Between Owner and Contractor",* as accompanied by an executed USDA RD 400-6, *"Compliance Statement"*, and as supplemented by 41 CFR Part 60-4, *"Equal Employment Opportunity Contract Compliance Notices"*, 61 CFR Part 60-4, *"Goals and Timetables for Minorities and Women",* and 41 CFR 60-1.4 (a) and (b), "Equal Opportunity Clause". Bids must be also be accompanied by USDA Form, *"Bidders Qualification Statement"*.

******

ATTACHMENT TO AIA DOCUMENT A701-1997, *INSTRUCTIONS TO BIDDERS*

The provisions of this Attachment shall delete, modify and supplement the provisions contained in the "*Instructions to Bidders*," AIA Document A701-1997 Edition. The provisions contained in this Attachment will supersede any conflicting provisions of the AIA Document. The term "Agency," as used in this Attachment, means the United States of America, acting through the United States Department of Agriculture.

ARTICLE 2, BIDDER'S REPRESENTATIONS

Add the following subparagraph:

2.1.5 This Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

ARTICLE 4, BIDDING PROCEDURES

Add the following to subparagraph 4.1.1:

Only one copy of the Bid is to be submitted.

Delete subparagraph 4.2.1 and substitute the following:

4.2.1 Each Bid must be accompanied by a Bid Bond payable to the Owner for five percent of the total amount of the Bid.

Delete subparagraph 4.2.2 and substitute the following:

4.2.2 The Bid Bond shall be written on a form identical to that included in the Bidding Documents, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney.

Add the words “payment and performance” before the word “bonds”; and add the following to subparagraph 4.2.3:

As soon as the Bid prices have been compared, the Owner will return the Bonds of all except the three lowest responsible Bidders. When the Agreement is executed, the bonds of the two remaining unsuccessful bidders will be returned. The Bid Bond of the successful Bidder will be retained until the Payment Bond and Performance Bond have been executed and approved, after which it will be returned.

Add the following to subparagraph to paragraph 4.2:

4.2.4 In the case of failure of the Bidder to execute the Agreement and obtain the Performance Bond and Payment Bond within the agreed time, the Owner may consider the Bidder in default, in which case the Bid Bond accompanying the bid shall become the property of the Owner.

Add the following subparagraphs to paragraph 4.3:

4.3.5 All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Contract throughout.

4.3.6 The Bidder agrees to abide by the requirements under Executive Order No. 11246, as amended, including specifically the provisions of the Equal Opportunity Clause and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in the Supplementary Conditions.

4.3.7 Further, the Bidder agrees to abide by the requirements of section 319 of Public Law 101-121, which pertains to lobbying activities and applies to the recipients of contracts or subcontracts that exceed $100,000 at any tier under a Federal loan that exceeds $150,000 or a Federal Grant that exceeds $100,000. Each Bid shall be accompanied by a completed lobbying certification form identical to that included in the Bidding Documents.

4.3.8 The Bidder agrees to abide by the requirements under 7 C.F.R. part 3017, which pertains to the debarment or suspension of a person from participating in a Federal program or activity. Each Bid exceeding $25,000 shall be accompanied by a relevant completed certifications form identical to that included in the Bidding Documents.

Delete subparagraph 4.4.1 and substitute the following:

4.4.1 No Bidder may withdraw, modify or cancel a Bid within 60 calendar days after the actual date of the opening thereof. Should there be reasons why the Contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the Owner and the Bidder, and the concurrence of the Agency.

Delete the words ", if required," from subparagraph 4.4.4.

ARTICLE 5, CONSIDERATION OF BIDS

Delete subparagraph 5.3.2 and substitute the following:

5.3.2 The Owner shall have the right to accept Alternates in the sequence listed and to determine the low Bidder on the basis of the sum of the Base Bid and the Alternates accepted.

ARTICLE 7, PERFORMANCE BOND AND PAYMENT BOND

Delete subparagraph 7.1.1 and substitute the following:

7.1.1 Prior to execution of the Contract, the Bidder shall furnish bonds covering the faithful performance of the Contract and the payment of any obligations arising thereunder in such form and amount as the Owner may prescribe. Both bonds shall be separately written, each in the amount of the contract sum. The cost shall be included in the Bid.

Delete subparagraph 7.1.2 and substitute the following:

7.1.2 Surety companies executing bonds must hold a certificate of authority as an acceptable surety on Federal Bonds as listed in Treasury Circular 570, as amended, and be authorized to transact business in the State where the Project is located.

Delete subparagraph 7.1.3.

Delete subparagraph 7.2.1 and substitute the following:

7.2.1 The party to whom the Contract is awarded will be required to execute the Agreement and obtain a Performance Bond and Payment Bond within ten (10) calendar days from the date when the Notice of Award is delivered to the Bidder. The Notice shall be accompanied by the necessary Agreement and Bond forms.

Delete subparagraph 7.2.2 and substitute the following:

7.2.2 The bonds shall be written on forms identical to those included in the Bidding Documents.

(NOTE: Any additional provisions that are necessary to remain effective after execution of the Contract for Construction will be inserted here and continue in the same format.)

*****

BID

_____ _____
(Name of Owner) (Date)

_____

_____

(Address, Including ZIP Code)

In compliance with your Invitation for Bids dated _____, the undersigned (hereinafter called "Bidder"), organized and existing under the laws of the State of Colorado doing business as

_____
(insert "a corporation", "a partnership", or "an individual" as applicable)

hereby proposes to _____
(hereinafter called "Owner")

to furnish the material and perform in a workmanlike manner all the work for _____

_____

in strict accordance with the Construction Contract Documents within the time set forth therein for the consideration as follows:

Item	Price
_____	$_____*
_____	_____*
_____	_____*

(* NOTE: Bids shall include all applicable sales taxes and fees)

Bidder agrees, and in the case of a joint bid each party thereto certifies as to its own organization, by submission of this Bid, that this Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

Bidder agrees, upon the acceptance of this bid within _____ calendar days after the date of opening of the bids, to execute American Institute of Architects (AIA) Document A101-1997, "Standard Form of Agreement Between Owner and Contractor", in accordance with the bid as accepted, and will furnish RD Colorado Form, "Performance Bond", and RD Colorado Form, "Payment Bond", when required, with good and sufficient surety or sureties, within ten (10) days after the contract has been presented for signature.

Bidder further agrees that if awarded the contract to commence work under this contract on or before a date to be

specified in the "Notice to Proceed" and to fully complete the project within _____ consecutive calendar days thereafter.

Bidder further agrees to pay as liquidated damages, the sum of $_____ for each consecutive calendar day thereafter as provided in AIA Document A101-1997, "Standard Form of Agreement Between Owner and Contractor".

Bidder acknowledges receipt of the following Addenda:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Respectfully submitted by _____ _____
(Signature) (Signature)

_____ _____
(Typed or Printed Name) (Typed or Printed Name)

_____ _____
(Business Name) (Business Name)

_____ _____

_____ _____
(Business Address) (Business Address)

_____ _____
(Business Telephone) (Business Telephone)

_____ _____
(License Number) (License Number)

(SEAL - if Bid is by a corporation) (SEAL - if Bid is by a corporation)

******

BID BOND

KNOW ALL MEN AND WOMEN BY THESE PRESENTS, that we, the undersigned, _____

_____ as Principal, and _____

_____ as Surety, are hereby held and firmly bound unto _____

_____ as Owner, in the penal sum of _____

_____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors, and assigns.

Signed, this _____ of _____.
(Day) (Year)

The Condition of the above obligation is such that whereas the Principal has submitted to _____

_____ a certain Bid, attached hereto and hereby made a part hereof enter into a

contract in writing, for the _____

_____

_____

_____

_____

NOW THEREFORE,

(a) If said Bid shall be rejected, or

(b) If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attachment hereto (properly completed in accordance with said Bid) and shall furnish a Bond for faithful performance of said contract, and for the payment of all persons performing labor and/or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect: it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hand and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

_____ (L.S.)
Principal

_____
Surety

By _____

[IMPORTANT: Surety companies executing Bonds must appear on the U.S. Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Colorado. Power of Attorney must be attached.]

******

BIDDERS QUALIFICATION STATEMENT

The undersigned certifies under oath the truth and correctness of all statements and of all answers to questions made hereinafter.

SUBMITTED TO: _____
(Name of Owner)

SUBMITTED BY: _____
(Name of Bidder)

_____
(Address of Bidder)

CHECK ONE:
_____ Corporation
_____ Partnership
_____ Individual
_____ Joint Venture
_____ Other _____

1. How many years has your organization been in business as a General Contractor? ___

2. How many years has your organization been in business under its present business name? ____

3. If a Corporation, answer the following:

   Date of Incorporation: _____

   State of Incorporation: _____

   President: _____

   Vice-President(s): _____

   Secretary: _____

   Treasurer: _____

4. If a Partnership, answer the following:

Date of Organization:

_____

Type of Partnership:

_____
(General/Limited/Assoc.)

Name and address of all partners: _____

_____

_____

_____

5. If other than a Corporation or Partnership, describe organization and name principals:

_____

_____

_____

6. What percent of the work do you normally perform with your own forces? _____

List trades: _____

_____

_____

_____

_____

_____

_____

7. Have you ever failed to complete any work awarded to you? If so, indicate when, where, and why:

_____

_____

_____

_____

8. Has any officer or partner of your organization ever been an officer or partner of another organization that failed to complete a construction contract? _____

If so, what were the circumstances: _____

_____

_____

_____

9. List major construction projects your organization has under contract on this date:

Project Name	Owner	A/E	Contract Amount	Contract Date	Percent Complete	Scheduled Completion

10. List major construction projects your organization has completed in the past five years:

Project Name	Owner	A/E	Contract Amount	Date Awarded	Date Completed	Percent of Own Forces

11. List the construction experience of the principal individuals in your organization:

Individual's Name	Construction Experience (years)	Present position & Years Experience	Dollar volume Responsibility	Previous position & Years Experience

12. List states and categories in which your organization is legally qualified to do business: _____

_____

_____

_____

13. Bank references:

_____

_____

_____

_____

14. Trade references:

_____

_____

_____

15. Name of bonding and insurance companies and name and address of agents:

Name of Company	Name of Agent	Address of Agent	Maximum Bonding Capacity

16. The undersigned agrees to furnish, upon request by the owner, within 24 hours after the bid opening, a current Statement of Financial Conditions, including the contractor's latest regular dated financial statement or balance sheet which must contain the following items:

Current assets: (Cash, joint venture accounts, accounts receivable, notes receivable, accrued interest on notes, deposits, and materials, and prepaid expenses), net fixed assets and other assets.

Current liabilities: (Accounts payable, notes payable, accrued interest on notes, provision for income taxes, advances received from owners, accrued salaries, accrued payroll taxes), other liabilities, and capital (capital stock, authorized and outstanding shares par values, earned surplus).

Date of statement or balance sheet: _____

Name of firm preparing statement: _____

By:

_____
(Agent and capacity)

17. Dated at _____ this

_____ day of _____.
(Day) (Year)

Name of Organization:
_____

By:
_____

Title:
_____

18. NOTARIZATION:

State of _____

County of _____

M _____ being duly sworn deposes and says that (he/she) is the

_____ of _____ Contractor(s) and that the answers to the foregoing questions and all statements therein contained are true and correct.

Subscribed and sworn before me this

_____ day of _____.
(Day) (Year)

Notary Public: _____

My Commission Expires: _____

******

PERFORMANCE BOND

KNOW ALL PERSONS THESE PRESENTS: that

_____
(Name of Contractor)

_____
(Address of Contractor)

a _____, hereinafter called
(Corporation, Partnership, or Individual)
Principal, and

_____
(Name of Surety)

_____
(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

_____
(Name of Owner)

_____
(Address of Owner)

hereinafter called Owner, and the United States of America acting through the U.S. Department of Agriculture, Rural Housing Service, hereinafter referred to as the Government, in the total aggregate penal sum of

_____

_____ Dollars ($_____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated

_____ of _____, a copy of which is
(Day) (Year)
hereto attached and made a part hereof for the construction of: _____

_____

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, or Government, with or without notice to the Surety and during the one year guaranty period and if the Principal shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner and Government from all cost and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner and Government all outlay and expense which the Owner and Government may incur in making good any default, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the liability of the Principal and Surety hereunder to the Government shall be subject to the same limitations and defenses as may be available to them against a claim hereunder by the Owner, provided, however, that the Government may, at its option, perform any obligations of the Owner required by the contract.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to Work to be performed thereunder or the Specifications accompanying same shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications.

PROVIDED, FURTHER, that it is expressly agreed that the Bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the Principal and the Surety to the full and faithful performance of the Contract as so amended. The term “Amendment”, wherever used in this Bond, and whether referring to this Bond, the Contract or the Loan Documents shall include any alteration, addition, extension or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the Owner or Government and the Principal shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied. The Owner and Government are the only beneficiaries hereunder.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which shall be deemed an original, this the

_____ of _____.
(Day) (Year)

ATTEST:

_____ _____
(Principal) Secretary Principal

(SEAL)

By _____(s)

_____

_____ _____
(Witness as to Principal) (Address)

_____
(Address)

_____ _____
Surety

ATTEST:

_____ By _____
Witness to Surety Attorney-in-Fact

_____ _____
(Address) (Address)

_____ _____

NOTE: Date of Bond must not be prior to the date of Contract.
If Contractor is partnership, all partners should execute Bond.

[IMPORTANT: Surety companies executing Bonds must appear on the U.S. Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Colorado. Power of Attorney must be attached.]

******

PAYMENT BOND

KNOW ALL PERSONS THESE PRESENTS: that

_____
(Name of Contractor)

_____
(Address of Contractor)

a _____, hereinafter called
(Corporation, Partnership, or Individual)
Principal, and

_____
(Name of Surety)

_____
(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

_____
(Name of Owner)

_____
(Address of Owner)

hereinafter called Owner, and the United States of America acting through the U.S. Department of Agriculture, Rural Housing Service, hereinafter referred to as the Government, and unto all persons, firms, and corporations who or which may furnish labor, or who furnish materials to perform as described under the contract and to their successors and assigns in the total aggregate penal sum of

_____

_____ Dollars ($_____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated

_____ of _____, a copy of which is
(Day) (Year)
hereto attached and made a part hereof for the construction of: _____

_____

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, and corporations furnishing materials for or performing labor in the prosecution of the Work provided for in such contract, and any authorized extensions or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such Work, and for all labor cost incurred in such Work including that by a Subcontractor, and to any mechanic or materialman lienholder whether it acquires its lien by operation of State or Federal law; then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, that beneficiaries or claimants hereunder shall be limited to the Subcontractors, and persons, firms, and corporations having a direct contract with the Principal or its Subcontractors.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the Work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this contract or to the Work or to the Specifications.

PROVIDED, FURTHER, that no suit or action shall be commenced hereunder by any claimant: (a) Unless claimant, other than one having a direct contract with the Principal (or with the Government in the event the Government is performing the obligations of the Owner), shall have given written notice to any two of the following: The Principal, the Owner, or the Surety above named within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner, or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer. (b) After the expiration of one (1) year following the date of which Principal ceased work on said Contract, is being understood, however, that if any limitation embodied in the Bond is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

PROVIDED, FURTHER, that it is expressly agreed that the Bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the Principal and the Surety to the full and faithful performance of the Contract as so amended. The term “Amendment”, wherever used in this Bond, and whether referring to this Bond, the Contract or the Loan Documents shall include any alteration, addition, extension or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the Owner or Government and the Principal shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied. The Owner and Government are the only beneficiaries hereunder.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which shall be deemed an original, this the

_____ of _____.
(Day) (Year)

ATTEST:

_____ _____
(Principal) Secretary Principal

(SEAL)

By _____(s)

_____

_____ _____
(Witness as to Principal) (Address)

_____
(Address)

_____ _____
Surety

ATTEST:

_____ By _____
Witness to Surety Attorney-in-Fact

_____ _____
(Address) (Address)

_____ _____

NOTE: Date of Bond must not be prior to the date of Contract.
If Contractor is partnership, all partners should execute Bond.

[IMPORTANT: Surety companies executing Bonds must appear on the U.S. Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Colorado. Power of Attorney must be attached.]

******

NOTICE OF AWARD

TO: _____

_____

_____

_____

_____

The Owner has considered the Bid submitted by you for the above-described Work in response to its Advertisement for Bids dated

_____, and Instructions to Bidders and Supplementary Instructions to Bidders.
(Date)

You are hereby notified that your Bid has been accepted for items in the amount of $_____.

You are required by the Instructions to Bidders and Supplementary Instructions to Bidders to execute the Agreement and furnish the required Performance Bond, Payment Bond, and Certificates of Insurance within ten (10) calendar days from the date of this Notice of Award to you.

If you fail to execute said Agreement and to furnish said Bonds within ten (10 days from the date of this Notice of Award, said Owner will be entitled to consider all your rights arising out of the Owner's acceptance of your Bid as abandoned and as a forfeiture of your Bid Bond. The Owner will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this Notice of Award to the Owner.

Dated this _____ day of _____
(Day) (Date)

_____
(Owner)

By
_____

Title
_____

ACCEPTANCE OF NOTICE

Receipt of the above Notice of Award is hereby acknowledged

By

_____
(Contractor signature)

This _____ of _____,
(Day) (Date)

By

_____

Title

_____

******

ATTACHMENT TO AIA DOCUMENT A101-1997,
Standard Form of Agreement Between Owner and Contractor

The provisions of this Attachment shall delete, modify and supplement the provisions contained in the "*Standard Form of Agreement Between Owner and Contractor*", AIA Document A101-1997 Edition. The provisions contained in this attachment shall supersede any conflicting provisions of the AIA Document.

ARTICLE 3, DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

Delete paragraph 3.1 and substitute the following:

3.1 The date of commencement shall be contained in the Notice to Proceed.

Add the following to paragraph 3.3:

If the work is not substantially complete on or before this date, or within this period of time, or extension thereof granted by the Owner, damage will be sustained by the Owner and that it is and will be impracticable and extremely difficult to fix the actual damage which the Owner will sustain in the event of and by reason of such delays. The Contractor shall pay to the Owner liquidated damages in the sum of $ _____ for each calendar day of delay. Any sums that may be due the Owner as liquidated damages may be deducted from any monies due or to become due the Contractor under the Contract or may be collected from the Contractor's surety.

ARTICLE 5, PAYMENTS

Insert "ten" and "10" in the appropriate spaces in clauses 5.1.6.1 and subparagraph 5.1.6.2.

Delete the last sentence of clause 5.1.6.1.

Delete the following from clause 5.1.6.2:

(or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing)

Delete subparagraph 5.1.8.

ARTICLE 8, ENUMERATION OF CONTRACT DOCUMENTS

The following Documents should be referenced, if applicable:

Subparagraph 8.1.3:

Attachment to the *Standard Form of Agreement Between Owner and Contractor* (RD Instruction 1924-A, Guide 1, Attachment 6)
General Conditions of the Contract for Construction, AIA A201-1997
Attachment to the *General Conditions of the Contract for Construction* (RD Instruction 1924-A, Guide 1, Attachment 10)
Special Conditions

Subparagraph 8.1.7:

Advertisement for Bids (RD Instruction 1924-A, Guide 1, Attachment 1)
Instructions to Bidders, AIA A701.1997
Attachment to the *Instructions to Bidders* (RD Instruction 1924-A, Guide 1, Attachment 2)
Bid (RD Instruction 1924-A, Guide 1, Attachment 3)
Bid Bond (RD Instruction 1924-A, Guide 1, Attachment 4)
Compliance Statement (Form RD 400-6)
Payment Bond (RD Instruction 1924-A, Exhibit F)
Performance Bond (RD Instruction 1924-A, Exhibit G)
Notice of Award (RD Instruction 1924-A, Guide 1, Attachment 5)
Identity of Interest (IOI) Disclosure Certificate (Form RD 1944-30)
Identity of Interest (IOI) Qualification (Form RD 1944-31)
Contract Concurrence (RD Instruction 1924-A, Guide 1, Attachment 8)
Labor Standards Provisions (RD Instruction 1940-C, Exhibit A)
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (Form AD 1048)
Standard Form-LLL, "Disclosure of Lobbying Activities" (RD Instruction 1940-Q, Exhibit A)
Certification for Contracts, Grants and Loans (RD Instruction 1940-Q, Exhibit A-1)

*****

CERTIFICATE OF OWNER'S ATTORNEY

I, the undersigned, _____, the duly authorized and acting legal representative of _____ _____, do hereby certify as follows:

I have examined the attached Contract(s) and Performance and Payment Bond(s) and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions, and provisions thereof.

_____

Date:_____

(NOTE: Delete phrase "Performance and Payment Bonds" when not applicable.)

[WARNING: Title 18 U.S.C. 1001 provides in part that whoever knowingly and willfully makes or uses a document containing any false, fictitious, or fraudulent statement or entry, in any matter in the jurisdiction of any department or agency of the United States of America, shall be fined not more than $10,000 or imprisoned for not more than five years or both.]

*****

CONTRACT CONCURRENCE

The United States of America, as potential lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, hereby concurs in the form, content, and execution of this Contract.

U.S. Department of Agriculture
Rural Development
Rural Housing Service

_____
Date

_____
Rural Development Official

_____
Title

This Contract shall not be in full force and effect until concurred with by the State Director or the State Director's delegate, Rural Development, U. S. Department of Agriculture.

*****

ATTACHMENT TO AIA DOCUMENT A201-1997,
General Conditions of the Contract for Construction

The provisions of this attachment shall delete, modify and supplement the provisions contained in the "*General Conditions of the Contract for Construction*," AIA Document A201-1997 Edition. The provisions contained in this attachment will supersede any conflicting provisions of the AIA Document. The term "Agency," as used in this Attachment, shall mean the United States of America, acting through the United States Department of Agriculture.

ARTICLE 1, GENERAL PROVISIONS

Add the following subparagraph:

1.2.4 Concurrence of the Contract by the Agency is required before it is effective and the "Concurrence" statement shall be attached to and made a part of the Agreement.

ARTICLE 2, OWNER

Delete subparagraph 2.2.5 and substitute the following:

2.2.5 The Contractor will be furnished, free of charge, five (5) copies of the Drawings and Projects Manuals necessary for execution of the Work. Additional copies will be available from the Architect at the cost of reproduction.

ARTICLE 3, CONTRACTOR

Delete subparagraph 3.7.1 and substitute the following:

The Owner shall secure and pay for the health and environmental impact fees due to water and sewer connections, and the zoning regulation fees and permits. The Contractor shall secure and pay for the building, mechanical, electrical, and plumbing permits and other governmental fees, licenses, and inspections necessary for proper execution of and completion of the Contract which are legally required when bids are received or negotiations concluded.

ARTICLE 4, ADMINISTRATION OF THE CONTRACT

Delete the last sentence of subparagraph 4.1.1 and substitute the following:

The term "Architect" means the Architect or the Engineer, when the nature of the work is within the authority granted engineers by the State licensure law, or an authorized representative.

Add the words "may be" after "on the parties but" in the last sentence of subparagraph 4.4.5.

Replace the word "shall" with the word "may" in the first and second sentences of subparagraph 4.6.1.

Delete subparagraph 4.6.2 and substitute the following:

4.6.2 The arbitration provisions of this section may be initiated by either party to this Contract by filing with the other party and the Architect a written request for arbitration. The other party may accept or reject the request by filing a written answering statement with the requesting party and the Architect within fourteen (14) calendar days of receipt of such request. If the request is accepted the provisions of this section will apply. If the request is rejected or an answering statement is not filed within the fourteen (14) day period, the provisions of this section will not apply.

4.6.2.1 Within fourteen (14) calendar days or any mutually agreeable time period thereafter, each party to this Contract will appoint one arbitrator. Within fourteen (14) calendar days or any mutually agreeable time period thereafter, the two arbitrators will select a third arbitrator. Failure to appoint the arbitrator(s) within the mutually agreeable time period will terminate further actions under this section.

4.6.2.2 The arbitrators will select a hearing location as close to the Owner's locale as possible.

4.6.2.3 The Procedure for conducting the hearings will follow the Construction Industry Arbitration Rules of the American Arbitration Association.

Delete subparagraphs 4.6.3, 4.6.4 and 4.6.5.

ARTICLE 5, SUBCONTRACTORS

Delete the first sentence of subparagraph 5.2.2 and substitute the following:

The Contractor shall not contract with any party who is suspended or debarred by any Federal government agency from participating in Federally assisted construction projects or to whom the Owner or the Architect has made reasonable and timely objection.

ARTICLE 7, CHANGES IN THE WORK

Delete the words ", Construction Change Directive" from subparagraph 7.1.1.

Insert the words ", Agency " after the word "Owner," and delete the words "; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor" in subparagraph 7.1.2.

Delete the words "Construction Change Directive" from subparagraph 7.1.3.

Delete subparagraph 7.2.1 and substitute the following:

7.2.1 A Change Order is a written order to the Contractor utilizing Form RD 1924-7, "Contract Change Order," signed by the Owner, Architect, Contractor, and the Agency representative. It is issued after the execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. The Contractor's signing of a Change Order indicates complete agreement therein. When the Contract Sum is based on unit price, a unit bid quantity may be increased or decreased by a maximum of twenty percent (20%) without invalidating the unit price.

Delete subparagraph 7.2.2 and substitute the following:

7.2.2 Methods used in determining adjustments to the Contract Sum may include any of the following:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluating.

.2 Unit prices stated in the Contract Documents or subsequently agreed upon.

Delete paragraph 7.3 in its entirety.

ARTICLE 8, TIME

Add the following subparagraphs:

8.2.4 The Notice to Proceed shall be issued within twenty (20) calendar days of the execution of the Agreement by the Owner. Should there be reasons why the Notice to Proceed cannot be issued within such period, the time may be extended by mutual agreement the Owner and Contractor, with the concurrence of the Agency. If the Notice to Proceed has not been issued within the twenty (20) calendar day period or within the period mutually agreed, the Contractor may terminate the Agreement without further liability on the part of either party.

8.3.4 As outlined in Article 3 of the Agreement, the Contractor agrees to pay liquidated damages to the Owner for each calendar day the Contractor shall be in default.

ARTICLE 9, PAYMENTS AND COMPLETION

Delete clause 9.3.1.1 and substitute the following:

9.3.1.1 Work performed and materials supplied under a Change Order may be included for payment only after the Change Order has been approved by all appropriate parties, including the Agency.

Delete Subparagraph 9.3.2 and substitute the following:

9.3.2 Unless otherwise provided in the Contract documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. Payment shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest.

Add the words ", using AIA Document 702, 'Application and Certificate for Payment' or Form RD 1924-18, 'Partial Payment Estimate'," after "Certificate for Payment" in subparagraph 9.4.1.

Add the following subparagraph:

9.6.8 No progress payments will be made that deplete the retainage, nor place in escrow any funds that are required for retainage, nor invest the retainage for the benefit of the Contractor. Retainage will not be adjusted until after construction is substantially complete.

Replace the word "seven" with the words "thirty (30)" in the first sentence , third line of subparagraph 9.7.1.

Add the words ", in collaboration with the Agency," after "prepare" in the first sentence of subparagraph 9.8.4.

Delete subparagraph 9.8.5 and substitute the following:

9.8.5 When the Work has been substantially completed, except for Work which cannot be completed because of weather conditions, lack of materials or other reasons, which, in the judgement of the Owner, are valid reasons for non-completion, the Owner may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the Work still to be completed.

Delete subparagraphs 9.9.1 through 9.9.3 and substitute the following:

9.9.1 The Contractor agrees to the use and occupancy of a portion or unit of the Project before formal acceptance by the Owner under the following conditions:

.1 A "Certificate of Substantial Completion" shall be prepared and executed as provided in subparagraph 9.8.4, except that when, in the opinion of the Architect, the Contractor is chargeable with unwarranted delay in completing the Work or other Contract requirements, the signature of the Contractor will not be required. The Certificate of Substantial Completion shall be accompanied by a written endorsement of the Contractor's insurance carrier and surety permitting occupancy by the Owner during the remaining period of the Project Work. Occupancy by the Owner shall also be authorized by public authorities having jurisdiction over the Work.

.2 Occupancy by the Owner shall not be construed by the Contractor as being an acceptance of that part of the Project to be occupied.

.3 The Contractor shall not be held responsible for any damage to the occupied part of the Project resulting from the Owner's occupancy.

.4 Occupancy by the Owner shall not be deemed to constitute a waiver of existing claims in behalf of the Owner or Contractor against each other.

1.5 If the Project consists of more than one building, and one of the buildings is to be occupied, the Owner, prior to occupancy of that building, shall secure permanent property insurance on the building to be occupied and necessary permits which may be required for use and occupancy.

9.9.2 With the exception of clause 9.9.1.5, use and occupancy by the Owner prior to Project acceptance does not relieve the Contractor of responsibility to maintain all insurance and bonds required of the Contractor under the Contract until the Project is completed and accepted by the Owner.

Delete the second and third sentences of subparagraph 9.10.2.

ARTICLE 11, INSURANCE AND BONDS

Replace the words "the Contract Documents" with the words "subparagraph 11.1.4" in the first sentence of subparagraph 11.1.2.

Add the following subparagraph:

.1 Insurance shall be:

.2 Written with a limit of liability of not less than $500,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than $500,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than $200,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than $200,000 aggregate for any such damage sustained by two or more persons in any one accident, or,

.2 Written with a combined bodily injury and damage liability of not less than $700,000 per occurrence; and with an aggregate of not less than $700,000 per occurrence.

Add the following sentence to the end of subparagraph 11.4.1:

The policy shall name as the insured the Contractor and the Owner.

Insert the word "Owner" after the words "protect the interests of the" in the second sentence of clause 11.4.1.2.

Add the following sentence to the end of subparagraph 11.4.6:

The provisions of this subparagraph shall apply to the Contractor if the Contractor purchases and maintains said insurance coverage.

Delete subparagraph 11.4.7 in its entirety.

Delete subparagraph 11.5.1 and substitute the following:

11.5.1 The Contractor shall furnish the Owner bonds covering faithful performance of the Contract and payment of obligations arising thereunder within ten (10) calendar days after receipt of the Notice of Award. The surety company executing the bonds must hold a certificate of authority as an acceptable surety on Federal bonds as listed in Treasury Circular 570, and be authorized to transact business in the State where the Project is located. The bonds (using the forms included in the Bidding

Documents) shall each be equal to the amount of the Contract Sum. The cost of these bonds shall be included in the Contract Sum.

Add the following clauses:

11.5.1.1 The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current power of attorney.

11.5.1.2 If at any time a surety on any such bond is declared bankrupt or loses its right to do business in the State in which the work is to be performed or is removed from the list of surety companies accepted on Federal Bonds, the Contractor shall within ten (10) calendar days after notice from the Owner to do so, substitute an acceptable bond in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums of such bond shall be paid by any Contractor. No further payment shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable bond to the Owner.

Add the following paragraph:

11.6 LATENT DEFECTS PROTECTION

11.6.1 If the Contractor does not furnish payment and performance bonds, he or she shall agree to provide surety or guarantee acceptable to the Owner and the Agency against latent obligations and defects in connection with the construction.

.1 The Contractor shall furnish a properly executed corporate latent defects bond, a maintenance bond, an unconditional and irrevocable letter of credit, or a cash deposit into a

supervised bank account. Whichever instrument is used shall be in the amount of 10 percent of the Contract Sum.

.2 The period of protection against latent obligations and defects shall be one year from the final acceptance of Work by the Owner and the Agency.

.3 Final payment to the Contractor shall not be issued until the provisions of clause 11.6.1.1 have been met.

ARTICLE 13, MISCELLANEOUS PROVISIONS

Add the following paragraphs:

13.8 FEDERAL INSPECTION

13.8.1 The authorized representatives and agents of the Federal

Government shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

13.9 LANDS AND RIGHTS-OF WAY

13.9.1 Prior to the start of construction, the Owner shall obtain all lands and rights-of-way necessary for the execution and completion of work to be performed under this contract.

13.10 EQUAL OPPORTUNITY REQUIREMENTS

Non-discrimination in Employment by Federally Assisted Construction Contractors, by Executive Order 11246.

13.10.1 This section summarizes Executive Order 11246, which prohibits employment discrimination and requires employers holding non-exempt Federal contracts and subcontracts and federally-assisted construction contracts and subcontracts in excess of $10,000 to take affirmative action to ensure equal employment opportunity without regard to race, color, religion, sex, or national origin. The Executive Order requires, as a condition for the approval of any federally assisted construction contract, that the applicant incorporate nondiscrimination and affirmative action clauses into its non-exempt federally assisted construction contracts.

13.10.2 Executive Order 11246, is administered and enforced by the Office of Federal Contract Compliance Programs (OFCCP), an agency in the U.S. Department of Labor's Employment Standards Administration. OFCCP has issued regulations at 41 C.F.R. chapter 60 implementing the Executive Order. The regulations at 41 C.F.R. part 60-4 establish the procedures which the Agency, as an administering agency, must follow when making grants, contracts, loans, insurance or guarantees involving federally assisted construction which is not exempt from the requirements of Executive Order 11246. The regulations which apply to Federal or federally assisted construction contractors also are published at 41 C.F.R. part 60-4.

13.10.3 OFCCP has established numerical goals for minority and female utilization in construction work. The goals are expressed in percentage terms for the contractor's aggregate workforce in each trade. OFCCP has set goals for minority utilization based on the percentage of minorities in the civilian labor force in the relevant area. There is a single nationwide goal of 6.9 percent for utilization of women. The goals apply to all construction work in the covered geographic area, whether or not it is federal, federally assisted or non-federal. A notice advises bidders of the applicable goals for the area where the project is to be located.

13.10.4 Application. This section applies to all of a construction contractor's or subcontractor's employees who are engaged in on-site construction including those construction employees who work on a non-Federal or non-Federally assisted construction site.

13.10.4.1 Agency officials will notify the appropriate Regional Director of OFCCP that an Agency financed construction contract has been awarded, and that the equal opportunity clauses are included in the contract documents.

13.10.4.2 The Regional Director, OFCCP-DOL, will enforce the non-discrimination requirements of Executive Order 11246.

13.10.5 The prospective contractor or subcontractor must comply with the Immigration Reform and Control Act of 1986, by completing and retaining Form I-9, "Employment Eligibility Verification," for employees hired. This form is available from the Immigration and Naturalization Service, and Department of Justice.

13.10.6 The prospective contractor or subcontractor must submit Form RD 400-6, "Compliance Statement," to the applicant and an Agency official as part of the bid package, prior to any contract bid negotiations and comply with the Executive Order 11246 as stated in the contract documents.

13.11 STATUTES

13.11.1 The Contractor and each Subcontractor shall comply with the following statutes (and with regulations issued pursuant thereto, which are incorporated herein by reference):

13.11.1.1 Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 C.F.R. part 3). This Act provides that each Contractor shall be prohibited from inducing, by any means, any person in connection with construction to give up any part of the compensation to which the person is otherwise entitled.

13.11.1.2 Clean Air Act (42 U.S.C. 7414), section 114, and Water Pollution Control Act (33 U.S.C. 1813), section 308. Under Executive Order 11738 and Environmental Protection Agency (EPA) regulations 40 C.F.R. part 15, all Contracts in excess of $100,000 are required to comply with these Acts. The Acts require the Contractor to:

.1 Notify the Owner of the receipt of any communication from EPA indicating that a facility to be utilized in the performance of the Contract is under consideration to be listed on the EPA list of Violating Facilities.

.2 Certify that any facility to be utilized in the performance of any nonexempt Contractor or Subcontractor is not listed on the EPA list of Violating Facilities as of the date of the Contract Award.

.3 Include or cause to be included the above criteria and requirements of paragraphs .1 and .2 in every nonexempt subcontract, and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

13.11.1.3 Davis-Bacon Act(40 U.S.C. 276a) as supplemented in Department of Labor regulations (29 C.F.R. part 5). If applicable, the Contractor must comply with the

minimum rates for wages for laborers and mechanics as determined by the Secretary of Labor in accordance with the provision of this Act. (08-26-98) PN 296

13.11.1.4 Restrictions on Lobbying (Public Law 101-121, section 319) as supplemented in Department of Agriculture regulations (7 C.F.R. part 3018). This statute applies to the recipients of contracts or subcontracts that exceed $100,000 at any tier under a Federal loan that exceeds $150,000 or a Federal grant that exceeds $100,000. If applicable, the Contractor must complete a certification form on lobbying activities related to the specific Federal loan or grant that is a funding source for this contract. The certification and disclosure forms shall be provided by the Owner.

13.12 RECORDS

13.12.1 If the Contract is based on a negotiated Bid, the Owner, the Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor which are pertinent to a specific Federal loan program for the purpose of making audit, examination, excerpts, and transcriptions. The Contractor shall maintain records for at least three years after the Owner makes final payment and all other pending matters are closed.

13.13 IDENTITY OF INTEREST

13.13.1 The Owner will complete and sign Form RD 1944-30, "Identity of Interest (IOI) Disclosure Certificate." If applicable, the Contractor or any Subcontractor, Material Supplier, or Equipment Lessor sharing an identity of interest will, prior to receipt of any payment, complete and sign Form RD 1944-31, "Identity of Interest (IOI) Qualification."

13.13.2 If and when an identity of interest exists, the Contractor, Subcontractor, Material Suppliers, or Equipment Lessor:

13.13.2.1 Will, prior to receipt of any payment, provide the Owner and the Agency a written assertion that it has an accounting system suitably designed to provide for a line-item basis comparison of the actual cost with the estimated cost.

13.13.2.2 Will, prior to receipt of any payment, provide the Owner and the Agency with a detailed breakdown of the estimated cost amount for evaluation, using Form RD 1924-13, "Estimate and Certificate of Actual Cost."

13.13.2.3 Will deduct any discounts or rebates from invoices provided to the Owner for payment. Any discounts or rebates received on invoices already paid by the Owner will be refunded to the Owner or subtracted from any payment retainage.

13.13.2.4 Will not be entitled to receive payment for general overhead, profit, or general requirements, respectively, in excess of the amounts represented on the estimate of cost breakdown in accordance with clause 13.13.2.2.

13.13.2.5 Will, prior to receipt of final payment, provide the Owner and the Agency with a detailed breakdown of the actual cost compared to the estimated cost, using Form RD 1924-13. When required, the actual cost will be audited by a Certified Public Accountant, or Licensed Public Accountant licensed on or before December 31, 1970, who will provide an opinion concerning whether the actual construction costs present fairly the costs of construction in conformity with eligible construction costs as prescribed in Rural Development regulations.

13.13.2.6 Will, prior to receipt of final payment, provide the Owner and the Agency with documentation on all Form RD 1924-13 actual cost line items that are a minimum of fifteen percent (15%) higher or lower than the estimated costs. The documentation will provide justification for the deviations.

13.13.3 If and when an identity of interest exists between the Owner and Contractor, the Contractor is entitled to receive a builder's fee (general overhead and profit) only when the highest subcontract Sum is no more than fifty percent (50%) of the Contract Sum, and the total of the highest three Subcontract Sums is no more than seventy-five percent (75%) of the Contract Sum. Any payments made to the Contractor for a builder's fee to which contractor is not entitled will be refunded to the Owner or subtracted from any payment retainage.

13.14 ENVIRONMENTAL REQUIREMENTS

13.14.1 Mitigation Measures - The contractor shall comply with applicable mitigation measures established in the environmental assessment for the project. These may be obtained from the Agency representative.

13.14.2 Endangered Species - The Contractor shall comply with the Endangered Species Act. Should any evidence of the presence of endangered or threatened species or their critical habitat be brought to the attention of the Contractor, the Contractor will immediately report this evidence to the Architect and the Agency representative. Construction shall be halted pending the notification process and further directions issued by the Agency after consultation with the U.S. Fish and Wildlife Service.

13.14.3 The Contractor, when constructing a Project involving trenching, excavating, or other earth moving activity, shall comply with the following environmental constraints:

13.14.3.1 Historic Preservation - Any excavation or other earth moving activity by the Contractor that uncovers a historical or archaeological artifact shall be immediately reported to the Architect and the Agency representative. Construction shall be halted pending the notification process and further directions issued by the Agency after consultation with the State Historic Preservation Officer or other appropriate historic preservation official.

13.14.3.2 Human Remains and Cultural Items - Any excavation or other earth moving activity by the Contractor that uncovers human remains or cultural items shall be immediately reported to the Architect and the Agency representative. Construction shall be halted pending the notification process and further directions issued by the Agency after consultation with the appropriate authorities.

13.14.3.3 Paleontology - Any excavation or other earth moving activity by the Contractor that uncovers a fossil or other paleontological materials that may have scientific significance shall be immediately reported to the Architect and the Agency representative. Construction shall be halted pending the notification process and further directions issued by the Agency after consultation with appropriate authorities.

13.14.3.4 Wetlands - The Contractor, when disposing of excess, spoil, or other construction materials on public or private property, will not fill in wetlands.

13.14.3.5 Floodplains - The Contractor, when disposing of excess, spoil, or other construction materials on public or private property, will not fill in 100-year floodplain areas delineated on the latest Federal Emergency Management Administration floodplain maps.

13.14.4 Lead-Based Paint - The Contractor and Owner shall comply with applicable Agency requirements of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821), and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851) for rehabilitation work on residential property built prior to 1978.

13.15 DEBARMENT AND SUSPENSION

13.15.1 The Contractor shall comply with the requirements of 7 C.F.R. part 3017, which pertains to the debarment or suspension of a person from participating in a Federal program or activity.

*****

NOTICE TO PROCEED

TO: _____ DATE: _____

_____ Project: _____

_____ _____

_____ _____

You are hereby notified to commence Work in accordance with the Agreement dated _____,
(Date)
and you are to complete the Work within _____ consecutive calendar days thereafter. The date of completion

of all Work is therefore _____.
(Date)

_____
Owner

By
_____

Title
_____

ACCEPTANCE OF NOTICE

Receipt of the above Notice to Proceed is hereby acknowledged by

_____

this the _____, 19___

By _____

Title _____

Employer Identification Number _____

******

Equal Employment Opportunity Clause, Equal Employment Opportunity Contract Compliance Notices, and Equal Employment Opportunity Goals and Timetables for Women and Minorities

EQUAL OPPORTUNITY CLAUSE 41 CFR 60-1.4 (a) and (b)

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising: layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the United States Department of Agriculture, acting through the Rural Housing Service, the Rural Business-Cooperative Service, or the Rural Utilities Service, setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard for race, color, religion, sex, or national origin.

3. The contractor will send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice to be provided by the United States Department of Agriculture, acting through the Rural Housing Service, the Rural Business-Cooperative Service, or the Rural Utilities Service advising the said labor union or worker's representative of the contractor's commitments under this agreement as required pursuant to Section 301 of Executive Order 11246, of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor will comply with all provisions of such Executive Order and of all relevant rules, regulations, and orders of the Secretary of Labor and of any prior authority which remain if effect.

5. The contractor will furnish all information and reports required by such Executive Order, rules, regulations, and orders, or pursuant thereto, and will permit access to books, records, and accounts by the United States Department of Agriculture, acting through the Rural Housing Service, the Rural Business-Cooperative Service, or the Rural Utilities Service and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further contracts in accordance with procedures authorized in such Executive Order and such other sanctions may be imposed and remedies invoked as provided in the Executive Order or by any such rules, regulations, or orders, or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order, unless exempted by such rules, regulations, or orders, so that such provisions will be binding upon each such subcontractor or vendor. The contractor will take such action as the United States Department of Agriculture, acting through the Rural Housing Service, the Rural Business-Cooperative Service, or the Rural Utilities Service may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the subcontractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the United States Department of Agriculture, acting through the Rural Housing Service, the Rural Business-Cooperative Service, or the Rural Utilities Service, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

EQUAL EMPLOYMENT OPPORTUNITY CONTRACT COMPLIANCE NOTICES

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(1) The following notices shall be included in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in excess of $10,000 pursuant to Department of Labor (OFCCP) regulations 41 CFR, Part 60-4.

60-4.2 - Solicitations.

Standard Number: 60-4.2
Standard Title: Solicitations.

(a) All Federal contracting officers and all applicants shall include the notice set forth in paragraph (d) of this section and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in 60-4.3 of this part in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts to be performed in geographical areas designated by the Director pursuant to 60-4.6 of the part. Administering agencies shall require the inclusion of the notice set forth in paragraph (d) of this section and the specifications set forth in 60-4.3 of this part as a condition of any grant, contract, subcontract, loan, insurance or guarantee involving federally assisted construction covered by this Part 60-4.

(b) All nonconstruction contractors covered by Executive Order 11246 and the implementing regulations shall include the notice in paragraph (d) of this section in all construction agreements which are necessary in whole or in part to the performance of the covered nonconstruction contract.

(c) Contracting officers, applicants and nonconstruction contractors shall given written notice to the Director within 10 working days of award of a contract subject to these provisions. The notification shall include the name, address and telephone number of the contractor; employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed.

(d) The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in excess of $10,000 to be performed in geographical areas designated by the Director pursuant to 60-4.6 of this part (see 41 CFR 60-4.2(a)): Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity (Executive Order 11246)

1. The Offeror's or Bidder's attention is called to the ``Equal Opportunity Clause'' and the ``Standard Federal Equal Employment Specifications'' set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

For TABLE - see printed copy.

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction. The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal
Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the ``covered area'' is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65977, Oct. 3, 1980]

60-4.3 - Equal opportunity clauses.

Standard Number: 60-4.3
Standard Title: Equal opportunity clauses.

(a) The equal opportunity clause published at 41 CFR 60-1.4(a) of this chapter is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts. The equal opportunity clause published at 41 CFR 60-1.4(b) is required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts. In addition to the clauses described above, all Federal contracting officers, all applicants and all nonconstruction contractors, as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts in excess of $10,000 to be performed in geographical areas designated by the Director pursuant to 60-4.6 of this part and in construction subcontracts in excess of $10,000 necessary in whole or in part to the performance of nonconstruction Federal contracts and subcontracts covered under the Executive order.

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

1. As used in these specifications:

a. ``Covered area'' means the geographical area described in the solicitation from which this contract resulted;

b. ``Director'' means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. ``Employer identification number'' means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. ``Minority'' includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant hereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR Part 60-4 become effective.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65978, Oct. 3, 1980]

GOALS AND TIMETABLES FOR WOMEN AND MINORITIES

During the performance of this contract, the applicant and contractor agree as follows:

The preamble to regulations establishing a new Part 60-4 to 41 CFR Chapter 60 published at 41 CFR 14888-14894 on April 8, 1978 states that the United States Department of Labor, Office of Federal Contract Compliance Programs (OFCCP), considers that contractors and subcontractors will continue to be subject to the goals and timetables for women and minority utilization on Federal and Federally assisted construction existing now under Executive Order 11246.

Each applicant and each contractor shall include the appropriate goals set forth in Appendix A and Appendix B below in all Invitations for Bids or other solicitations for Federally involved construction contracts in excess of $10,000.

The goals in Appendix A are established on a nationwide basis as the standards for female utilization for all trades.

The goals in Appendix B are established for respective areas as the standards for minority utilization for all trades.

Appendix A and Appendix B are effective until changed by the United States Department of Labor.

GOALS AND TIMETABLES FOR WOMEN

APPENDIX A:

AREA COVERED	PERCENT OF WORK FORCE	TIMETABLE
Nationwide	6.9	Until further notice

GOALS AND TIMETABLES FOR MINORITIES

APPENDIX B:

	AREA COVERED		PERCENT OF WORK FORCE	TIMETABLE
157	Denver, Colorado:			
	SMSA* Counties:			
	2080	*Denver-Boulder, Colorado* Adams, Arapahoe, Boulder, Denver, Gilpin, Jefferson	13.8	Until further notice
	2670	*Fort Collins, Colorado* Larimer	6.9	
	3060	*Greeley, Colorado* Weld	13.1	
	Non-SMSA* Counties:			
		Cheyenne, Clear Creek, Elbert, Grand, Kit Carson, Logan, Morgan, Park, Phillips, Sedgwick, Summit, Washington, Yuma	12.8	
158	Colorado Springs, Colorado:			
	SMSA* Counties:			
	1720	*Colorado Springs, Colorado* El Paso, Teller	10.9	
	6560	*Pueblo, Colorado* Pueblo	27.5	
	Non-SMSA* Counties:			
		Alamosa, Baca, Bent, Chafee, Conejos, Costilla, Crowley, Custer, Fremont, Huerfano, Kiowa, Lake, Las Animas, Lincoln, Mineral, Otero, Prowers, Rio Grande, Saguache	19.0	

159 Grand Junction, Colorado:

Non-SMSA* Counties:

Archuleta, Delta, Dolores, Eagle, Garfield, Gunnison, Hinsdale, la Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Juan, San Miguel	10.2

(NOTE: "SMSA" means "Suburban Metropolitan Statistical Area".)

USDA FINANCED CONTRACT

(NOTICE: This form shall be submitted to the address below within ten [10] days after the contract has been signed by all parties)

TO: U.S. Department of Labor
ESA/OFCCP
1999 Broadway, Suite 1177
P.O. Box 46550
Denver, Colorado 80201-6550

(720) 264-3200

We submit the following information relative to a construction contract in excess of $10,000, being financed under the authorities of the United States Department of Agriculture, Rural Housing Service, or Rural Business-Cooperative Service, as pertinent:

1. Contractor's name: _____

   Address: _____

   Telephone number: _____

   Employer's identification number: _____

2. Contract for: $_____

   Starting date: _____

   Completion date: _____

   Contract number: _____

   City: _____

3. Project owner's name: _____

4. Project location: _____

_____ _____

(Contractor's/Subcontractor's Signature) (Date)

UNITED STATES DEPARTMENT OF LABOR
Office of Federal Contract Compliance Programs (OFCCP)

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

The following exhibits are provided for the use of prospective bidders for construction projects funded by the United States Department of Agriculture/Rural Development under the authorities of the Rural Rental Housing Program, Farm Labor Housing Program, Community Facilities Program, and Business and Industry Program. For more information regarding Federal Equal Employment Opportunity requirements, the United States Department of Labor/Office of Federal Contract Compliance Programs (USDOL/OFCCP) should be contacted directly at:

U.S. Department of Labor
ESA/OFCCP
1999 Broadway, Suite 1177
P.O. Box 46550
Denver, Colorado 80201-6550

(720) 264-3200

It is highly recommended that all prospective bidders also obtain a copy of the USDOL/OFCCP information pamphlet, *"Technical Assistance Guide for Federal Construction Contractors, Summer 2000"*, which is available at the above address.

Exhibit #1 **EEO POLICY STATEMENT:**

To all suppliers, vendors, subcontractors, unions for which you have collective bargaining agreements, policy manual, company newspaper, etc. Also, post the EEO Policy at job sites and offices for all employees and applicants to view.

Exhibit #2 **CERTIFICATE OF COMPLIANCE:**

To all your suppliers, vendors, and subcontractors on all your Federal and federally assisted construction projects. Retain a file of completed forms from these firms.

Exhibit #3 **NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION:**

To all your bidders for subcontract work (in excess of $10,000) on your Federal or federally assisted projects.

Exhibit #4 **CONSTRUCTION CONTRACT SPECIFICATIONS:**

To all you're successful subcontract bidders on your Federal or federally assisted construction projects in which the subcontract is in excess of $10,000.

Exhibit #5 **LIST OF SUBCONTRACTORS:**

To OFCCP, a written notice within 10 working days of your subcontractor(s) to which you awarded a subcontract in excess of $10,00 on your Federal or federally assisted project.

Exhibit #6 **RECRUITMENT LETTER: (Optional)**

To minority and female referral sources, an affirmative job order letter, which includes a list of job openings, minimum qualifications, and anticipated hiring date.

Note: Distribution of the above information does not constitute compliance. Other requirements must be met, including those under 41 CFR 60-4.3(a)(7a-p).

EEO POLICY STATEMENT

_____ is an equal opportunity employer and will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, handicap, or veteran status. We will take affirmative action to ensure applicants are employed and employees are treated during employment without regard to race, color, religion, sex, national origin, handicap, or veteran status. Such action will include, but not be limited to; employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training.

_____ has been designated as the Equal Opportunity Officer and will be available during the hours of _____ to discuss employment-related problems and to review our Affirmative Action Programs with you. He/She has the responsibility to monitor all employment related activity to ensure the Equal Opportunity Policy is being carried out, to submit reports relating to employment required by the Government, and to keep records.

_____ _____
(Signature of CEO) Date (Update yearly)

CERTIFICATE OF COMPLIANCE

_____ is a Federal government contractor subject to the requirements of the regulations at 41 CFR 60-1, 41 CFR 60-250 and 41 CFR 60-741. Accordingly, as our vendor or subcontractor (hereinafter contractor), we request you sign and return this certification to us, and comply with the appropriate requirements.

EQUAL OPPORTUNITY CLAUSE - The undersigned contractor agrees to comply with the provisions of 41 CFR 60-1.4, covering Federal and federally assisted contracts of more than $10,000, and individual covered contracts for indefinite quantities that are reasonably expected to total more than $10,000 in any year.

AFFIRMATIVE ACTION CLAUSES FOR VIETNAM ERA VETERANS, SPECIAL DISABLED VETERANS, AND INDIVIDUALS WITH DISABILITIES - The undersigned contractor agrees to comply with the provisions of 41 CFR 60-250 and 41 CFR 60-741, covering Federal government contracts of $10,000 or more, and individual Federal government contracts for indefinite quantities that are reasonably expected to total $10,000 or more in any year. The contractor also agrees to file the VETS-100 form annually (call (703) 461-2460 for more information on this form).

WRITTEN AFFIRMATIVE ACTION PROGRAM AND STANDARD FORM 100 - If the undersigned contractor has 50 or more employees and Federal or federally assisted contracts of $50,000 or more, it certifies it:

? has or will develop a written affirmative action program for each of its establishments in accordance with the regulations at 41 CFR Part 60-2; and
? has filed the Standard Form 100 (EEO-1) annually (call (757) 461-1213 for more information on this form).

Further, in accordance with the regulations at 41 CFR 60-1.7(b), the contractor must require each of its proposed covered subcontractors to provide such certification.

_____

Name of Vendor/Subcontractor Signature of Representative

_____

Date Title of Representative

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

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.

2. The goals and timetables for minority and female participation expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Participation Goals	MINORITY	FEMALES
		6.9 %

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor for from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess

of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor, employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

As used in this Notice, and in the contract resulting from this solicitation, the "covered area" where the contract is to be performed is: State:_____ County:_____ City: . (43 FR 49254 Oct. 20, 1978; 43 FR 51401. Nov. 3, 1978, as amended at 45 FR 65977, Oct. 3, 1980.)

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

1. As used in these specifications:
a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
d. "Minority" includes:
(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, **it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice** which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participation in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participation in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minorities and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. **Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed.** Goals are published periodically in the FEDERAL REGISTER in notice form, and such noticed may be

obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meeting, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority, and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Documentation and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetable, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority.

Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. **The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.**

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and Community Development Block Grant Program).

USDOL/OFCCP
Exhibit #5
List of Subcontractors

Mr. Robert J. Gnidziejko
U.S. Department of Labor
ESA/OFCCP
1999 Broadway, Suite 1177
P. O. Box 46550
Denver, CO 80201-6550

Dear Mr. Gnidziejko:

Per our obligation under 41 CFR 60-4.2(c), we are submitting the following information regarding our subcontractor(s) whose contract is in excess of $10,000 on our Federal or federally assisted construction project:

Name of Project:

Subcontractor Name & Address:

Subcontractor Telephone Number:

Subcontractor EIN:

Dollar Amount of Subcontract:

Estimated Start Date:

Estimated Completion Date:

Subcontract Number:

Place of Performance:

If you have any questions, please call _____ at _____.

Sincerely,

USDOL/OFCCP
Exhibit #6
Recruitment Letter

Date

Name and address
of referral source

Dear:

ABC Company is an Equal Employment Opportunity Employer. It is the policy of this company to assure that all applicants and employees are treated fairly without regard to race, sex, religion, national origin, color, disability, or veteran status.

We are specifically charged by the provisions of our Federal and federally assisted contracts to recruit qualified minority, female, individuals with disabilities, disabled veterans, and veterans of the Vietnam Era applicants, however, all qualified candidates will be considered.

Enclosed is a list of job openings along with minimum qualifications and a job description for each job. We hope to fill these positions by August 1, 1993. If you are able to refer qualified applicants for the above-mentioned jobs, please call Mr. John Smith, Project Manager, at (303) 555-9999.

We do encourage the hiring of qualified minorities, females, veterans, and individuals with disabilities and look forward to any assistance you might give us. Thank you for your time regarding this affirmative action job order request.

Sincerely,

Frank Wright
EEO Officer
ABC Company

Enclosure: Job Openings

Minimum Qualifications
Job Description

INVITATION TO SELF IDENTIFY
FOR
INDIVIDUALS WITH DISABILITIES

SPECIAL DISABLED VETERANS
AND
VETERANS OF THE VIETNAM ERA

(COMPANY NAME) is a Federal Contractor, subject to the requirements of the Vietnam Era Veterans Readjustment Assistance Act of 1974 as amended (38 USC 4212), and to the requirements of Section 503 of the Rehabilitation Act of 1973, as amended, and their implementing regulations. These Acts and regulations require that (COMPANY NAME) take affirmative action to employ, and the advance in employment, qualified individuals with disabilities, special disabled veterans, and veterans of the Vietnam era.

If you are an individual with a disability, a special disabled veteran, or a veteran of the Vietnam era, and would like to be considered under the Affirmative Action Program, please inform your supervisor. Submission of this information is voluntary. If you do not wish to identify yourself at this time as an individual with a disability, a special disabled veteran, or a veteran of the Vietnam era, you will not be subject to any adverse treatment. If you do wish to identify yourself, the information provided will be used only in accordance with the Acts and regulations. This means that the information provided will be kept confidential, except that (1) supervisors and managers may be informed of any restrictions on work or duties of individuals with disabilities or special disabled veterans, and of any necessary accommodations; (2) first aid and safety personnel may be informed, when and to the extent appropriate, if a particular handicap or disability may require emergency treatment; and (3) government officials investigating compliance with the Acts shall be informed.

If you are an individual with a disability, a special disabled veteran, or a veteran of the Vietnam era, we will include you under the Affirmative Action Program if you desire. Under the Affirmative Action Program for individuals with disabilities, the company will attempt to make reasonable accommodation to your disability which may enable you to perform jobs which you may now be foreclosed because of your disability and provided you are otherwise qualified.

The Affirmative Action Program may be reviewed upon request In the (PALCE WERE VETERAN'S AND DISABILED AAP IS KEEP), during normal business hours.

(FOR APPLICANTS)

INVITATION TO SELF – IDENTIFY

This employer is a Government contractor subject to Executive Order 11246, as amended. In accordance with the Executive Order, we will not discriminated against any employee or applicant for employment because of race, color, religion, sex, or national origin. This order also requires Government contractor to take affirmative action to ensure that applicants are employed, without regard to their race, color, religion, sex, or national origin.

Submission of this information is voluntary and refusal to provide it will not subject you to any adverse treatment. Information you submit will be kept confidential, except the Government officials engaged in enforcing laws administered by OFCCP may be informed. This information provided would be used only in ways that are not inconsistent with Executive Order 11246, as amended.

I IDENTIFY MY SELF AS:

VETERAN OF THE VIETNAM ERA OR ANY OTHER VETERAN WHO SERVED ON ACTIVE DUTY DURING A WAR OR IN A COMPAIGN OR EXPEDITON FOR WHICH A CAMPAIGN BADGE HAS BEEN AUTHORIZED:

A person Who:

(a) Served on active duty for more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

(b) Was discharged from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975; or

(c) Served on active duty for more than 180 days, any part of which occurred in the Republic of Vietnam between February 28, 1961 and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

(d) Served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

YES ☐ **NO** ☐

Male ☐ Female ☐

White ☐ African American ☐ Hispanic ☐ Asian or Pacific Islander ☐

American Indian or Alaskan Native ☐

NAME _____

SIGNATURE _____
DATE _____

(FOR EMPLOYEES)

INVITATION TO SELF – IDENTIFY

This employer is a Government contractor subject to Executive Order 11246, as amended. In accordance with the Executive Order, we will not discriminated against any employee or applicant for employment because of race, color, religion, sex, or national origin. This order also requires Government contractor to take affirmative action to ensure that applicants are employed, without regard to their race, color, religion, sex, or national origin.

Submission of this information is voluntary and refusal to provide it will not subject you to any adverse treatment. Information you submit will be kept confidential, except the Government officials engaged in enforcing laws administered by OFCCP may be informed. This information provided would be used only in ways that are not inconsistent with Executive Order 11246, as amended.

I IDENTIFY MY SELF AS:

SPECIAL DISABLED VETERAN:

(1) A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Veterans Administration for disability (A) rated at 30% or more, or (B) rated at 10 or 20 % in the case of a veteran who has been determined under Sect. 1506 of Title 38 USC to have a serious employment handicap;

(2) A person who was discharged or released from active duty because of service-connected disability.

YES ☐ NO ☐

INDIVIDUAL WITH A DISABILITY:

Any person who:

(a) Has a physical or mental impairment which substantially limits one or more of such person's major life activities,

(b) Has a record of such impairment, or

(c) Is regarded as having such an impairment.

YES ☐ NO ☐

VETERAN OF THE VIETNAM ERA OR ANY OTHER VETERAN WHO SERVED ON ACTIVE DUTY DURING A WAR OR IN A COMPAIGN OR EXPEDITON FOR WHICH A CAMPAIGN BADGE HAS BEEN AUTHORIZED:

A person Who:

(a) Served on active duty for more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

(b) Was discharged from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975; or

(c) Served on active duty for more than 180 days, any part of which occurred in the Republic of Vietnam between February 28, 1961 and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

(d) Served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

YES ☐ **NO** ☐

Male ☐ Female ☐

White ☐ African American ☐ Hispanic ☐ Asian or Pacific Islander ☐

NAME _____

SIGNATURE _____

DATE _____

LABOR STANDARDS PROVISIONS

The following clauses shall be made part of the contract documents for projects subject to the Davis-Bacon and Related Acts:

(Section a) Davis-Bacon Act (40 U.S.C. 276a - 276a-7).

(1) Minimum Wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project) will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section, also, regular contributions made or costs incurred for more than a weekly period (but less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during each weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 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 actually set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and

accessible place where it can be easily seen by the workers. (10-30-96) PN 267

(ii) This paragraph has been suspended indefinitely (58 FR 58955, Nov. 5, 1993).

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

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

(v) <u>Additional Classifications</u>.

(A) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

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

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

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

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

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(v)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding. The Agency or Contracting Officer shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally- assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor, the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. (10-30-96) PN 267

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under paragraph (1)(iv) 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 section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected and records which show the costs

anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) Payrolls.

(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Agency if the Agency is a party to the contract, but if the Agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (3)(i) of this section. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and

may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

(*1*) That the payroll for the payroll period contains the information required to be maintained under paragraph (3)(i) of this section and that such information is correct and complete;

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

(*3*) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

(iii) The contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Agency or the Department of Labor, and

shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12. (10-30-96) PN 267

(4) Apprentices and Trainees.

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

allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification,

fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved

program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30. (10-30-96) PN 267

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

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in paragraphs (1) through (10) of this section and such other clauses as the Agency may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section.

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

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

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

(10) Certification of Eligibility.

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

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

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code 18 U.S.C. 1001.

(Section b) Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333).

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

(2) Violation; liability for unpaid wages; liquidating damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor

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

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

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

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USDA/Rural Housing Service
Multi-Family Housing Programs

Requesting Davis-Bacon Act Special Wage Rates from the U.S. Department of Labor

A wage determination is the listing of wage rates and fringe benefit rates for each classification of mechanics and laborers for which the U.S. Department of Labor (USDOL) has determined to be prevailing in a given area for a particular type of construction.

The Davis Bacon Act mandates that all Federal Government construction contracts and the contracts for federally assisted construction in covered programs must contain the appropriate Davis-Bacon Wage determination.

The current wage rates can be searched at this web site http://www.access.gpo.gov/davisbacon/index.html. The wage rates are listed for each county of every state. There are two important criteria for searching the appropriate wage rates.

1. Project location.
2. The type of construction i.e. whether it is building; residential; highway or heavy construction project for which the wage rates are needed.

Wage rates can also be searched with wage determination number. "Mod number" shows the revisions and it is important that the wage rates included in the project documents are the most current available with revisions at the time project goes out for bids.

If publication of any revision occurs less than 10 days prior to bid opening, and the agency finds that there is not sufficient time to notify bidders of the modification, it may be disregarded.

If a contract is not awarded within 90 days after bid opening, modification to a general wage determination in the contract shall be effective to that contract, unless the agency receives special approval from the Department of Labor not to do so.

If no general wage determination is listed for a given county for a specific project, the federal agency funding or financially assisting the construction project shall request a wage determination under the Davis-Bacon Act by submitting a Standard Form (SF) 308 to the Department of Labor, Branch of Construction Wage Determination.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE (Standard Form 1444 (SF 1444))

Conformance Process:

The federal program representative shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The confirmed classification, wage rate, and/or fringe benefits shall be retroactive to the

commencement date of the contract. (See Section 4.6 (C) (vi) of Regulations 29 CFR Part 4.) When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed. The process for preparing a conformance request is as follows:

1. When preparing the bid, the contractor identifies the need for a conformed occupation (s) and computes a proposed rate(s).

2. After contract award, the contractor prepares a written report listing in order proposed classification titles(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 day after such unlisted class(es) of employees performs any contract work.

3. The federal program representative reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See Section 4.6(b) (2) of Regulations 29 CFR Part 4.)

4. Within 30 days of receipt the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer or notifies the contracting officer that additional time will be required to process the request.

5. The contracting officer transmits the Wage and Hour decision to the contractor.

6. The contractor informs the affected employees.

See the instructions on the last page of general wage decision form.

Information required by the Regulations must be submitted on SF 1444 or bond paper. When preparing a conformance request, the Service Contract Act Directory of Occupations (the Directory) should be used to compare job definitions to insure that duties requested are not performed by classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformance may not be used to artificially split, combine, or subdivide classifications listed in the wage determination. There is some confusion about whether special wage rates must not be lower than any other rate on the general wage decision. If the rate you are requesting is lower than the lowest skilled rate in the wage determination, you should provide evidence proving the rate you are requesting is prevailing in the area.

The USDOL generally will not approve requests for apprentices, trainees, and foreman. Apprentices or trainees (by whatever name) are permitted to work at a rate less than that specified in the wage decision only when they are employed pursuant to and individually registered in a program approved by the appropriate federal or state agency. Employees not so registered must be paid no less than the applicable wage rate on the wage decision for the classification of work actually performed. Foremen need to be paid at least the rate of the classification of work actually performed. For example, if you want the rate for a painter foreman and painter is not in the wage determination, request a rate for painter, and make sure the foreman is paid at least this rate. The wage determination lists minimum rates. You can always pay

employees, especially foreman, more than the minimum rate for the classification of work they are performing.

USDOL Contact persons:

National Office, DOL:
U.S. Department of Labor
Employment Standards Administration
Wage Hour Division
200 Constitution Avenue NW
Room S-3014
Washington, D.C. 20210

CERTIFICATION FOR CONTRACTS, GRANTS AND LOANS

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any 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 or Federal loan, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant or loan.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any 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 or loan, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including contracts, subcontracts, and subgrants under grants and loans) and that all subrecipients shall certify and disclose accordingly.

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 section 1352, title 31, U.S. Code. 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.

_____ _____
(name) (date)

_____
(title)

oOo

(08-21-91) PN 171

ENVIRONMENTAL REQUIREMENTS DURING THE CONSTRUCTION PERIOD

[Due to the involvement of Federal financial assistance through the U.S. Department of Agriculture, Rural Development, in this construction related activity, all parties directly involved in the construction of this project, including the owner, architect, general contractor, subcontractors, etc. shall be responsible for complying with all governing Federal, State, and local environmental protection statutes, executive orders, regulations, ordinances, etc. which may pertain to this project. The following requirements, which are not intended to be all inclusive, are especially likely to be encountered during the construction of this project and are brought to the attention of all parties concerned.

Failure to comply with governing environmental protection requirements may result in the prosecution of civil and/or criminal penalties against the parties involved.]

HISTORICAL PROPERTIES:

LISTED AND ELIGIBLE HISTORICAL PROPERTIES:

All work shall be performed in strict compliance with the Secretary of Interior's*, "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings"*.

UNIDENTIFIED HISTORICAL PROPERTIES:

If previously unidentified resources are discovered during the course of construction activities, pertinent construction work must be interrupted until the resources are properly evaluated in terms of the National Register of Historic Places eligibility criteria (36 CFR 60.4). In such instances, the USDA/Rural Development State Environmental Coordinator @ (720) 544-2912 and the Colorado State Historic Preservation Officer, Intergovernmental Services, @ (303) 866-3398, shall be immediately contacted for further guidance.

Excavating a cluster of bones discovered under a future parking lot

ENDANGERED AND THREATENED SPECIES:

No activities shall be performed which are likely to: (1) jeopardize the continued existence of any plant or wildlife species listed by the Secretary of Interior or Commerce or by the Colorado Wildlife Commission, the Colorado Division of Wildlife, or the Colorado Natural Areas Program as endangered or threatened or (2) destroy or adversely modify the habitats of listed species when such habitats have been determined critical to the species' existence by the Secretary of Interior or Commerce (unless the Rural Development has been granted an exemption for such proposal by the Endangered Species Committee pursuant to subsection (h) of Section 7 of the Endangered Species Act).

Should any such wildlife resources be encountered during the course of construction activities: (1) all relevant construction activities shall be halted until all issues have been satisfactorily resolved and (2) the USDA/Rural Development, State Environmental Coordinator @ (720) 544-2912, the U.S. Fish and Wildlife Service @ (303) 275-2379, and the Colorado Division of Wildlife @ (303) 297-1192 shall be immediately contacted for further guidance.

HAZARDOUS SUBSTANCES:

Should previously unidentified hazardous substances be discovered during the course of construction activities at the project site: (1) adequate safety measures shall be immediately employed to protect human life and property; (2) all impacted construction activities shall be interrupted until all issues have been satisfactorily resolved; and (3) the USDA/Rural Development State Environmental Coordinator @ (720) 544-2912, the U.S. Environmental Protection Agency, Emergency Response Unit (in the event of a regulated release to the environment), @ (800) 227-8914, and the Colorado Department of Health and Environment, Emergency Response Unit, @ (888) 569-1831, shall be immediately contacted for further guidance.

WATER, NOISE, AND AIR QUALITY:

Adequate provisions shall be undertaken to insure that noise, air, and water pollution are held within permissible Federal, state, and local levels during the course of construction. No construction residue shall be carried off the project site by run-off or other unsuitable means. Disruptive construction operations shall be conducted only during normal work hours. Dusty site conditions shall be controlled by proper water sprinkling.

(NOTE: The United States Department of Agriculture assumes no responsibility for the currentness or precision of the above discussed telephone contact information. It is recommended that contractors verify the above contact numbers with the appropriate expert agencies prior to starting construction. It is also recommended that contractors research and verify all applicable contact requirements in this regard prior to the start of construction.)

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USDA CONCURRENCE WITH APPLICATION FOR PERIODIC PAYMENT

Pertaining to the contract to construct: _____

_____

Payment Application Number: _____

The review and acceptance of partial payment estimates by United States Department of Agriculture (USDA), Rural Housing Service (RHS), or Rural Business - Cooperative Service (RBS), as pertinent, does not attest to the correctness of the quantities shown or that the work has been performed or is satisfactorily progressing in accordance with the contract documents.

_____
(Signature of USDA/RHS or USDA/RBS Representative)

_____
(Title of USDA/RHS or USDA/RBS Representative)

_____
(Date)

(The above representation should appear on the application for periodic payment to the general contractor form used for Rural Housing Service funded construction projects. It should appear in the vicinity of the owner, project architect, and general contractor signatures on the form.)

******

BUILDER'S WARRANTY

_____
(Name of or Portion of Project)

_____
(Name of Purchaser(s) or Owner(s))

_____

_____
(Project Address)

For good and valuable consideration, the undersigned Warrantor hereby warrants to the Purchaser(s) or Owner(s) identified above and to his/her (their) successors or transferees, all of whom are hereinafter referred to as Owners that:

The building(s), including appurtenances located on the property identified above, is/are constructed or improved in substantial conformity with the construction contract documents which have been accepted in writing by the U.S. Department of Agriculture, Rural Housing Service (RHS). This Warranty applies to all workmanship, materials, and the installation of equipment (including, but not limited to, heating, refrigeration, water, sewer, electrical, communications, fire suppression, fire detection/alarm, and security systems).

The Owners shall give written notice to the Warrantor promptly after the discovery of any defective condition. Such written notice must be given to the Warrantor during the period of warranty. The period of warranty shall be one year from the Date of Substantial Completion as jointly determined by the Owner, Project Architect, and General Contractor and as concurred by the RHS.

It is agreed and understood that this warranty shall apply only to those defective conditions of which the Warrantor has been given written notice during the period of warranty.

Warrantor further agrees that he/she (they) will take any necessary actions to correct such defective conditions within _____ consecutive calendar days of receipt of written notice. If such action is not taken within _____ consecutive calendar days, the Owners may, at their option, contract with another party for the correction of the defects. Warrantor agrees to pay any expenses incurred by the Owners to correct defects covered by this Warranty.

This warranty shall be in addition to, and in no way reduce, all other rights and privileges which such Owners may have under any other law or instrument, and shall be binding on the Warrantor notwithstanding any provision to the contrary contained in the contract of purchase or any other instrument executed by the Owners.

This warranty is executed, in part, for the purpose of inducing the U.S. Department of Agriculture, Rural Housing Service, to make, insure, or guarantee a loan on the captioned property.

If this is signed by anyone other than the Warrantor, the person signing for the Warrantor represents and certifies that he/she (they) is/are authorized to execute same by the Warrantor and by his/her (their) signature the Warrantor is bound under the terms and conditions of this warranty.

In addition to the preceding warranty, the following items are covered by a separate company warranty and/or guarantee as follows:

Item	Serial & Model #	Name and Address of Company	# Years or Months of Warranty

Item	Serial & Model #	Name and Address of Company	# Years or Months of Warranty

NOTICE TO PURCHASER(S)/OWNER(S): ANY NOTICE OF DEFECTIVE WORKMANSHIP, MATERIALS, OR NONCONFORMITY MUST BE DELIVERED TO THE WARRANTOR NO

LATER THAN _____.
(Warrantor shall insert date one (1) year from Date of Substantial Completion.)

(General Contractor shall complete, sign, and date four (4) originals immediately following Date of Substantial Completion and present same to Owner prior to Owner issuance of final payment to General Contractor. Owner shall sign and date same four (4) originals and furnish one (1) to General Contractor, one (1) to Project Architect, and one (1) to RHS prior to Owner issuance of final payment to General Contractor.)

WE HAVE FURNISHED THE ABOVE COMPANY WARRANTIES AND/OR GUARANTEES to the Owner for his/her (their) use.

IN TESTIMONY WHEREOF, the Warrantor has signed this warranty this

_____ of _____.
(Day) (Year)

_____	_____
(Signature)	(Signature)
_____	_____
(Typed or Printed Name)	(Typed or Printed Name)
_____	_____
(Business Name)	(Business Name)
_____	_____
(Business Address)	(Business Address)
_____	_____
(Business Telephone)	(Business Telephone)
_____	_____
(License Number)	(License Number)

(SEAL - if Bid is by a corporation) (SEAL - if Bid is by a corporation)

RECEIPT OF THIS WARRANTY IS ACKNOWLEDGED this

_____ of _____.
(Day) (Year)

_____

_____
(Purchaser(s)/Owner(s))

(SEAL - if Bid is by a corporation) (SEAL - if Bid is by a corporation)

[WARNING: Section 101 of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully....makes any false, fictitious or fraudulent statements or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both".]

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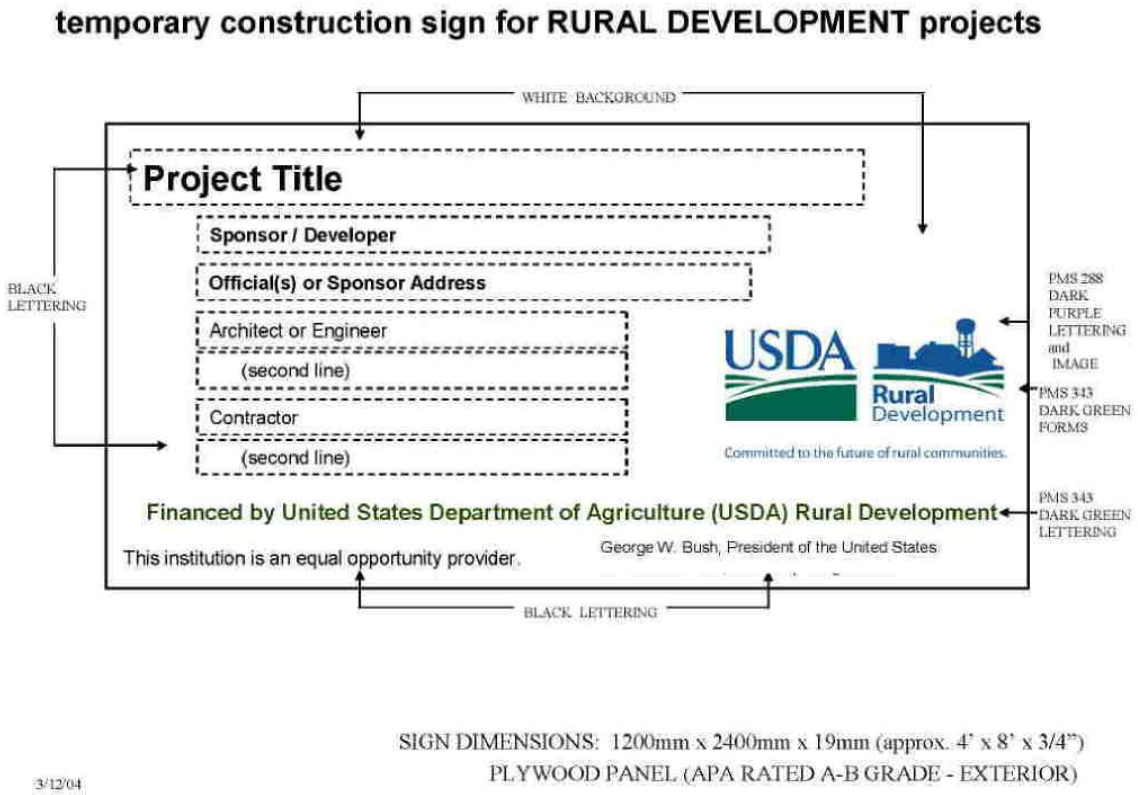
CONSTRUCTION SIGN DESIGN

(The following construction sign detaisl should be utilized for all projects. All indicated information should be provided in addition to any other special requirements.)

(A *Microsoft "PowerPoint"* format version of the following graphic may be obtained from the USDA/Rural Development State Architect @ 720-544-2912 by email to permit interactive design information dissemination.)



SIGN DIMENSIONS: 1200mm x 2400mm x 19mm (approx. 4' x 8' x 3/4")
PLYWOOD PANEL (APA RATED A-B GRADE - EXTERIOR)

3/12/04

Committed to the future of rural communities.

Additional USDA/Rural Development Conditions

The provisions of this Attachment shall delete, modify and supplement the provisions contained in the "*Standard Form of Agreement Between Owner and Contractor*", AIA Document A101-1997 Edition, as well as the *"Standard Form of Agreement Between Owner and Architect",* AIA Document B141-1997 Edition. The provisions contained in this attachment shall supersede any conflicting provisions of the AIA Documents.

1. In addition to the terms discussed in the referenced agreements for general contractor and project architect services, and following the formal declaration of "Substantial Completion" by the project architect, the owner, and the general contractor (with USDA/Rural Housing Service concurrence), a sum in the amount of at least 150% of the project architect's estimate of the value of remaining uncompleted work should be retained by the owner in an account supervised by the USDA/Rural Housing Service.

2. In addition to the terms discussed in the referenced agreements for general contractor and project architect services, the project architect and the general contractor should both keep separate records of calendar days for which future time extension requests might be initiated by the general contractor in regard to delays caused by inclement weather, backordered shipments of construction materials, or other causes beyond the immediate control of the general contractor. These separate records shall be compared and reconciled between the general contractor and the project architect on at least a monthly basis.

3. In addition to the terms discussed in the referenced agreements for general contractor and project architect services, the general contractor may not request payment by the owner for construction materials stored beyond the project's legal property lines and, thereby, not incorporated into the work.

4. In addition to the terms discussed in the referenced agreements for general contractor and project architect services, a construction contract change order should be initiated for all changes to the scope of the general contract for construction whenever a: cost change in the scope of work would occur; a time change in the scope of completion time would occur; or a cost/non-cost change in the scope of work would occur pertaining to feature covered by a federal design standard/guide (i.e. federal accessibility requirements).

5. In addition to the terms discussed in the referenced agreements for general contractor and project architect services, USDA/Rural Development employees should be afforded general access to the project site during normal working hours in accordance with the general contractor's special requirements regarding site safety and other pertinent concerns. The general contractor should discuss site safety considerations, "normal working hours", and other pertinent concerns during the project preconstruction conference.

6. In addition to the terms discussed in the referenced agreements for general contractor and project architect services, the project architect should incorporate the document, "U.S. DEPARTMENT OF AGRICULTURE, RURAL HOUSING SERVICE, COLORADO STATE OFFICE,…..Construction Documents - Boilerplate Forms" in the project manual for the project funded by the USDA/Rural Housing Service.

7. In addition to the terms discussed in the referenced agreements for general contractor and project architect services, the owner, project architect, and general contractor should familiarize themselves with pertinent federal labor standards provisions to the extent warranted and should directly contact the U.S. Department of Labor in this regard where appropriate.

8. In addition to the terms discussed in the referenced agreements for general contractor and project architect services, the general contractor should attempt to post the following posters at the job site at a conspicuous, always accessible location external to the general contractor's office and/or trailer: (1) *"Equal Employment Opportunity is THE LAW"* (U.S. Government Printing Office 1999-757-008 or more recent edition if available) and (2) *"AND JUSTICE FOR ALL"* (Form AD-475A). These posters should be kept dry and maintained for the duration of the construction period.

9. In addition to the terms discussed in the referenced agreements for general contractor and project architect services, the general contractor should attempt to install the project temporary construction sign within 30 calendar days from the date of issuance of the Notice to Proceed.

10. In addition to the terms discussed in the referenced agreements for general contractor and project architect services, the general contractor should provide the USDA/Rural Housing Service representative the following completed documents prior to the request for final payment to the general contractor: (1) unconditional, fully signed and dated, "Release by Claimants" (Form RD 1924-10) and (2) unconditional, fully signed and dated, acknowledgement of the receipt of full payment of the contract for construction (Form RD 1924-9).

******

ESTIMATE OF FUNDS NEEDED
FOR
30-Day Period Commencing…..

_____

Name of Borrower: _____

Items	Amount of Funds
Construction Contract Development:	$_____
Architectural Services Fees:	$_____
Engineering, Soils Studies, and Surveying Fees:	$_____
Financing Costs and Loan Fees:	$_____
Construction Interest Costs:	$_____
Closing Costs and Legal Services Fees:	$_____
Land and Rights-of-Way Costs:	$_____
Nonprofit Initial O&M Capital:	$_____
Tap and/or Impact Fees:	$_____
Tax Credit Fees:	$_____
Environmental Fees:	$_____
Market Study Cost:	$_____
Equipment Costs (Community Facilities Program):	$_____
Furniture Costs (Farm Labor Housing Programs):	$_____
Refinancing Costs: (Community Facilities Program):	$_____
Contingency Fund Costs (Community Facilities Program):	$_____
Other Costs:	$_____
TOTAL:	$_____

Prepared by _____
(Name, typed or printed)

_____
(Signature)

_____
(Date)

Approved by USDA/Rural Housing Service or Rural Business-Cooperative Service Representative:

_____
(Name, typed or printed)

_____
(Signature)

_____
(Date)

GUIDANCE ON LATENT DEFECTS OR MAINTENANCE BONDS

Subparagraph 1924.6(a)(3)(iv) of USDA/Rural Development's RD Instruction 1924-A reads,

> "(iv) In cases where the contractor does not obtain payment and performance bonds in accordance with the surety requirements of paragraph (a)(3)(ii) of this section, or where an exception to the surety requirements is granted by the State Director, the following steps will be taken to protect the borrower and the government against latent obligations or defects in connection with the construction: (Revised 10-30-96, PN 267.)

(A) The contractor will furnish a properly executed corporate latent defects bond or a maintenance bond in the amount of 10 percent of the construction contract; or

(B) An unconditional and irrevocable letter of credit in the amount of 10 percent of the construction contract issued by a lending institution which has been reviewed and approved by OGC (the USDA Regional Office of General Counsel); or

(C) A cash deposit into an interest or non-interest bearing supervised bank account in the amount of 10 percent of the construction contract;

(D) The period of protection against latent obligations and/or defects shall be one year from the date of final acceptance of work by the owner and RHS;

(E) Final payment shall not be rendered to the contractor until the provisions of paragraphs (a)(3)(iv)(A), (B) or (C) of this section have been met;

(F) The contract will contain a clause indicating that the contractor agrees to provide surety or guarantee acceptable to the owner and RHS against latent obligations and/or defects in connection with the construction."

[WARNING: Title 18 U.S.C. 1001 provides in part that whoever knowingly and willfully makes or uses a document containing any false, fictitious, or fraudulent statement or entry, in any matter in the jurisdiction of any department or agency of the United States of America, shall be fined not more than $10,000 or imprisoned for not more than five years or both.]