

Federal Labor Standards Provisions

U.S. Department of Housing and Urban Development

HUD-4010 (07/2003)

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages.

All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) 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.

- (ii) (a) 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. HUD 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 HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where

Office of Labor Relations appropriate), a report of the action taken shall be sent by HUD or its designee 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 HUD or its designee or

will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

- (c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)
- (d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, 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.
- (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. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding.

HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part form of the wages required by the contract, HUD or its designee 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. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records.

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

benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

- (ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee 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 HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i). 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, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)
 - (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 29 CFR 5.5 (a)(3)(i) and that such information is correct and complete;
 - (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 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 A.3.(ii)(b).
 - (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 subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee 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, HUD or its designee 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.

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, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the form

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

- (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 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 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive

Order 11246, as amended, and 29 CFR Part 30.

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 will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, 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 paragraph.

7. Contract termination; debarment.

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

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards.

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

10. (i) Certification of Eligibility.

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) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(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) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration . . . makes, utters or publishes any statement knowing the same to be false . . . shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees.

No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act.

The provisions of this paragraph B are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 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 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages.

In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, 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 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages.

HUD or its designee 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 contract, 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 subparagraph (2) of this paragraph.

(4) Subcontracts.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph 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 subparagraphs (1) through (4) of this paragraph.

C. Health and Safety.

The provisions of this paragraph C are applicable only where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq. **(3)** The Contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

SCHEDULE "B"

I. It is understood and agreed by the contractor that upon the refusal of the contractor, or if the contractor is a partnership or corporation, upon refusal of a member, partner, director or officer of such partnership or corporation, when called before a grand jury to testify concerning any transaction or contract had with the State, any political subdivision thereof, a public authority or with any public department, agency or official of the State or of any political subdivision thereof, or of a public authority, to sign a waiver of immunity against any future criminal prosecution or to answer any relevant question concerning such transaction or contract.

(a) Such person, and any firm, partnership or corporation of which he is a member, partner, director or officer, shall be disqualified from thereafter selling to or submitting bids or to receiving awards from entering into any contract with the State, the County of Rockland, or municipality, or any public department or official thereof, for goods, work or services, for a period of five (5) years after such refusal to sign a waiver of immunity and

(b) Any and all contracts made with the State, the County of Rockland or any public department, agency or official thereof, since July 1, 1959 by such person and by any firm, partnership or corporation of which he is a member, partner, director or officer, may be cancelled or terminated by the County of Rockland or municipality, without incurring any penalty or damages on account of such cancellation or termination, but any monies owing pursuant to said transaction or contract prior to the cancellation and termination, shall be paid.

II. The bidder certifies that:

(a) The bid has been arrived at by the bidder independently and has been submitted without collusion with any other vendor of materials, supplies or equipment of the type described in the invitation for bids.

(b) The contents of the bid have not been communicated by the bidder, nor to its best knowledge and belief, by any of its employees or agents, to any person not an employee or agent of the bidder or its surety of a bond furnished herewith prior to the opening of the official bid.

III. The Contractor expressly agrees that:

(a) That in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall by reason of race, creed, color or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;

(b) That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, creed, color or national origin;

(c) That there may be deducted from the amount payable to the contractor by the state or municipality under this contract a penalty of five dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provision of the contract.

(d) That this contract may be cancelled or terminated by the State or municipality, and all monies due or to become due hereunder may be forfeited, for a second or any subsequent violation of this section of the contract.

SCHEDULE "C"

The Contractor will provide to the municipality proof, satisfactory to the municipal attorney, of insurance and bonds required herein.

The following indemnification agreement is hereby made a part of this agreement:

The Town/Village and Contractor shall protect, defend, indemnify and hold the County of Rockland and its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this agreement and/or the performance hereof.

Without limiting the generality of the foregoing, any and all such claims, etc. relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringements of any patent, trademark, copyright (or application of any thereof) or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder.

The Contractor shall investigate, handle, respond to, provide defense for and defend any such claims, etc., at his sole expense and shall bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false or fraudulent. In any case in which such indemnification would violate Section 5-322.1 of the New York General Obligations Law, or any other applicable legal prohibition, the foregoing provisions concerning indemnification shall not be construed to indemnify the County for damage arising out of bodily injury to persons or damage of property caused by or resulting from the sole negligence of the County, or its employees.

SCHEDULE "D"

1. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities:

This Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12USC 1701u), as amended, the HUD regulations issued pursuant thereto at 14 CFR Part 135, and any applicable rules and orders of HUD issued thereunder prior to the HUD authorization of the Funding Approval to the County.

Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower-income residents in the project area, and that contracts for work be awarded to eligible business concerns which are located in, or owned in substantial part, by persons residing in the area of the project.

At the execution of this contract; the contractor shall execute a statement of Compliance with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, and shall provide information relating to subcontractors, material suppliers and persons to be hired for this project.

2. Flood Disaster Protection:

This Agreement is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.D. 93-234). No portion of the assistance provided the Agreement is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program shall be subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said ACT.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement shall contain, if such land is located in an area identified by the Secretary of HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 USC 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain or maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under section 102(a) of the Flood Disaster Protection Act of 1973. Such provision shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Agreement.

3. Equal Employment Opportunity:

(a) Activities and contracts not subject to Executive Order 11246, as amended. In carrying out the program, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor shall take affirmative action to insure that applicants for employment 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 shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Town/Village setting forth the provisions of this nondiscrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national

origin. The Contractor shall incorporate the foregoing requirements of this paragraph (a) in all of its contracts for program work, except contracts governed by paragraph (b) of this section, and will require all of its subcontractors to include such requirements in all subcontracts for program work.

(b) Contracts subject to Executive Order 11246, as amended. Such contracts shall be subject to HUD Equal Employment Opportunity Regulations at 24 CFR Part 130 applicable to HUD assisted construction contracts.

The Contractor shall cause or require to be inserted in full any nonexempt contract and subcontract for construction work, or modification thereof, as defined in said regulations, which is paid for in whole or in part with assistance provided under this Agreement, the following equal opportunity clause:

"During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant 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 County setting forth the provisions of this non-discrimination 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 to race, color, religion, sex or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Town/Village advising the said labor union or workers' representatives of the Contractor's commitment under this section 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 Executive Order 11246 of September 24, 1965 and of the rules, regulations and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by HUD 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 such rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Contractor may be ineligible for further Government contracts or federally assisted construction contract procedures authorized in Executive Order 11246 of September 24, 1965 or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11245 of September 24, 1965 so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as HUD or the County may direct as a means of

enforcing such provisions, including sanctions for noncompliance; Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD or the Town/Village, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

The Contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the Contractor so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Contractor agrees that it will assist and cooperate actively with HUD and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with equal opportunity clause and the rules, regulations not relevant orders of the Secretary of Labor; that it will furnish HUD and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist HUD in the discharge of its primary responsibility for securing compliance.

The Contractor further agrees that it will refrain from entering into any contract modification subject to Executive Order 11246 of September 24, 1965 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the executive order and will carry out such sanction and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by HUD or the Secretary of Labor pursuant to Part II, Subpart D, of the executive order. In addition, the Contractor agrees that if it fails or refuses to comply with these undertakings, HUD or the Town/Village may take any or all of the following actions: Cancel, terminate or suspend in whole or in part of the grant or loan guarantee or this contract; refrain from expanding any further assistance to the Contractor under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such Contractor; and refer the case to the Department of Justice for appropriate legal proceedings.

4. Lead-Based Paint Hazards:

The construction or rehabilitation of residential structures with assistance provided under this Agreement is subject to HUD Lead-Based Paint regulations, 24 CFR Part 35. Any grants or loans made by the Contractor for the rehabilitation of residential structures with assistance provided under this Agreement shall be made subject to the provisions for the elimination of lead-based paint hazards under subpart 5 of said regulations and the Contractor shall be responsible for the inspections and certifications required under Section 35.14(f) thereof.

5. Compliance with Air and Water Acts:

This agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time. In compliance with said regulations, the Contractor shall cause or require to be inserted in full in all contracts and subcontracts with respect to any nonexempt transaction thereunder funded with assistance provided under this Agreement, the following requirements:

(1) A stipulation by the Contractor or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

(2) Agreement by the Contractor to comply with all of the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1957c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308 and all regulations and guidelines issued thereunder.

(3) A stipulation that as a condition for the award of the contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA list of Violating Facilities.

(4) Agreement by the contractor that he will include or cause to be included the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the contractor will take such action as HUD and/or the County may direct as a means of enforcing such provisions.

In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 308(c) of the Federal Water Pollution Control Act.

6. Federal Labor Standards Provisions:

Except with respect to the rehabilitation of residential property designed for residential use for less than eight families, the Contractor and all subcontractors engaged under contracts in excess of \$2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with the Davis Bacon Act (40 U.S.C. 276a to a-7) and HUD requirements pertaining to such contracts and the applicable requirements of the regulations of the Department of Labor under 29 CFR Parts 3, 5 and 5a, governing the payment of wages and the ratio of apprentices and trainees to journeymen: Provided that if wage rates higher than those required under such regulations are imposed by state or local law, nothing hereunder is intended to relieve the Contractor of its obligation, if any, to require payment of the higher rates. The Contractor shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of 29 CFR 5.5 and, for such contracts in excess of \$10,000, 29 CFR 5a.3.

No award of the contracts covered under this section of the Agreement shall be made to any contractor who is at the time ineligible under the provisions of any applicable regulations of the Department of Labor to receive an award of such contract.

All contractors and subcontractors on contracts in excess of \$2,000 which involve the employment of mechanics or laborers shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR Part 5).

Contractors and Subcontractors shall be required to submit weekly payroll certifications concerning compliance with the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act.

7. Nondiscrimination Under Title VI of the Civil Rights Act of 1964:

This Agreement is subject to the requirements of the Title VI of the Civil Rights Act of 1964 (P.L. 38-352) and HUD regulations with respect thereto including the regulations under 24 CFR Part 1. In the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Contractor shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination upon the basis of race, color, religion, sex or national origin, in the sale, lease or rental, erected thereon, and providing that the Contractor, the United States and the Town/Village are beneficiaries of and entitled to enforce such covenant. The Contractor in undertaking its obligation in carrying out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself so discriminate.

Obligations of Contractor with Respect to Certain Third Party Relationships:

The Contractor shall remain fully obligated under the provisions of the Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the program with respect to which assistance is being provided under this Agreement to the Contractor. The Contractor shall comply with all lawful requirements of the Town/Village necessary to insure that the program with respect to which assistance is being provided under this Agreement to the Contractor is carried out in accordance with the Town's/Village's assurances and certifications to HUD, including those with respect to the assumption of environmental responsibilities of the County under Section 104(h) of the Housing and Community Development Act of 1974.

9. Interest of Certain Federal Officials:

No member of or Delegate to the Congress of the United States and no Resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from same.

10. Interest of Members, Officers or Employees of Contractor, Members of Local Governing Board or Other Public Officials:

No member, officer or employee of the Contractor, or its designees or agents, no member of the governing body of the locality in which the program is situated and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Agreement. The Contractor shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section.

11. Prohibition Against Payments of Bonus or Commission:

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining HUD approval of the application for such assistance, or HUD approval of applications for additional assistance or any other approval or concurrence of HUD required under this Agreement, Title I of the Housing and Community Development Act of 1974 or HUD regulations with respect thereto; provided, however, that reasonable fees or bona fide technical consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

12. Anti-Kickback Act:

The Contractor shall comply with the applicable regulations of the Secretary of Labor, United States Department of Labor and pursuant to the so-called "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948.62 Stat. 863: Title 18 U.S.C. Section 874 and Title 40 U.S.C. Section 276c), and any amendments or modifications thereof, and as supplemented in Department of Labor Regulations (29 CFR Part 3). This Act provides that each contractor and subcontractor shall be prohibited from inducing, by and any means, any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he is otherwise entitled.

DATE: _____

PROJECT _____

STATEMENT OF COMPLIANCE
TRAINING, EMPLOYMENT AND CONTRACT OPPORTUNITIES
FOR BUSINESSES AND LOWER INCOME PERSONS

A. The project assisted under this (contract)(agreement) is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C.1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

B. Notwithstanding any other provision of this (contract)(agreement) the (applicant)(recipient) shall carry out the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary set forth in 24 CFR Part 135 (published in 38 Federal Register 29220, October 23, 1973) and all applicable rules and order of the Secretary issued thereunder prior to the execution of this (contract)(agreement). The requirements of said regulations include but are not limited to development and implementation of an Affirmative Action Plan for utilizing business concerns located within or owned in substantial part by persons residing in the area of the project: the making of good faith effort, as defined by the regulations, to provide training, employment and business opportunities required by Section 3: and incorporation of the "Section 3 Clause" specified by Section 135.20(b) of the regulations in all contracts for work in connection with the project. The (applicant)(recipient) certifies and agrees that is under no contractual or other disability which would prevent it from complying with these requirements.

C. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135 and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this (agreement)(contract), shall be a condition of the Federal financial assistance provided to the project, binding upon the (applicant)(recipient), its successors and assigns. Failure to fulfill these requirements shall subject the (applicant) (recipient), its contractors and subcontractors, its successors and assigns to the sanctions specified by this (agreement)(contract) and to such sanctions as are specified by 24 CFR Section 135.135.

COMPANY NAME: _____

ADDRESS: _____

OFFICIAL SIGNATURE

NAME/TITLE, TYPED/PRINTED

CERTIFICATION OF NONSEGREGATED FACILITIES

The Bidder certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Bidder certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments and that he will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The Bidder agrees that a breach of this certification will be a violation of the Equal Opportunity Clause in any contract resulting from acceptance of this Bid. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom or otherwise. The Bidder agrees that (except where he has obtained identical certification from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause and that he will retain such certifications in his files.

NOTE: The penalty for making false statements in offer is prescribed in 18 U.S.C. 1001.

DATE: _____, 20_____

Name of Bidder

BY: _____

Title

Official Address:

