

# **ARKANSAS COMMUNITY AND ECONOMIC DEVELOPMENT PROGRAM (ACEDP)**

## **ACEDP SAMPLE BID PACKAGE (For General Contractors)**



**Arkansas Economic Development Commission  
Grants Division  
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Little Rock, Arkansas 72201  
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The Economic Development Commission does not discriminate on the basis of Race, Color, National Origin, Sex, Age, Religion or Disability; and provides upon request, reasonable accommodation including auxiliary aids and services necessary to afford an individual with a disability an equal opportunity to participate in all programs and activities.

**Sample Bid Package for ACEDP Funded Projects  
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**Attachment 1A**  
**Sample Bid Package for ACEDP Funded Projects**  
**Advertisement for Bids**

Date: \_\_\_\_\_

\_\_\_\_\_ (City/County)

\_\_\_\_\_ Project

ACEDP Grant #790-0\_\_\_\_\_

Sealed bids from licensed contractors for construction of \_\_\_\_\_  
\_\_\_\_\_ (Describe type of construction)

\_\_\_\_\_, Arkansas, will be received by \_\_\_\_\_

\_\_\_\_\_ until \_\_\_\_\_ (Time) \_\_\_\_\_ (Date) and then at  
said location publicly opened and read aloud.

The scope of work consists of  
\_\_\_\_\_ construction  
to Bidders, ACEDP grant requirements, Bid and Contract Forms, Plans, Specifications,  
and other contract documents may be examined and obtained (\$\_\_\_\_\_ cost per  
set obtained) at \_\_\_\_\_.

The owner reserves the right to waive any informalities or to reject any or all bids.  
Bidders may not withdraw their bids within 30 days after the date of bid opening and  
must provide bid bonds as required. All bidding processes shall be in accordance with  
State law.

To request bidding information or obtain further information contact:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Grantee's Signatory Agent) \_\_\_\_\_

(Name of City or County) \_\_\_\_\_

**Attachment 1B**  
**Sample Bid Package for ACEDP Funded Projects**  
**Instruction to Bidders**

The following information is specific to prospective bidders of ACEDP-funded construction projects:

1. **Receipt and Opening of Bids**

The \_\_\_\_\_ (herein identified as "Owner"), invites bids on the forms attached hereto, all blanks of which must be appropriately filled in. Bids will be received by the Owner at the office of \_\_\_\_\_ until \_\_\_\_\_ o'clock a.m. /p.m., \_\_\_\_\_ CST \_\_\_\_\_ (Date), and then at said office publicly opened and read aloud. The envelopes containing the bids must be sealed, addressed \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_ and designated as Bid for \_\_\_\_\_.

The Owner may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or scheduled time for bid opening or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within **30 days** after the actual date of bid opening.

2. **Preparation of Bid**

Each bid must be submitted on the prescribed form **and must be accompanied by completed Certification of Bidder Regarding Equal Employment Opportunity and Contractor Section 3 Certification forms**. All blank spaces for bid prices must be filled in, in ink or typewritten, in both words and figures.

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form. Identification of subcontractors must be per State law.

3. **Facsimile/Telegraphic Modification**

Any bidder may modify his bid by facsimile/telegraphic communication at any time prior to the scheduled closing time for receipt of bids, provided such communication is received by the Owner prior to closing time, and, provided further, the Owner is satisfied that a written confirmation of the facsimile/telegraphic modification over the signature of the bidder was mailed prior to closing time. The communication should not reveal the bid price but

should provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened. If written confirmation is not received within two days after closing time, no consideration will be given to the facsimile/telegraphic modification.

4. **Method of Bidding**

The Owner invites the following bid(s):

5. **Qualifications of Bidder**

The Owner may make such investigations as he deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the Owner that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional bids shall not be accepted.

6. **Bid Security**

Each bid must be accompanied by a certified check from the bidder, or a bid bond prepared on the form of the bid bond attached hereto, duly executed by the bidder as principal and having as surety thereon a surety company, licensed in the State of Arkansas, approved by the Owner, in the amount of 5 percent of the bid. Such check or bid bond will be returned to all except the three lowest bidders within three days after the opening of bids, and the remaining checks or bid bonds will be returned promptly after the Owner and the accepted bidder have executed the contract, or, if no award has been made within 30 days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid.

7. **Liquidated Damages for Failure to Enter into Contract**

The successful bidder, upon his failure or refusal to execute and deliver the contract and bonds required within 10 days after he has received Notice of Award shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his bid.

8. **Time of Completion and Liquidated Damages**

The bidder must agree to commence work on or before a date to be specified in a written Notice to Proceed issued by the Owner and to fully complete the project within \_\_\_\_\_ consecutive calendar days thereafter. The bidder must agree also to pay as liquidated damages, the sum of \$\_\_\_\_\_ for each consecutive calendar day thereafter.

9. **Conditions of Work**

Each bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible, the contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.

10. **Addenda and Interpretations**

No interpretation of the meaning of the plans, specifications, drawings and other contract documents will be made to any bidder orally. Every request for such interpretation should be in writing addressed to \_\_\_\_\_ at \_\_\_\_\_ and, to be given consideration, must be received at least five days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instruction will be in the form of written addenda to the contract documents which, if issued, will be mailed by certified mail with return receipt requested to all prospective bidders (at the respective addresses furnished for such purposes), not later than three days prior to the date fixed for the opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

11. **Security for Faithful Performance**

In accordance with the Notice to Proceed, the contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract, as specified in the General Conditions included herein. The surety on such bonds shall be a duly authorized surety company, licensed in the State of Arkansas, and satisfactory to the Owner.

12. **Power of Attorney**

Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and dated copy of their power of attorney.

13. **Notice of Special Conditions**

Attention is particularly called to those parts of the contract documents and specifications which deal with the following:

- Bonding and Insurance Requirements
- General Conditions of the Contract
- Regulatory Requirements
- Wage Rates

14. **Laws and Regulations**

The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

15. **Method of Award-Lowest Qualified Bidder**

If, at the time this contract is to be awarded, the lowest base bid submitted by a responsible bidder does not exceed the amount of funds then estimated by the Owner as available to finance the contract, the contract will be awarded on the base bid only. If such bid exceeds such amount, the Owner may reject all bids or may award the contract on the base bid combined with such deductible alternates (if applicable) applied in the numerical order specified by the contract documents, as produces a net amount within the available funds.

16. **Obligation of Bidder**

At the time of the opening of bids, each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the plans and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve any bidder from any obligation in respect of his bid.

17. **Safety Standards and Accident Prevention**

With respect to all work performed under this contract, the contractor shall

- Comply with the safety standards provisions of applicable laws, building and construction codes and the Manual of Accident Prevention in Construction: published by the Associated General Contractors of America, the requirements of the Occupational Safety and Health Act of 1970 (Public Law 91-596 and the requirement of Title 29 of the Code of Federal Regulations, Section 1518, as published in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971), and specifically OSHA's Standard for Excavation and Trench Safety Systems, 29 CFR Part 1926, Subpart P.
- Exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property.



- Maintain at his office or other conspicuous place at the job site, all articles necessary for giving first aid to the injured, and shall make standing arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees), who may be injured on the job site.

**For Contracts with Excavation in Excess of 5 Feet**

- A separate lump sum bid item must be included for Excavation/Trench Safety System (for excavation in excess of 5'). Bidder is required to complete this pay item in accordance with Act 291 of the Arkansas 79th General Assembly.
- In the event a bidder fails to complete this pay item, the Owner shall declare that the bid fails to comply fully with the provisions of the specifications and bid documents and will be considered invalid as a nonresponsive bid. Payment for the lump sum bid item for Excavation/Trench Safety System will be paid at the completion of the contract. No partial payments will be allowed thereunder.

**Attachment 1C**  
**Sample Bid Package for ACEDP Funded Projects**  
**Bid for Unit Price “Line-Item” Contract**

*Required for all water, wastewater projects.*

\_\_\_\_\_ (City/County), Arkansas  
 \_\_\_\_\_ Type of Project  
 \_\_\_\_\_ Location of Project  
 Grant # 790-0 \_\_\_\_\_ ACEDP Project Number

As bidder, \_\_\_\_\_ (Insert name of corporation, partnership or individual), in accordance with your invitation for bids for the construction of the above-identified project, having examined all contract documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the project in accordance with the contract documents, within the time set forth therein, and at the prices as stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents, of which this proposal is a part.

The bidder agrees to perform all work identified above for the following unit prices:

Item Number	Estimated Quantity	Description	Unit Price Each*	Total*
1.				
2.				
3.				
4.				
5.				
6.				
7.				

\* The unit prices and total price must be specified in both words and figures, e.g., \$100.00, one-hundred dollars. In case of discrepancy, the amount shown in words will govern.

Item Number	Estimated Quantity	Description	Unit Price Each*	Total*
8.				
9.				
10.				
11.				
12.				
13.				

*NOTE: The number of line items above is for illustrative purposes only. The number of line items may be larger or smaller depending upon the complexity of the project.*

14. Excavation/Trench Safety (See General Conditions of Contract)

\$ \_\_\_\_\_

**TOTAL BID** \$ \_\_\_\_\_

The above unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the complete project.

### **Deductive Alternatives**

Deductive alternatives are **required for all projects.**

Deductive Alternate No 1:

\_\_\_\_\_ " \_\_\_\_\_ "

Deduct the sum of: \$ \_\_\_\_\_

Total Base Bid minus Deductive Alternate No. 1

\$ \_\_\_\_\_

Deductive Alternate No. 2:

\_\_\_\_\_ " \_\_\_\_\_ "

Deduct the sum of: \$ \_\_\_\_\_

Total Base Bid minus Deductive Alternatives No. 1 and No. 2

\$ \_\_\_\_\_

*Note: Continue the same process as above for all additional deductive alternatives.*

The bidder hereby agrees to commence work under this contract within 10 days after receiving a Notice to Proceed from the Grantee and to fully complete the project within \_\_\_\_\_ consecutive calendar days thereafter as stipulated in the specifications. Bidder further agrees to pay as liquidated damages, the sum of \$ \_\_\_\_\_ for each consecutive calendar day thereafter.

The bidder acknowledges receipt of the following addendum:

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---

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The bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The bidder agrees that this bid shall be good and may not be withdrawn for a period of 30 calendar days after the bid opening.

Upon receipt of written notice of the acceptance of this bid, bidder will execute the formal contract attached within 10 days and deliver a Surety Bond or bonds as required by the General Conditions. The bid security attached in the sum of \$ \_\_\_\_\_ is to become the property of the Owner in the event the contract and bond are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted:

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Company DUNS Number

\_\_\_\_\_  
(Please Print Name of Owner/Contractor)

\_\_\_\_\_  
Individual/Company Tax ID Number

*(Seal - if bid is by a corporation)*

---

*(Title)*

---

*(Business Address and Zip Code)*

---

*(Date)*

**Attachment 1D**  
**Sample Bid Package for ACEDP Funded Projects**  
**Bid for Lump-Sum Contract**

\_\_\_\_\_ (City/County), Arkansas

\_\_\_\_\_ (Type of project)

\_\_\_\_\_ (Location of project)

\_\_\_\_\_ (ACEDP project number)

As \_\_\_\_\_ bidder

\_\_\_\_\_,  
(Insert name of corporation, partnership or individual) in accordance with your invitation for bids for construction of the above-identified project, having examined all contract documents and the site of the proposed work, and being familiar with all of the conditions surrounding construction of the proposed project including availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies and to construct the project in accordance with the contract documents, within the time set forth therein, and at the price(s) stated below. Such price(s) shall cover all expenses incurred in performing the work required by the contract documents, of which this proposal is part.

The bidder hereby agrees to commence work under this contract within 10 days after receiving a Notice to Proceed from the Owner and to fully complete the project within \_\_\_\_\_ consecutive calendar days thereafter as stipulated in the specifications. The bidder further agrees to pay as liquidated damages, the sum of \$\_\_\_\_\_ for each consecutive calendar day thereafter.

The bidder acknowledges receipt of the following addendum:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Base Proposal

The Bidder agrees to perform all of the work contained in these contract documents for a Lump Sum Total Bid Base of \_\_\_\_\_ (\$\_\_\_\_\_). (*Amount shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern.*)

If excavation/trench safety is required, a separate line item shall be provided as

Excavation/Trench Safety (See General Conditions of Contract)

\$ \_\_\_\_\_

**TOTAL BID** \$ \_\_\_\_\_

“ \_\_\_\_\_ ”

The above price(s) shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the complete project.

### DEDUCTIVE ALTERNATIVES

Deductive alternatives are **required for all projects.**

Deductive Alternate No 1:

\_\_\_\_\_ Deduct the sum of: “ \_\_\_\_\_ ”

\$ \_\_\_\_\_

Total Base Bid minus Deductive Alternate No. 1

\$ \_\_\_\_\_

Deductive Alternate No. 2:

\_\_\_\_\_ Deduct the sum of: “ \_\_\_\_\_ ”

\$ \_\_\_\_\_

Total Base Bid minus Deductive Alternatives No. 1 and No. 2

\$ \_\_\_\_\_

Deductive Alternate No. 3:

\_\_\_\_\_ Deduct the sum of: “ \_\_\_\_\_ ”

\$ \_\_\_\_\_

Total Base Bid minus Deductive Alternates No. 1, No. 2, No. 3  
\$ \_\_\_\_\_

*Note: Continue the same process as above for all additional deductive alternatives.*

The bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The bidder agrees that this bid shall be good and may not be withdrawn for a period of 30 calendar days after the bid opening.

Upon receipt of written notice of acceptance of this bid, bidder will execute the formal contract attached within 10 days and deliver a Surety Bond or Bonds as required by the General Conditions.

The bid security attached in the sum of \$ \_\_\_\_\_ is to become the property of the Owner in the event the contract and bond are not executed within the time set forth above, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted:

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Company DUNS Number

\_\_\_\_\_  
(Please Print Name of Owner/Contractor)

\_\_\_\_\_  
Individual/Company Tax ID Number

*(Seal - if bid is by a corporation)*

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Business Address and Zip Code)



---

*(Date)*

**Attachment 1E**  
**Sample Bid Package for ACEDP Funded Projects**  
**Certification of Bidder Regarding Equal Employment Opportunity**

This certification is required pursuant to Executive Order 11246 (30 FR 12319-25) which provides that any bidder or prospective contractor or any of their proposed subcontractors, shall state as an initial part of the bid whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and if so, whether it has filed all compliance reports due under applicable instructions. Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven (7) calendar days after bid opening. **No contract shall be awarded unless such report is submitted.**

<b>Certification by Bidder</b>
<b>Name and Address of Bidder (Including Zip Code)</b>
_____
_____
_____
_____
<i>Name and Title of Bidder's Agent</i>

1. Has the bidder participated in a previous contract or subcontract subject to the Equal Opportunity Clause?  
Yes            No
  
2. Were compliance reports required to be filed in connection with such contract or subcontract?  
Yes            No
  
3. Has the bidder filed all compliance reports due under applicable instructions?  
Yes            No            N/A
  
4. Has the bidder ever been or is being considered for sanction due to violation of Executive Order 11246, as amended?  
Yes            No

_____	
<i>Signature and Title of Bidder's Agent</i>	<i>Date</i>

**Attachment 1F**

**Sample Bid Package for ACEDP Funded Projects  
Contractor Section 3 Certification**

\_\_\_\_\_ (*Name of contractor*) agrees to implement the following specific affirmative steps directed at increasing the utilization of lower income residents and businesses within the City or County of \_\_\_\_\_.

- |    |                                                                                                                                                                                                                                                                                                   |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A. | To implement Section 3 requirements by seeking the assistance of local officials in determining the exact boundaries of the applicable project area                                                                                                                                               |
| B. | To attempt to recruit from within the City/County the necessary number of lower income residents through: local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area |
| C. | To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists                                                                                                   |
| D. | To insert this Section 3 plan in all bid documents, and to require all bidders to submit a Section 3 affirmative action plan (when contracts exceed \$10,000) including utilization goals and the specific steps planned to accomplish these goals                                                |
| E. | To formally contact unions, subcontractors, and trade associations to secure their cooperation for this project                                                                                                                                                                                   |
| F. | To ensure that all appropriate project area business concerns are notified of pending subcontractual opportunities                                                                                                                                                                                |
| G. | To maintain records, including copies of correspondence, memoranda, etc., which document that all of the above affirmative action steps have been taken                                                                                                                                           |
| H. | To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan                                                                                                                                         |
| I. | To list on the Estimated Project Workforce Breakdown form, all projected workforce needs for this project by job classification                                                                                                                                                                   |

As officers and representatives of \_\_\_\_\_

(*Name of contractor*)

We, the undersigned, have read and fully agree to the above and become a party to the full implementation of this program.

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

**Attachment 1G**  
**Sample Bid Package for ACEDP Funded Projects**  
**Estimated Project Workforce Breakdown**

<b>Job Category</b>	<b>Total Estimated Positions</b>	<b>No. of Positions Currently Occupied by Permanent Employees</b>	<b>No. of Vacant Positions</b>	<b>No. of Positions to be Filled With LIPAR (Note 1)*</b>
Officers/Supervisors				
Professionals				
Technicians				
Office				
Clerical				
Trade				
Journeyman				
Apprentices				
Trainees				
Others				
<b>Total</b>				

\* Note 1: Lower Income Project Area Residents. Individuals residing within the City/County of \_\_\_\_\_ whose family income does not exceed 80 percent of the median income in the area.

\_\_\_\_\_

*Company*

**Attachment 1H**  
**Sample Bid Package for ACEDP Funded Projects**  
**Contract and General Conditions**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between \_\_\_\_\_, hereinafter called the "Contractor" and \_\_\_\_\_, hereinafter called the "Owner".

In consideration of the mutual premises and agreements contained herein, the undersigned Contractor and Owner agree as follows:

**A. The Contractor shall**

1. Furnish all labor, materials, tools, machinery, supervision and services necessary to perform all of the work in accordance with the description of work consisting of all plans, specifications, and supplemental contract documentation, dated \_\_\_\_\_ for work defined in \_\_\_\_\_, Arkansas, for the sum of \$\_\_\_\_\_.
2. Perform all work timely and diligently in a good and workmanlike manner using approved or equal materials as specified by the Grantee.
3. Begin work within 10 calendar days of receipt of the written Notice to Proceed and shall complete the work within \_\_\_\_\_ calendar days thereafter.
4. Carry Worker's Compensation and Employer's Liability Insurance in accordance with the laws of the State of Arkansas for all persons engaged in work at the site; and carry Contractor's Public Liability and Property Damage Insurance and Comprehensive Automobile Liability Insurance.
5. Furnish, before beginning the work, a Certificate of Insurance showing compliance with the provisions of Section A, Paragraph 4 above.
6. Keep the premises clean and orderly during the work and upon substantial completion of the contract, remove all rubbish, tools, scaffolding, and surplus materials from and about the site(s) and leave the work and premises consistent with prior appearance or equivalent. Material and equipment that have been removed and replaced as part of the work shall belong to the contractor.

Not assign the contract without written consent from the Owner.

8. Guarantee the work performed for a period of twelve months from the date of final acceptance of all work required by this contract. Furthermore,

furnish the Owner and the Grantee with all manufacturer's and supplier's written guarantees and warranties covering materials and equipment furnished under this contract.

9. Furnish the Owner, upon completion of the work and upon final payment by the Owner, a Release of Lien Form certifying that all charges for materials, labor, and/or any other expenses incurred by the Contractor pertaining to the execution of this contract have been paid in full.
10. Defend, indemnify and hold harmless the Owner, the Arkansas Economic Development Commission, their agents or employees from and against any and all claims for injuries or damages to persons or property of any kind or character, whatsoever, whether real or asserted, arising out of the performance of this contract. Furthermore, shall assume all liability and responsibility for injuries, claims or suits for damages, to persons or property of any kind or character, whatsoever, whether real or asserted, arising out of the performance of this contract.

**B. The Owner shall**

1. Not make, or permit to be made, any changes to the description of work, without written approval from the Economic Development Commission.
2. Permit the contractor to use existing utilities such as lights, heat, power and water necessary to carry out and complete the work as specified.
3. Cooperate with the contractor to facilitate the performance of the work.
4. Issue a written Notice to Proceed to the contractor within ten (10) days from the date of this agreement.

**C. Method of Compensation:**

1. Payment for work shall be on percentage complete, plus on-site stored materials minus retainage. Final payment shall be made after: a Certificate of Substantial Completion has been executed; Economic Development Commission has received the contractor's Final Invoice and a satisfactory release of liens, or claims for liens, by subcontractors, laborers and material supplies for completed work or installed materials; and, after a final inspection has been conducted.
2. The contractor shall be liable for and shall pay to the Owner the sum of \$\_\_\_\_\_ as fixed, agreed and liquidated damages for each calendar day of delay from the above stipulated completion date (Section A, Paragraph 3) or as modified by a properly executed Change Order until such work is satisfactorily completed and accepted by the Owner and Grantee.

**D. General Provisions:**

1. The contractor agrees to perform all contract work as specified, and the Owner agrees that neither he nor the members of his family, his tenants, agents, or employees will hinder the contractor or his work.
2. The contractor shall take affirmative steps to ensure that applicants for employment are not discriminated against in any manner prescribed by the Regulatory Requirements of this contract during employment. Employment activities shall include, but not be limited to employment, upgrading, demotion, or transfer; termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.
3. The contractor shall post in conspicuous places, for employees and applicants for employment, notices setting forth the provisions, as stated, of the non-discrimination clause contained within the contract's Regulatory Requirements.
4. The contractor shall incorporate the foregoing requirements in all subcontracts.
5. In the event of any breach of this contract by the contractor, the Owner and the Grantee may, at their option, engage the services of another contractor to complete the work and deduct the cost of such completion from any amount due the contractor.
6. This contract embodies all of the representations, rights, duties, and obligations of the parties hereto, and any prior oral or written agreement not embodied herein shall not be binding upon or endure to the benefit of any of the parties

**This Contract and All Terms and Conditions Contained Herein  
Are Approved and Accepted as of the Date First Above Written.**

*(Seal)*

\_\_\_\_\_

Attest:

*(Owner)*

\_\_\_\_\_ By

\_\_\_\_\_

*(Secretary)*

\_\_\_\_\_

\_\_\_\_\_

*(Witness)*

*(Title)*

*(Seal)*

\_\_\_\_\_

Attest:

*(Contractor)*

\_\_\_\_\_ By

\_\_\_\_\_

*(Secretary)*

\_\_\_\_\_

\_\_\_\_\_

*(Witness)*

*(Title)*



**Attachment 1I**  
**Sample Bid Package for ACEDP Funded Projects**  
**Bonding and Insurance Requirements**

- 1.1 This section defines **ACEDP grant requirements for bonding and insurance**. No other bonding and insurance requirements, unless specified by State law, shall be imposed.
- 2.1 Entities receiving Federal assistance which involves contracting for construction or facility improvements shall follow State law relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding \$100,000. **For contracts exceeding \$100,000, the following minimum bonding requirements shall apply:**
  - 2.1.1 A bid guarantee from each bidder equivalent to 5 percent of the bid price. The "**bid guarantee**" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
  - 2.1.2 A "**performance bond**" furnished by the contractor in an amount at least equal to 100 percent of the contract price as security for faithful performance of the contract.
  - 2.1.3 A "**payment bond**" in an amount not less than 100 percent of the contract price or in a penal sum not less than that prescribed by State law, to assure contractor payment of all persons performing labor on the project under this contract and/or furnishing materials and supplies during the execution of this contract.

The performance bond and the payment bond may be in one or in separate instruments in accordance with State law.

- 3.1 Where bonds are required as per section 2.1 above, the bonds shall be obtained from **acceptable companies** holding certificates of authority within the State of Arkansas.
- 4.1 **Additional or Substitute Bond** If, at any time, the Owner, for justifiable cause, shall be dissatisfied with any surety or sureties, then upon the Performance or Payment Bonds, the contractor shall within five (5) days after notice of dissatisfaction, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bond(s) shall be paid by the contractor. No further payments shall be deemed due nor made until the new surety or sureties furnish acceptable bond(s) to the Owner.

- 5.1 **Insurance** The contractor shall not commence work under this contract until he has obtained all insurance, as approved by the Owner, required under this paragraph, nor shall the contractor allow any subcontractor to commence work on his subcontract until the subcontractor's required insurance has been obtained and approved.
- 5.1.1 **Compensation Insurance:** The contractor shall procure and maintain throughout this contract Workmen's Compensation Insurance as required by applicable State law for all of his employees engaged in work at the site of the project under this contract and, in case of any such work sublet, the contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees engaged in such work unless such employees are covered by the protection afforded by the contractor's Workman's Compensation Insurance. In case any class of employees engaged in hazardous work under this contract is not protected under the Workmen's Compensation Statute, the contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of his employees as are not otherwise protected.
- 5.1.2 **Contractor's Public Liability and Property Damage and Vehicle Liability Insurance:** The contractor shall procure and shall maintain during the life of this contract Contractor's Public Liability Insurance, Contractor's Property Damage Insurance and Vehicle Liability Insurance in amounts specified in the contract conditions.
- 5.1.3 **Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance:** The contractor shall either (1) require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in the Supplementary Contract Conditions or, (2) obtain policy insurance on such activities as specified in subparagraph 5.1.2 above.
- 5.1.4 **Scope of Insurance and Special Hazards:** The insurance required under subparagraphs 5.1.2 and 5.1.3 above shall provide adequate protection for the Contractor and his subcontractors, respectively, against damage claims which may arise from operations under this contract, whether such operations be by the insured or by anyone directly or indirectly employed by him and, also against any of the special hazards, if specified, which may be encountered in the performance of this contract.
- 5.1.5 **Risk Insurance:** The Owner or contractor may be required to maintain Risk Insurance on a 100 percent completed value based on the insurable portion of the project (until accepted by the Owner as substantially complete) for the benefit of the Owner, the Contractor, or subcontractors

as their interests may appear. Any requirements pertaining to adequacy of Risk Insurance shall be as per State law.

- 5.1.6 **Proof of Carriage of Insurance:** The contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the Owner."

**Attachment 1J**  
**Sample Bid Package for ACEDP Funded Projects**  
**Bid Bond**

KNOW ALL MEN 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, our heirs, executors, administrators, successors and assigns.  
Signed, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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 to enter into a contract in writing, for the  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOW, THEREFORE.

- A. If said Bid shall be rejected, or in the alternate,
- B. If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract specified (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor 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 hands 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.

---

*Surety*

---

*Surety's Agent*

---

*Principal*

*Seal*

*Note: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) as authorized to transact business in Arkansas and have underwriting authority in an amount equal to or greater than the bid amount.*

**Attachment 1K**  
**Sample Bid Package for ACEDP Funded Projects**  
**Arkansas Statutory Payment and Performance Bond**

We

\_\_\_\_\_  
as Principal, hereinafter called Principal, and \_\_\_\_\_  
authorized to do business in the State of Arkansas, as Surety, hereinafter called Surety,  
are held and firmly bound unto \_\_\_\_\_  
as Obligee, hereinafter called Owner, in the amount of

\_\_\_\_\_  
Dollars (\$ \_\_\_\_\_), for the payment whereof Principal and Surety bind  
themselves, their heirs, personal representatives, successors and assigns, jointly and  
severally, by these presents.

Principal has by written agreement dated \_\_\_\_\_ entered into a contract with  
Owner for \_\_\_\_\_

\_\_\_\_\_  
which contract is by reference made a part hereof and hereinafter referred to as the  
Contract.

THE CONDITION OF THIS OBLIGATION is such that if the Principal shall faithfully perform the Contract on his part and shall fully indemnify and save harmless the Owner from all cost and damage which he may suffer by reason of failure to do so and shall fully reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any such default, and further, that if the Principal shall pay all persons all indebtedness for labor or materials furnished or performed under said Contract, failing which such persons shall have a direct right of action against the Principal and Surety, jointly and severally, under this obligation, subject to the Owner's priority, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

No suit, action or proceeding shall be brought on this bond outside the State of Arkansas. No suit, action or proceeding shall be brought on this bond except by the Owner after six months from the date final payment is made on the Contract, nor shall any suit, action or proceeding be brought by the Owner after two years from the date on which the final payment under the Contract falls due.

Any alterations which may be made in the terms of the Contract, or in the work to be done under it, or the giving by the Owner of any extension of time for the performance of the Contract, or any other forbearance on the part of either the Owner or the Principal to

the other shall not in any way release the Principal and the Surety or Sureties, or either or any of them, their heirs, personal representatives, successors or assigns from their liability hereunder, notice to the Surety or Sureties of any such alteration, extension or forbearance being hereby waived.

In no event shall the aggregate liability of the Surety exceed the sum set out herein.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
*Principal*

\_\_\_\_\_  
*Surety Agent*

\_\_\_\_\_  
*Attorney-in-Fact*

**Attachment 1L**  
**Sample Bid Package for ACEDP Funded Projects**  
**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 surety bonds 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.

\_\_\_\_\_  
*Attorney Signature*

\_\_\_\_\_  
*Date*



**Attachment 1M**  
**Sample Bid Package for ACEDP Funded Projects**  
**General Conditions of the Contract**

**1.1 Definitions**

**1.1.1 Contract and Contract Documents**

The project to be constructed pursuant to this contract will be financed with assistance from Community Development Block Grant funds and is subject to all applicable Department of Housing and Urban Development (HUD), State and Federal laws.

The plans, specifications, contract documents and any addenda shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were incorporated verbatim. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or infer interpretation of the provisions to which they refer.

**1.2 Execution**

1.2.1 Six copies of the Contract Documents shall be signed by the Owner and contractor.

1.2.2 Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

**1.3 Contract Authorization**

1.3.1. All original Drawings and Specifications will remain in the ownership of the architect or engineer. Notice and description of any changes to the original documents or scope of work by the contractor shall be communicated to the architect/engineer prior to completion of the affected work.

1.3.2 The Owner, architect/engineer and funding agencies shall have access to the construction site at all times and shall make site visits as necessary to verify project progress.

1.3.3 The architect/engineer shall make, or have made, determinations that the work for each payment request is or is not complete and meets the requirements of the contract documents. The request for payment process shall be defined at the Preconstruction Conference.

- 1.3.4 The architect/engineer shall have the authority to request corrections to deficient work by notifying the contractor in writing.
- 1.3.5 The contractor shall meet the requirements of all State, Federal and local laws including, but not limited to those listed in these contract documents as **Regulatory Requirements**.
- 1.3.6 The architect/engineer shall give all orders and directions under this contract, relative to execution of work including the amount, quality, acceptability, and fitness of the work and materials which are to be paid for under this contract and shall decide all questions which may arise in relation to work and the construction thereof. The architect or engineer's decisions shall be final and conclusive, except as State law may otherwise prescribe. Any differences or conflicts in regard to the contract documents that may arise between the contractor performing work for the architect/engineer shall be adjusted and determined by the architect/owner after consultation with the contractor.
- 1.3.7 All work and materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the Owner, engineer or architect or representative(s) thereof, who shall adjudge the quality and suitability of the work, materials, processes of manufacture, and methods of construction for the purposes for which they are used. Should they fail to meet their approval they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the contractor at his own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the architect/engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the contract documents, the compensation to be paid to the contractor shall be reduced by such amount adjudged by the architect/engineer as equitable.
- 1.3.8 No claim for extra work or cost shall be allowed unless authorized by change order executed by the engineer/architect and approved by the Owner and the Economic Development Commission. In the event of temporary suspension of work, or during inclement weather, or whenever the engineer or architect shall direct, the contractor will, cause his subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the architect/engineer, any work or materials were damaged or injured by reason of failure on the part of the contractor or any of his subcontractors, such materials shall be removed and replaced at contractor expense.
- 1.3.9 Should the contractor encounter site conditions that differ from the contract documents, he shall immediately give notice to the

architect/engineer before commencing work on the affected properties. The architect/engineer will thereupon investigate, or have investigated the conditions, and if found that they materially differ from those shown in the contract documents, will request changes as deemed necessary. Any increase or decrease of cost resulting from such changes shall be adjusted as per the General Conditions.

## 2.1 Definitions

2.1.1 The following terms as used in this contract are respectively defined as follows:

2.1.2 **Contractor:** A person, firm or corporation with whom the owner contracts with.

2.1.3 **Subcontractor:** A person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with the contractor.

2.1.4 **Work on (at) the project:** Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the contractor and any subcontractor.

## 3.1 Contractor's Responsibilities

3.1.1 The contractor shall and will, in good workmanlike manner, complete and perform all work and furnish all supplies, materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary to perform and complete all the work required by this contract. He shall furnish, erect, maintain, and remove such construction plant and such temporary works as may be required.

The contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the contract documents, and complete the entire work to the satisfaction of the engineer/architect and Owner.

It is understood that unless otherwise specifically stated in the contract documents, the contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every kind, and all other services and facilities of every kind whatsoever necessary to execute, complete, and deliver the complete project within the specified time. Any work necessary to be performed after regular working hours, on Sundays or legal Holidays, shall be performed without additional Owner expense.

3.1.2 The contractor shall at all times safe guard the Owner's property from injury or loss in connection with this contract. He shall at all times safe guard and protect his own work, and that of adjacent property from damage. In case of emergency, which threatens loss or injury of property, and/or safety or life, the contractor will be allowed to act, without previous instructions from the architect/engineer, in a diligent manner. He shall notify the engineer/architect of actions immediately thereafter. Any claim for compensation by the contractor due to such extra work may be submitted to the architect/engineer for approval and Owner for consideration. Where the contractor has not taken action but has notified the architect/engineer of an emergency threatening injury to persons or damage to the work or any adjoining property, he shall act as instructed or authorized by the architect/engineer.

The amount of reimbursement to the contractor on account of any emergency action shall be determined in the manner provided in the general conditions.

## 3.2 Contractor Requirements

The contractor shall

3.2.1 Take every precaution against injuries to persons or damage to property;

3.2.2 Store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work or elsewhere as will not unduly interfere with the progress of his work or the work of any other contractors;

3.2.3 Clean up frequently all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;

3.2.4 Before final payment, remove all surplus material, temporary structures, equipment and debris of every nature resulting from his operations, and to put the site in an orderly condition;

3.2.5 Effect all cutting, fitting or patching of his work to conform to the contract documents.

3.2.6 No materials or supplies for the work shall be purchased by the contractor or by any subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which interest is retained by the seller. The contractor warrants that he has good title to all materials

and supplies used by him in the work, free from all liens, claims or encumbrances.

- 3.2.7 The contractor shall not assign the whole or any part of this contract or any moneys due or to become due hereunder without written consent of the Owner. In case the contractor assigns all or any part of any moneys due or to become due under this contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to the contractor shall be subject to prior claims of all persons, firms and corporations of services rendered or materials supplied for the performance of the work called for in this contract.
- 3.2.8 If, through contractor neglect, any other contractor or subcontractor suffers loss or damage on the work, the contractor agrees to settle with such other parties by agreement or arbitration if such parties will so settle. If such other contractors or subcontractors shall assert any claim against the Owner on account of any damage alleged to have been sustained, the Owner shall notify the contractor, who shall indemnify and save harmless the Owner against any such claim.
- 3.2.9 Neither the final certificate of payment nor any provision in the contract documents, shall constitute an acceptance of work not completed in accordance with the contract documents or relieve the contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of the work unless a longer period is specified. The Owner will give notice of observed defects with reasonable promptness.

### **3.3 Subcontractor's Responsibilities**

- 3.3.1 The contractor may hire specialty subcontractors to complete work which, under normal contracting practices, is performed by specialty subcontractors, however, the contractor shall be fully responsible to the Owner for the acts or omissions of his subcontractors, and of persons either directly or indirectly employed by him.
- 3.3.2 The contractor shall coordinate his operations with those of other contractors in the arrangement for storage of materials and in the detailed execution of the work. The contractor, including his subcontractors, shall keep informed of the progress and the detail work of other contractors and shall notify the Owner immediately of lack of progress or defective workmanship on the part of other contractors. Failure of a contractor to

keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him of the status of the work as being satisfactory.

### **3.4 Patents**

The contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract, including its use by the Owner, unless otherwise specifically stipulated in the Contract Documents. License and/or Royalty Fees for the use of a process which is authorized by the Owner must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the Owner and not by or through the contractor.

If the contractor uses any design, device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the holder of such patented or copyrighted design, device or materials. It is mutually understood that, without exception, the contract price shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

### **3.5 Superintendence**

At the site of the work, the contractor shall employ a construction superintendent or foreman who shall have full authority to act for the contractor.

### **3.6 Conflicting Conditions**

Any provisions in any of the contract documents, which may be in conflict, or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

### **3.7 Arkansas Economic Development Commission Inspection**

Authorized representatives of the Arkansas Economic Development Commission shall be permitted to inspect all work, materials, personnel records, invoices of materials, and other data and records of the contractor and his subcontractor(s).

### 3.8 **Payment Provisions**

- 3.8.1 To ensure the proper performance of this contract, the Owner shall retain ten percent (10%) of the amount of each estimate until the project is 50 percent complete. Final retainage shall be released upon acceptance of the Certificate of Substantial Completion.
- 3.8.2 In preparing payment estimates, materials stored on the site and preparatory work completed may be included.
- 3.8.3 The contractor agrees to indemnify and hold the Owner harmless from all claims arising from the lawful demands of subcontractors, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies incurred in the performance of this contract. The contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the above nature have been paid, discharged, or waived. If the contractor fails to do so, then the Owner may, after having served written notice to the contractor, pay unpaid bills (of which the owner has written notice), and direct, or withhold from the contractor's unpaid compensation, a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the contractor shall be resumed, in accordance with the terms of this contract. In no event shall the above sentences impose any obligations upon the Owner to the contractor or his surety. In paying any unpaid bills of the contractor, the Owner shall be deemed the contractor's agent, and any such payments made by the Owner shall be considered as payment made under the contract to the contractor and the Owner will not be liable to the contractor for any such payments.
- 3.8.4 After execution and delivery of the contract prior to making the first partial payment, the contractor shall deliver to the owner an estimated construction progress schedule in a form satisfactory to the owner, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the contract documents and the anticipated amount of each monthly payment that will become due in accordance with the progress schedule. The contractor shall furnish on forms supplied by the Owner a detailed estimate giving a complete breakdown of the contract price and periodic itemized estimates of work completed for the purpose of making partial payments thereon. The costs employed in maintaining these schedules will be used only to determine the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the contract price.

3.8.5 The contractor shall procure and pay all permits, licenses and approvals necessary for the execution of his contract.

#### 4.1 **Changes in Work**

No changes in the work defined within the contract documents shall be made without a change order. Charges or credits for the work covered by the change order shall be determined by one or more, or a combination of the following:

- Unit bid prices previously approved
- An agreed upon lump sum
- The actual cost of labor, including foremen
- Materials entering permanently into the work
- The ownership or rental cost of construction plant and equipment during the time of use on the extra work
- Power and consumable supplies for the operation of power equipment
- Insurance, Social Security and unemployment contributions

#### 4.2 **Additional Instructions and Drawings**

If necessary, the contractor will be furnished additional instructions and drawings to execute contract work. These additional drawings and instructions will be prepared so that they can be generally interpreted as part of the contract documents thereof. Any additional instructions or drawings will be issued to and discussed by all parties and shall be carried out by the contractor as specified.

#### 4.3 **Contractor and Owner**

4.3.1 It is hereby understood and mutually agreed, by and between the contractor and the Owner, that the date of beginning and the time for completion, as specified in the contract, of the work to be completed hereunder, are Essential Conditions of this contract; and it is further mutually understood and agreed that the work to be completed in this contract shall be started on a date to be specified in the "Notice to Proceed."

If the contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension of time granted by the Owner, then the contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the Owner the amount specified in the contract, not as a penalty, but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the contractor shall be in default after the time stipulated in the contract for completing the work.

**Provided**, that the contractor shall not be charged with liquidated damages or any excess cost where the Owner determines that the contractor is



without fault and the contractor's reasons for the time extension are acceptable to the Owner;

**Provided further**, that the contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to;

- a. Any preference, priority or allocation order duly issued by the Government;
- b. Unforeseeable cause beyond the control and without the fault or negligence of the contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and documented severe weather; and,
- c. Any delays of subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article;

**Provided further**, that the contractor shall, within ten (10) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the contract, notify the Owner, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay and notify the contractor within a reasonable time of its decision in the matter.

4.3.2 Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable determination to be set forth in writing.

4.3.3 Any notice to any contractor from the Owner relative to any part of this contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said contractor at his last given address, or delivered in person to the said contractor or his authorized representative on the work.

## 5.1 **Owner**

5.1.1 The Owner is the entity identified in the Owner-Contractor Agreement and is referred to as such in the contract documents. The term Owner means the Owner or his authorized representative.

5.1.2 Prior to the start of construction, the Owner shall obtain all land and rights-of-way necessary for carrying out and completion of work to be performed under this contract. The contractor shall comply with all laws,

ordinances, rules, orders, and regulations relating to performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences or other protective facilities.

- 5.1.3 Unless otherwise expressly provided for in the contract documents, the Owner will furnish to the contractor all surveys necessary for the execution of the work.
- 5.1.4 No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any contracts or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, attorney, or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other pertinent contract.
- 5.1.5 Should any provisions of this contract be violated by the contractor, or any of his subcontractors, the Owner may serve written notice upon the contractor and the Surety of its intention to terminate the contract. Such notices shall contain the reasons for such intention to terminate the contract, and unless within ten (10) days after the serving of such notice upon the contractor, such violation, or delay shall cease and satisfactory arrangement of correction be made, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the Owner shall immediately serve notice thereof upon the Surety and the contractor and the Surety shall have the right to take over and perform the contract; provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the Owner may take over the work and prosecute the same to completion by contract or by force account at the expense of the contractor and the contractor and his Surety shall be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner may take possession of and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefore.
- 5.1.6 The Owner shall meet the requirements of all State, Federal and local laws including but not limited to those listed in these contract documents as Regulatory Requirements.

## 6.1 **Safety Standards and Accident Prevention**

With respect to all work performed under this contract, the contractor shall:

- 6.1.1 Comply with the safety standards provisions of applicable laws, building and construction codes and the Manual of Accident Prevention in Construction: published by the Associated General Contractors of America, the requirements of the Occupational Safety and Health Act (OSHA) of 1970 (Public Law 91-596) and the requirements of Title 29 of the Code of Federal Regulations, Section 1518, as published in the Federal Register, Volume 36, Number 75, Saturday, April 17, 1971, and specifically, OSHA's Standard for Excavation and Trenches Safety Systems, 29 CFR Part 1926, Subpart P.
- 6.1.2 Exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property.
- 6.1.3 Maintain, at his office or other conspicuous place at the job site, all articles necessary for giving first aid to the injured, and shall make standing arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees), who may be injured on the job site.

## 7.1 **Miscellaneous Provisions**

- 7.1.1 The architect/engineer shall review all submittals to include but not be limited to samples, shop drawings and product data. The architect/engineer shall provide the contractor with approved or rejected submittals within ten days of their receipt. The contractor shall retain one copy in his construction files at all times and provide one copy to the resident project representative. Upon completion of the contract, the contractor shall provide the complete submittal file to the owner who will retain them in the permanent construction file. Upon receiving a rejected submittal, the contractor shall resubmit an alternate or provide what was originally specified.
- 7.1.2 The contractor shall insert in any subcontracts the Federal Labor Standards Provisions Contained herein (See Regulatory Requirements) and such other clauses as the Economic Development Commission may deem necessary, and also, a clause requiring subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.
- 7.1.3 The contractor may agree to the use and occupancy of a portion or unit of the project before formal acceptance by the owner provided that the owner

secures written consent of the contractor, except in the event, in the opinion of the architect/engineer, the contractor is chargeable with unwarranted delay in final cleanup of punch list items or other contract requirements. Also, an endorsement of the insurance-carrier and consent of the surety permitting occupancy of the building or use of the project during the remaining period of construction must be secured.

- 7.1.4 All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the owner (in accordance with State procurement requirements) who will pay for all such services direct and exclusive to this contract. Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

*Subparagraph 7.1.5 below is applicable to Projects Requiring Resident Observation*

- 7.1.5 The architect/engineer shall provide a qualified resident observer to be on site at all times when the contractor, subcontractor and workmen are working. The resident observer shall represent the engineer/architect by verifying that the requirements of the contract documents are met but will also represent the owner by verifying that those requirements are met and that the work is completed in a manner to assure that the construction means, methods and techniques represent the best interests of the owner. The resident observer shall be responsible to check the quality and quantities of work and report immediately any discrepancies to the engineer/architect.

*Subparagraphs 7.1.6 and 7.17 below are applicable to Projects Requiring Trenching*

- 7.1.6 A separate lump sum bid item must be included for Excavation/Trench Safety System (for excavation in excess of five feet). The bidder is required to complete this pay item in accordance with Act 291 of the Arkansas 79th General Assembly.
- 7.1.7 In the event a bidder fails to complete this pay item, the Owner shall declare that the bid fails to comply fully with the provisions of the contract documents and will be considered invalid as a nonresponsive bid. Payment for the lump sum bid item for Excavation/Trench Safety System will be paid at the completion of the contract. No partial payments will be allowed.

**Attachment 1N**  
**Sample Bid Package for ACEDP Funded Projects**  
**Supplemental Conditions of the Contract**

**8.1 Special Hazards**

The contractor's and his subcontractor's Public Liability and Property Damage Insurance shall provide adequate protection against the following special hazards:

8.1.1 **Contractor's and Subcontractor's Public Liability, Vehicle Liability and Property Damage Insurance.** As required in the General Conditions, the Contractor's Public Liability Insurance and Vehicle Liability Insurance shall be in an amount not less than \_\_\_\_\_ for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than \$ \_\_\_\_\_ on account of one accident, and Contractor's Property Damage Insurance in an amount not less than \$ \_\_\_\_\_.

8.1.2 The Contractor shall either require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage of the type and in the same amounts as specified in the preceding paragraph, or insure the activities of his subcontractors in his own policy.

8.1.3 The contract documents shall consist of all specifications, plans, contract documents and addenda for the project.

**9.1 Supplementary Contract Conditions**

Any supplementary conditions of the contract must be inserted below:

**Attachment 10**  
**Sample Bid Package for ACEDP Funded Projects**  
**Wage Determination Preface Sheet**

(The appropriate Wage Determination(s) requested from the Arkansas Economic Development Commission shall be inserted in place of this page.)

*Note: Please contact the Arkansas Economic Development Commission or project administrator, ten (10) days before the date of bid opening to confirm that the issued wage determination(s) is still valid. Modified or superseded wage determinations must be added to the contract.*

**Attachment 1P**  
**Sample Bid Package for ACEDP Funded Projects**  
**Architect's Certification of Compliance with Minimum Standards**  
**for Access by Handicapped**

ACEDP Project Number: \_\_\_\_\_

Project Name: \_\_\_\_\_

City/County, State: \_\_\_\_\_

Pursuant to the requirements of the Architectural Barriers Act of 1968, 42 USC 4151, and the regulations issued subsequent thereto, including the Americans with Disability Act, the undersigned certifies that the design of the above-referenced project is in conformance with the minimum standards contained in the American Standard Specifications for Making Buildings and Facilities Accessible To and Usable By the Physically Handicapped, Number A-117.1R-1971 (as modified by 41 CFR 101-19.603).

Name and Address of Project Architect:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Registration Number: \_\_\_\_\_

Signature: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment 1Q**  
**Sample Bid Package for ACEDP Funded Projects**  
**Regulatory Requirements**

**1.1 Interest of Member or Delegate to Congress**

No member of or Delegate to Congress, or Resident Commissioner, shall be a party to or benefit from this contract, except that provisions of this clause shall not extend to situations where the contract accrues to a corporation for its general benefit.

**1.2 Equal Employment Opportunity**

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

The contractor will not discriminate against any employee or applicant for employment because of age, race, religion, sex, color, handicap, veteran status or national origin. The contractor will take affirmative steps to ensure that applicants are employed, and that employees are treated during employment, without regard to their age, race, religion, sex, color, handicap, veteran status 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 or 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 setting forth the provisions of this nondiscrimination clause.

1.2.2 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 age, race, religion, sex, color, handicap, veteran status or national origin.

1.2.3 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 advising the labor union or workers representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965 (EO 11246), and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

1.2.4 The contractor will comply with all provisions of EO 11246, and of the rules, regulations, and relevant orders of the Secretary of Labor.

1.2.5 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 canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts.

- 1.2.6 The contractor will include the provisions of these paragraphs in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of EO 11246, 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 the Economic Development Commission and HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the contractor may request the United States to enter into such litigation to protect its interests.

### 1.3 **Employment Practices**

The contractor shall

- 1.3.1 To the greatest extent practicable, follow hiring and employment practices for work on the project, which will provide new job opportunities for the unemployed and underemployed (Section 3 requirements).
- 1.3.2 Insert or cause to be inserted the same provisions in each construction subcontract.

### 2.1 **Special Equal Opportunity Provisions**

- 2.1.1 **Activities and Contracts Not Subject to EO 11246, as Amended** (Applicable to Federally assisted construction contracts and related subcontracts *under \$10,000*). During the performance of this contract, the contractor agrees to incorporate the following requirements into all subcontracts:

- 2.1.1.1 The contractor shall not discriminate against any employee or applicant for employment because of age, race, religion, sex, color, handicap, veteran status or national origin. The contractor shall take affirmative steps to ensure that applicants for employment are employed, and that employees are treated during employment, with regard to their age, race, religion, sex, color, handicap, veteran status or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2.1.1.2 The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided, setting forth the provision of this nondiscrimination clause. The notice shall state that all qualified applicants will receive consideration for employment without regard to age, race, religion, sex, color, handicap, veteran status or national origin.

2.2.1 **Contracts Subject to EO 11246, as Amended** (Applicable to Federally assisted construction contracts and related subcontracts *exceeding \$10,000*). During the performance of this contract, the contractor agrees as follows:

2.2.1.1 The contractor will not discriminate against any employee or applicant for employment because of age, race, religion, sex, color, handicap, veteran status or national origin. The contractor will take affirmative steps to ensure that applicants are employed, and that employees are treated during employment, without regard to their age, race, religion, sex, color, handicap, veteran status 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 contracting officer setting forth the provisions of this nondiscrimination clause.

2.2.1.2 The contractor will in all solicitations or advertisements for employees placed by or on his behalf, state that all qualified applicants will receive consideration for employment without regard to age, race, religion, sex, color, handicap, veteran status or national origin.

2.2.1.3 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 advising the labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- 2.2.1.4 The contractor will comply with all provisions of EO 11246, and of the rules, regulations and relevant orders of the Secretary of Labor.
- 2.2.1.5 The contractor will furnish all information and reports required by EO 11246, 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 the Arkansas Economic Development Commission, HUD, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 2.2.1.6 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 canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts.
- 2.2.1.7 The contractor will include all provisions of the seven paragraphs immediately above in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of EO 11246, 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 the Division 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 the Division, the contractor may request the United States to enter into such litigation to protect its interests.

**"Section 3" Compliance in the Provision  
of Training, Employment and Business Opportunities**

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

3.1.1.1 The contractor agrees to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, 12 USC 170 (u), as amended, the HUD regulations issued pursuant thereto at 24 CFR 135, and any applicable rules and orders of HUD issued thereunder.

3.1.1.2 The "Section 3 clause" set forth in 24 CFR 135.20 (b) shall form part of this contract, as set forth in the General Conditions.

3.1.1.3 Contractors shall incorporate the "Section 3 clause" shown below and the foregoing requirements in all subcontracts.

**Section 3 Clause as Set Forth in 24 CFR 135.20(b)**

The work to be performed under this contract is on a project funded with Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170(u). Section 3 requires that to the greatest extent feasible, opportunities for training and employment will be given to 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 substantially owned by persons residing in the project area.

The parties to this contract will comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR 135, and all applicable rules and orders of the Division issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.

The contractor will send to each labor organization or workers' representative with which he has a collective bargaining agreement or other contract or understanding, a notice advising them of his commitments under Section 3 and will post copies of the notice in conspicuous places available to employees and applicants for employment or training.

The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations

issued by HUD, 24 CFR 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

Compliance with Section 3 provisions, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Division issued there under prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

#### **4.1 Access to Records/Maintenance of Records**

The contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the contract and such other records as may be deemed necessary by the locality to assure proper accounting for all funds. These records will be available for audit purposes to the locality or the State or any other authorized representative, and will be retained for three years after contract completion. Moreover, the locality, State, or any authorized representative shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

#### **5.1 Conflict of Interest of Officers or Employees of the Local Jurisdiction, Members of the Local Governing Body, or Other Public Officials**

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this contract, during his/her 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. Further, the contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

#### **6.1 Section 503 of the Rehabilitation Act of 1973 (If \$2,500 or Over)**

6.1.1 The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative steps to employ, advance in employment and otherwise treat qualified handicapped individuals without

discrimination based upon their physical or mental handicap in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

6.1.2 The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

6.1.3 In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

6.1.4 The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices stating the contractor's obligation under the law to take affirmative steps to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

6.1.5 The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative steps to employ and advance in employment physically and mentally handicapped individuals.

6.1.6 The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, 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 the Director of the office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

**7.1 Section 402 Veterans Readjustment Assistance Act of 1973 (If \$10,000 or Over)**

**7.1.1 Affirmative Steps for Disabled Veterans and Veterans of the Vietnam Era**

7.1.1.1 The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The

contractor agrees to take affirmative steps to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veteran status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, and selection for training, including apprenticeship.

- 7.1.1.2 The contractor agrees that all suitable employment openings which exist at the time the contract is executed and those which occur during the performance of this contract (including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates) shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide reports to local offices regarding employment openings and hires as may be requested.
- 7.1.1.3 State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service.
- 7.1.1.4 Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicant or selection from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.
- 7.1.1.5 The reports required in regard to this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office, or where the contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired for on-the-job training under 38 U.S.C. 1787. The contractor

shall submit a report within 30 days after the end of each reporting period wherein any performance is made of this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representative of the contracting officer for of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.

- 7.1.1.6 Whenever the contractor is subject to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is subject to these provisions and has so advised the State system, there is no need to advise them of subsequent contracts. The contractor may inform the State system when it is no longer bound by this contract clause.
- 7.1.1.7 This clause does not apply to the listing of employment openings occurring and filled outside the 50 States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.
- 7.1.1.8 The provisions of this clause do not apply to openings, which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union firing arrangement. This exclusion does not apply to a particular opening since an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.
- 7.1.1.9 The phrase "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories; production and nonproduction; plans and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive administrative and professional openings compensated on a salary basis of less than \$25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of the institution. Under the most compelling circumstances, an employment opening may not be



suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

- 7.1.1.10 "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment openings are to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.
- 7.1.1.11 "Openings which the contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists.
- 7.1.1.12 "Openings, which the contractor proposes to fill pursuant to a customary and traditional employer-union, hiring arrangement," means employment openings, which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship, which exists between the contractor and representative of his employees.
- 7.1.1.13 The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- 7.1.1.14 In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- 7.1.1.15 The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative steps to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.
- 7.1.1.16 The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or

other contract understanding, that the contractor is bound by the terms of the Vietnam Era Veterans Readjustment Assistance Act, and is committed to take affirmative steps to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.

7.1.1.17 The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, 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 the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

## **8.1 Section 109 of the Housing and Community Development Act of 1974**

8.1.1 No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

8.1.2 Whenever the Secretary of HUD determines that a State or unit of general local government which is a recipient of assistance under this title has failed to comply with subsection 8.1.1 or an applicable regulation, he shall notify the Governor of such State or the chief executive officer of such unit of local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed sixty days, the Governor or the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); (3) exercise the powers and functions provided for in section 111 (a) of this Act; or (4) take such other action as may be provided by law.

8.1.3 When a matter is referred to the Attorney General pursuant to above, or whenever he has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States court for such relief as may be appropriate, including injunctive relief.

## 9.1 **Civil Rights Act of 1964**

9.1.1 Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. Subsequent civil rights legislation has extended nondiscrimination to classes based on age and handicap.

## 10.1 **Certification of Compliance with Air and Water Acts**

*(Applicable to Federally-assisted construction contracts and related subcontracts exceeding \$100,000)*

10.1.1 During the performance of this contract, the contractor and all subcontractors shall comply with 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 15, as amended.

10.1.2 In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

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.

Agreement by the contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c-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.

A stipulation that as a condition of contract award, prompt notice will be given of any notice 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.

Agreement by the contractor that he will include, or cause to be included, the criteria and requirements in 10.1.2.1 to 10.1.2.4 of this section in every subcontract and requiring that the contractor take enforcement action as the Government

## **11.1 Hazards, Safety Standards and Accident Prevention**

### **11.1.2 Use of Explosives**

11.1.2.1 When the use of explosives is necessary for the prosecution of the work, the contractor shall observe all local, State and Federal laws in purchasing and handling explosives and take all necessary precaution to protect completed work, neighboring property, waterlines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material covered with suitable timber, steel or rope mats. The contractor shall notify all owners of public utility property of intention to use explosives at least 8 hours before blasting is done, close to such property.

### **11.1.3 Danger Signals and Safety Devices (Modify as Required)**

11.1.3.1 The contractor shall take all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the contractor. Such action by the Owner does not relieve the contractor of any liability incurred under these specifications or contract.

## **12.1 Or Equal Clause**

Whenever a material, article or piece of equipment is identified on the plans or specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed, meets State plumbing requirements as equal in substance or structure.

## FEDERAL LABOR STANDARDS PROVISIONS

U.S. Department of Housing and Urban Development  
Office of Labor Relations Previous editions are obsolete  
Form **HUD-4010** (06/2009) ref. Handbook 1344.1

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### **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 I(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 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 Previous editions are obsolete Page 2 of 5 form **HUD-4010** (06/2009) ref. Handbook 1344.1

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 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) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to 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 contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (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 provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being 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 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 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 in 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 1 01 0, 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 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 the individual 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 sub paragraph (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 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, (Public Law 91-54, 83 Stat 96). 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 subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

**Attachment 1R**  
**Sample Bid Package for ACEDP Funded Projects**  
**Enumeration of Plans, Specifications and Addenda**

Following are the Plans, Specifications and Addenda which form a part of this contract, as set forth in the General Conditions, "Contract and Contract Documents":

**Plans/Drawings**

General Construction:	Nos.	_____
Heating and Ventilating:	"	_____
Plumbing:	"	_____
Electrical:	"	_____
Other (_____)	."	_____
Other (_____)	."	_____

**Specifications**

General Construction:	Page	_____	to	_____	, incl.
Heating and Ventilating:	"	_____	to	_____	, incl.
Plumbing:	"	_____	to	_____	, incl.
Electrical:	"	_____	to	_____	, incl.
Other (_____)	"	_____	to	_____	, incl.
Other (_____)	"	_____	to	_____	, incl.

**Addenda**

No.	_____	Date	_____	No.	_____	Date	_____
No.	_____	Date	_____	No.	_____	Date	_____

**STATED ALLOWANCES**

Pursuant to the General Conditions, the contractor shall include the following cash allowances in his proposal:

- For \_\_\_\_\_ (Page \_\_\_ of Specifications) \$ \_\_\_\_\_
- For \_\_\_\_\_ (Page \_\_\_ of Specifications) \$ \_\_\_\_\_
- For \_\_\_\_\_ (Page \_\_\_ of Specifications) \$ \_\_\_\_\_
- For \_\_\_\_\_ (Page \_\_\_ of Specifications) \$ \_\_\_\_\_
- For \_\_\_\_\_ (Page \_\_\_ of Specifications) \$ \_\_\_\_\_
- For \_\_\_\_\_ (Page \_\_\_ of Specifications) \$ \_\_\_\_\_

**Special Hazards**

The Contractor's and his Subcontractor's Public Liability and Property Damage Insurance shall provide adequate protection against the following special hazards:

**Contractor's and Subcontractor's Public Liability,  
Vehicle Liability and Property Damage Insurance**

As required in the General conditions, the Contractor's Public Liability Insurance and Vehicle Liability Insurance shall be in an amount not less than \$ \_\_\_\_\_ for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than \$ \_\_\_\_\_ on account of one accident, and Contractor's Property Damage Insurance in an amount not less than \$ \_\_\_\_\_.

The Contractor shall either require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage of the type and in the same amounts as specified in the preceding paragraph, or insure the activities of his subcontractors in his own policy.

**Photographs of Project**

As provided in the General Conditions, the Contractor will furnish photographs in the number, type, and stage as enumerated below:

**Schedule of Occupational Classifications and Minimum Hourly  
Wage Rates as Required in the General Conditions**

Given on Pages \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_.

### **Builder's Risk Insurance**

As provided in Bonds and Certificates, the Contractor will/will not\* maintain Builder's Risk Insurance (fire and extended coverage) on a 100 percent completed value basis on the insurable portions of the project for the benefit of the Owner, the Contractor, and all subcontractors, as their interests may appear.

*\*Strike out one.*

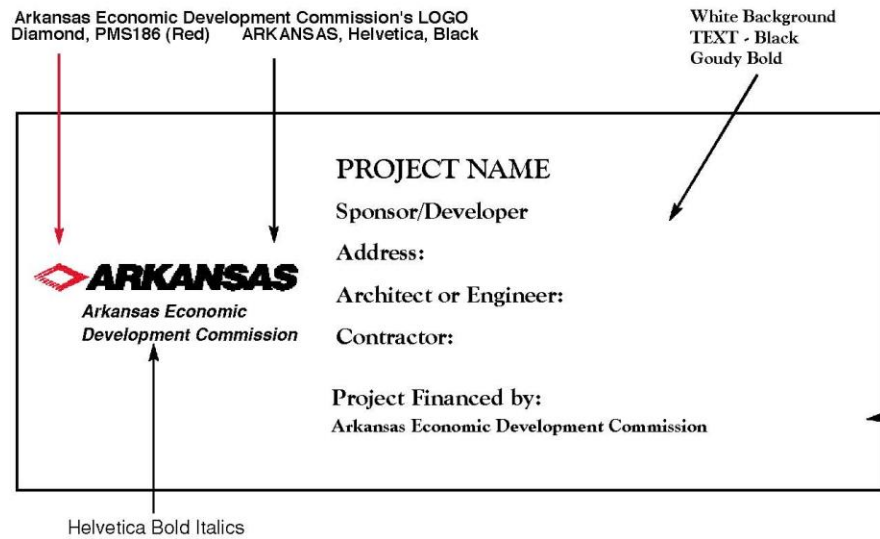


**Attachment 1S**  
**Sample Bid Package for ACEDP Funded Projects**  
**Technical Specifications of the Contract**

Any technical specification of the contract, so desired by the Owner, in addition to the preceding specified contract documents shall be entered below.

Attachment 1T  
Sample Bid Package For ACEDP Funded Projects

**Attachment 1T**  
**Sample Bid Package For ACEDP Funded Projects**  
**ACEDP Project Sign Specifications**



**SIGN DIMENSIONS:** Approximately 4' x 8' x 3/4" \* PLYWOOD PANEL (APA Rated A-B grade exterior)

Construction Management-83  
(1999)

**Form 121**  
**Attachment 1U**  
**Certificate of Compliance for the 2004 Arkansas Energy Code**  
**Design Professional**

I, the undersigned, \_\_\_\_\_, the duly authorized licensed design professional of record for the \_\_\_\_\_, located at \_\_\_\_\_, in \_\_\_\_\_, Arkansas, certify that the aforementioned building is designed to meet and or exceed the minimum requirements of the 2004 Arkansas Energy Code \* and building specifications, based on the requirements, have been provided to me by the licensed design professional(s) of record.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*License Number*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Stamp*

Per legislative authority provided by in Section 3(B)(2)(c) of Act 7 of 1981

**For information regarding the specifications and requirements of the 2004 Arkansas Energy Code, contact the Arkansas Energy Office at 1-800-558-2633 or find related materials and resources at [www.arkansasenergy.org](http://www.arkansasenergy.org) .**

**Form 122  
Attachment 2U  
Certificate of Compliance for the 2004 Arkansas Energy Code  
Builder/Contractor**

I, the undersigned, \_\_\_\_\_, the duly authorized licensed builder/contractor of record for the \_\_\_\_\_, located at \_\_\_\_\_, in \_\_\_\_\_, Arkansas, certify that the aforementioned building is designed to meet and or exceed the minimum requirements of the 2004 Arkansas Energy Code \* and building specifications, based on the requirements, have been provided to me by the licensed contractor/builder(s) of record.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*License Number*

\_\_\_\_\_  
*Date*

Per legislative authority provided by in Section 3(B)(2)(c) of Act 7 of 1981

**For information regarding the specifications and requirements of the 2004 Arkansas Energy Code, contact the Arkansas Energy Office at 1-800-558-2633 or find related materials and resources at [www.arkansasenergy.org](http://www.arkansasenergy.org) .**

**Form 123  
Attachment V  
DISCLOSURE REQUIRED BY EXECUTIVE ORDER 98-04**

Contracts and Grants

Any contract or amendment to a contract or any grant executed by an agency which exceeds \$25,000 shall require the contractor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto.

Any individual contracting with the State of Arkansas shall disclose if he or she is a current or former: member of the general assembly, constitutional officer, board or commission member, state employee, or the spouse or immediate family of any of the persons as described herein.

Any entity contracting with the State of Arkansas shall disclose

- (a) any position of control, or
- (b) any ownership interest of 10% or greater

that is held by a current or former: member of the general assembly, constitutional officer, board or commission member, state employee, or the spouse or immediate family of any of the persons as described herein.

Disclosure by Sub-contractor or Assignee

Any sub-contractor or assignee (hereinafter “Third Party”) shall disclose whether such Third Party is a current or former: member of the general assembly, constitutional officer, board or commission member, state employee, or the spouse or immediate family member of any of the persons as described herein, or if any of the persons here described in this sentence hold any position of control or ownership interest of 10% or greater in the Third Party. This disclosure requirement shall apply during the entire term of the contract or grant, without regard to whether the subcontract or assignment is entered into prior or subsequent to the date of contract or grant.

Failure to Disclose and Violations

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract or grant and shall subject the party failing to disclose or in violation to all legal remedies available to the state agency under the provision of existing law.

Please check all that apply if you are a current or former:

\_\_\_\_\_ Member of the General Assembly of the State of Arkansas

\_\_\_\_\_ Constitutional Officer of the State of Arkansas

\_\_\_\_\_ Member of a Board or Commission of the State of Arkansas

\_\_\_\_\_ State Employee

\_\_\_\_\_ Spouse of a current or former member of the general assembly, constitutional officer, board or commission member, or state employee.

\_\_\_\_\_ I am a current or former: member of the general assembly, constitutional officer, board or commission member, state employee, or spouse or immediate member of these persons as described, and I hold a position of control in the contracting entity or grantee of this application.

\_\_\_\_\_ I am a current or former: member of the general assembly, constitutional officer, board or commission member, state employee, or spouse or immediate member of these persons as described, and I hold a 10% or higher interest in the contracting entity or grantee of this application.

I hereby acknowledge that failure to disclose the information as required by Executive Order 98-04 shall constitute a material breach of any future agreement, resulting from this application, with the State of Arkansas or any state agency acting on its behalf.

I also acknowledge that any individual drawing a salary or performing personal services for an agency must disclose any direct or indirect benefit he or she may receive as a result of any State contract with an entity in which he or she has a financial interest. I understand that failure to report this information may subject me to criminal sanctions, as provided in Ark. Code Ann. §19-11-702.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

