

SDDOT CONSTRUCTION MANUAL
PROJECT MANAGEMENT SECTION
CHAPTER 4 – LABOR COMPLIANCE

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DAVIS-BACON & RELATED ACTS

Title 29 of the Code of Federal Regulations (CFR), Parts 1, 3 and 5 requires that the SDDOT, as the Contracting Agency, monitor and enforce compliance with the Davis-Bacon and Related Acts (DBRA).

There are two main purposes of the DBRA: to create a fair playing field to contractors bidding the jobs (they all are required to pay they same wage rates to complete the contract work), AND to protect the employees so they are paid timely and appropriately for the actual work they perform.

Covered contracts: the Davis-Bacon Act applies to all Federal-aid construction contracts exceeding \$2,000, and to all related subcontracts. In addition, the Transportation Commission adopted a minimum wage scale applicable to all Federal-aid projects, as well as to State-funded highway construction projects awarded for \$100,000 or more. (The following provisions are also stipulated in Parts I, IV and V of the FHWA-1273 Required Contract Provisions, and on the Contractor's Statement of Compliance - which is accompanied with each weekly Certified Payroll Report.)

LABOR COMPLIANCE CONTRACT PROVISIONS & DBRA COVERAGE ISSUES

Contractor's employees (laborers and mechanics), working on the site of work of a DBRA covered contract, are entitled to:

1. Receive the appropriate wage rate for the classification of work actually performed, without regard to skill, (ex: if a Common Laborer is operating a grader or scraper, he/she is entitled to receive the correct wage rate(s) regardless of experience or how long the duty is performed); and
2. Be paid unconditionally and not less often than once a week (bi-weekly or monthly payment of wages is not allowable); and
3. The full amount of wages and bona fide fringe benefits due at the time of payment must be paid without subsequent deduction or rebate on any account [except such payroll deductions permitted by regulations 29 CFR Part 3 issued by the Secretary of Labor under the Copeland Act], (employees must be paid for all hours worked; must be paid within seven days of the end of the workweek; only employee-approved deductions are allowed other than required tax deductions or court-ordered garnishments; it is not allowable to return any part of their wages back to the employer); and
4. Payment shall be computed at not less than the prevailing hourly wage, according to the rate schedule made part of the contract or any subsequent supplemental wage rate schedule(s), regardless of any contractual relationship which may be alleged to exist between the contractor(s) and such laborers and mechanics, (contract relationships that SHOULD BE included/reported but are commonly excluded from the wage rates and/or not reported on certified payrolls: Relatives of the contractor or subcontractors are not exempt; working foremen-see 29 CFR 5.2(m) definition of "laborers and mechanics" and

leased equipment with an operator-the operator is entitled to the wage rates and must be reported on the payroll(s) by the company paying his/her wages); and

5. Hours worked in excess of 40 in a workweek shall be compensated at not less than one-and-one-half times the basic rate for any part of the contract work; overtime pay is not subject to working “on the site of the work”-see definition in Part II of this LC Training. (Overtime pay is required after 40 hrs of work with the same contractor in a seven-day workweek; regardless if the work is performed on the project site or not; such as work performed at an off-site plant or pit, or any off-site hauling of material or equipment. Because off-site work is not subject to the wage rates, an off-site overtime violation would typically be identified by a wage complaint situation).

Other DBRA responsibilities: In addition to complying with the above contract provisions, contractors and subcontractors engaged in the work of Davis-Bacon covered contracts shall:

1. In a prominent place at the site of work, post at all times the following bulletin board posters: contract Wage Determinations (including any additional classifications), Form FHWA-1495 and Form FHWA-1022, (see the “Bulletin Board” chapter of this manual for sample posters); and
2. Request any additional classifications needed which are not listed in the wage determination from the State Highway Agency (SHA) contracting officer, (if a specialty type of work is required to complete this project and the wage class is not listed on the Wage Determination, the contractor or subcontractor is responsible to request additional wage classifications and rates); and
3. Each week in which any contract work is performed, submit a copy of all payrolls accompanied with a Statement of Compliance, with respect to the wages paid each of its employees for work performed during the preceding weekly payroll period, (if project work is not performed, then payrolls are not required to be submitted for that week); and
4. Each weekly statement shall be delivered by the contractor or subcontractor within seven days after the regular payment date of the payroll period, to the Federal or State agency in charge of the building or work, (SDDOT does not require subcontractors to submit their payrolls to prime contractors, subs should send their payrolls directly to Pierre); and
5. Preserve his/her weekly payroll records for a period of three years from the date of completion of the contract; and
6. Payrolls submitted shall set out accurately and completely the name, address, social security number of each such worker, his/her correct work classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid, (Certified Payroll & SDDOT’s Statement forms and Instructions are available on the Labor Compliance link: <http://dev7.sddot.com/business/contractors/labor/Default.aspx>); and
7. SDDOT’s Statement of Compliance form must be used and shall be signed by the contractor or subcontractor or his/her agent who supervises payment of the persons

employed under the contract and shall certify compliance with the DBRA regulations (as stipulated in A.1-5 and B.1-6, above); and

8. Falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under U.S.C. 1002 and 31 U.S.C. 231, (subject to penalty of \$10,000, five years in prison, or both); and
9. The contractor or subcontractor shall make the records required available for inspection, copying, or transcription by authorized representative of the State Highway Agency (SHA), Federal Highway Administration (FHWA), or DOL, and shall permit such representatives to interview employees during working hours on the job; and
10. If the contractor or subcontractor fails to submit the required records or make them available, the SHA, FHWA, and/or DOL, may after written notice to the contractor, suspend any further payment, advance, or guarantee of funds under any such contract or any other Federal contract with the same prime contractor, (the prime contractor may receive only one written notice before pay estimates are suspended when the contractor OR subcontractors do not submit payrolls timely and/or fails to provide requested records); and
11. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the Required Contract Provisions, (Example: if there is a wage finding identified against a subcontractor and the subcontractor refuses to correct the violation, the prime contractor is responsible for paying the subcontractor's employees their back wages); and
12. In the event it is found that any laborer or mechanic, including any apprentice, trainee, or helper has not been paid all or part of the wages from the contractor or subcontractor as required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action necessary to cause the suspension of any further payment, advance, or guarantee of funds under this contract or any other Federal contract subject to Davis-Bacon prevailing wages with the same prime contractor, until such violations have ceased, (When a violation occurs, the company in violation and/or the prime contractor are notified in writing and given 30 days to correct. If not corrected, the SDDOT may suspend any or all of the prime's pay estimates until such violations are resolved); and
13. Violation of any clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12.

"Site of the Work" is defined {according to the U.S. Department of Labor's (DOL's) Final Rule, dated December 20, 2000} as follows: The physical place or places where the building or work called for in the contract will remain; and any other site where a significant portion of the building or work is constructed, *provided* that such site is established specifically for the performance of the contract. (Example of a 2nd site of work: building of a bridge where a major portion is constructed at a different location and it is then drifted down river to where it will remain - not a common situation in South Dakota).

How does the “site of the work” impact subcontracts? Please refer to *Section 8.1* of the *SDDOT Standard Specifications for Roads and Bridges*. This clarifies that production of material within the project limits the Department would consider this a subcontract; therefore, a DOT-202 Request to Sublet Work form would be required. The SDDOT defines "virtually adjacent" as located within a 1/2 mile of the closest right of way boundary to the project, as the crow flies. The Davis-Bacon Act requires the payment of contract wage rates and submissions of payrolls for work performed on the site of the work.

How does the “site of the work” impact Davis-Bacon coverage of plants/pits? The DOL's December 2000 Final Rule clarifies that two conditions must be met for plants or pits to be covered by the Davis-Bacon Act; 1) the plant/pit is set up after the opening of the bid is dedicated exclusively to the project, or nearly so, and 2) the plant/pit must be located adjacent or virtually adjacent to the work, in accordance with 29 CFR 5.2(1)(2). The plant/pit may be dedicated nearly exclusive to the project even if a small percentage is made available for sale to the public. (Example: A portable concrete batch plant is set up after a contract is awarded and is located within a ¼ mile of the project right of way. The plant operator and any truck drivers hauling concrete from the portable plant to any location on the project site are subject to the wage rates and the payroll submission requirements.)

For further clarification, in accordance with 29 CFR 5.2(1)(3), not included in the "site of the work" are: permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of a contractor or subcontractor whose location and continuance in operation are determined wholly without regard to a particular federal or federally assisted project. Also excluded from the "site of work" are fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not located on the site of the work even where such operations for a period of time may be dedicated exclusively, or nearly so, to the performance of the contract.

Equipment Owner-Operators (does not include owner-operator truckers) are considered employees under the DBRA. Consequently, they MUST be paid the correct Davis-Bacon wage, including fringe benefits, and be included on payrolls showing the hours worked and the wages paid. (Example: Contractor hires a crane owner-operator to perform work on the project site, the operator MUST be paid at least the crane operator wage rate and MUST be reported on the employer's [the company that hired him/her] payroll.)

Project Superintendents and Foremen, who physically perform work more than 20% of their time during a work week, MUST be paid at least the minimum hourly rate, plus overtime, for such (laborer and mechanic) time spent and for such type of work performed. For more details, please visit: <http://www.dol.gov/whd/programs/dbra/faqs/suprvisr.htm>

Child Labor Laws prohibit children ages 14 and 15 from working on construction or repair projects. There is very limited non-hazardous work that 16 and 17 year olds may perform. If you suspect a child labor violation, PLEASE contact the DOT Labor Law Compliance Officer immediately. Taking pictures would be helpful to resolve such cases. For details on what DOL considers hazardous work, please visit: <http://www.dol.gov/elaws/esa/flsa/docs/haznonag.asp>

Relatives must be paid the appropriate Davis-Bacon wage for the job classification of project work performed and MUST be included on the payroll. There are no exceptions from coverage under the Davis-Bacon & Related Acts for family relationships, or for relatives performing work of laborers or mechanics.

Temporary Employment Agency is the employer and should be treated as a subcontractor. Employees who are hired through temporary employment agencies MUST be paid not less than the appropriate Davis-Bacon wage and MUST appear on the payroll of the company that pays their wages.

Exempt from the Davis-Bacon & Related Acts Labor Provisions:

1. Workers that are not working “on site of the work” are exempt. The most common type of workers not working “on site of the work” are trucker drivers. (SDDOT considers trucking off site if one end of the haul is not on the site of the work, within ½ mile of the project limits, and no work is performed on the project site. The DOL’s 2000 final rule clarifies that delivery of material does not meet the definition of “construction” work.)
2. Also exempt are categories of workers that are NOT considered “laborers and mechanics” in the definitions of the Davis-Bacon & Related Acts, which are:
 - a. Architects and engineers;
 - b. Surveyors, gravel testers, technicians, scale operators;
 - c. Timekeepers;
 - d. Inspectors;
 - e. Watchmen and guards; and
 - f. People performing administrative or executive duties
3. Specifically exempt in the DBRA provisions are:
 - a. Legitimate truck owner-operators; and
 - b. Material suppliers provided that no production or work is performed on the site of the project, within a ½ mile of the project limits.

Note: Equipment owner-operators are not exempt; operators of leased equipment working on-site must be paid the appropriate wage rates and must be reported on the Certified Payrolls of the company that hired them.

PRECONSTRUCTION MEETINGS – LABOR COMPLIANCE ITEMS

The most recent version of the SDDOT’s Preconstruction Provision must be used to ensure the prime contractor completes the DOT-270 Authorization Form for Preconstruction Meeting, prior to scheduling the contractor-run preconstruction meeting. The prime contractor must sign and date the DOT-270 form as well as initial each main section to certify they have read and understand each provision. (Please see Exhibit A, example of the DOT-270 form and the main topics to be initialed, at the end of Chapter 4.) The most current Preconstruction Meeting Provision, the required forms, meeting outline, procedures and FAQ information is available at: <http://www.sddot.com/business/contractors/precon/default.aspx>.

BI-WEEKLY PROGRESS REPORTS (WPRS) IN CONSTRUCTION MEASUREMENT AND PAYMENT (CM&P) SYSTEM

The CM&P System is interfaced with the Labor Compliance application. The Bi-Weekly Progress Report (WPR) feature of the CM&P that is completed by DOT field personnel is critical to monitor and enforce compliance with the Davis-Bacon & Related Acts labor provisions as it triggers when payrolls are required from contractors.

In the “Work in Progress” field of the WPR, each company working should be listed with a brief description of the work being performed during each week. *(Please see Exhibit B, Sample WPR, at the end of this Chapter 4.)*

In the “Contract Day Worked” fields of the WPR, the days worked during the two-week period are marked “Y” for each contractor that performed project work and the “Exempt indicator” is marked Yes or No. *(Please see Exhibit B, Sample WPR, at the end of this Chapter 4.)*

Exempt Indicator, what is this? If the “Exempt Ind” is marked “Y” (Yes), it means the company is not covered under the Davis-Bacon Act, therefore not subject to pay prevailing wage rates or subject to the Certified Payroll Report submission requirements. If the Exempt field is left blank, the CM&P is defaulted to enter “N” (No) in the Exempt field – and triggers payroll report is required if one or more days are marked yes as working during Week 1 or Week 2 periods. *(Please refer to page 4-6 of this chapter for Davis-Bacon EXEMPT details.)*

HANDOUTS AND WAGE COMPLAINTS/INVESTIGATIONS

As a means of ensuring contractors comply with applicable labor regulations, “handout” information cards are distributed twice each construction season. The DOT Labor Law Compliance Officer will coordinate the handout distributions. The handout cards are distributed by SDDOT project personnel to each person working on any active Federal-aid or qualifying State-funded highway construction projects. The cards inform the contractor and subcontractor employees of their rights and the wage rates they are entitled to for the type of work they are performing. The handouts are color-coded to correspond with the applicable contract Wage Decision poster on the project bulletin board.

Wage Complaints often occur after the Wage Handout cards are distributed. If a contractor’s employee notifies you that he/she is not being paid properly, PLEASE report the potential wage violation to the DOT Labor Law Compliance Officer. Observe the type of work they are performing and please take notes and pictures of them working, if it appears they are being classified and paid incorrectly.

Investigations resulting from wage complaints typically require the project personnel’s assistance, which is often critical in resolving such cases. The DOT Labor Law Compliance Officer may contact you to conduct interviews and/or may request information from you to clarify the types of work performed by the construction company’s employee(s) to determine if a complaint is justified. *(Please see Exhibit C, Labor Standards Interview Form, at the end of this chapter.)*

ELECTRONIC LINKS TO SDDOT'S AND TO FEDERAL FORMS & REGULATIONS

SDDOT's Links to:

1. Subcontract Requirements: Detailed information about the prime contractor's responsibilities to avoid termination of their contract(s) and possible debarment. Includes links to the DOT-202 Form (Request to Sublet Work) and to the FHWA-1273 Required Contract Provisions.
<http://www.sddot.com/business/contractors/subcontractor/Default.aspx>
2. Labor Compliance Payroll Forms and Instructions
<http://www.sddot.com/business/contractors/labor/payrolls/Default.aspx>
3. Defined Work Classifications - to assist employers with classifying their employees properly
<http://www.sddot.com/business/contractors/labor/wcwr/Default.aspx>
4. Bulletin Board Poster Requirements, including access to the most recent Davis-Bacon Wage Decision
<http://www.sddot.com/business/contractors/labor/bulletinboard/Default.aspx>

Federal Links to:

1. USDOL's Davis-Bacon Regulations 29 CFR Part 3 Index – Payroll Submission Requirements & Allowable Payroll Deductions
<http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=29:1.1.1.1.4>
2. USDOL's Davis-Bacon & Related Acts Provisions and Procedures, 29 CFR Part 5, Subpart A Index (Section 5.5 has the Labor Contract Provisions, that are contained in the FHWA-1273)
<http://www.ecfr.gov/cgi-bin/text-idx?SID=c961274a08c1423164e297c9d95b4e02&node=pt29.1.5&rgn=div5>
3. USDOL's Interpretations of Fringe Benefits of DBRA, 29 CFR 5, Subpart B Index
<http://www.ecfr.gov/cgi-bin/text-idx?SID=c961274a08c1423164e297c9d95b4e02&node=pt29.1.5&rgn=div5>

EXHIBITS

- A. DOT-270 Authorization Form for Preconstruction Meeting
- B. Sample Bi-Weekly Progress Report (WPR)
- C. Labor Standards Interview Form

AUTHORIZATION FORM FOR PRECONSTRUCTION MEETING

This form is to be reviewed and completed by the prime contractor. The preconstruction meeting will not be scheduled until this completed form is returned to South Dakota DOT's Area Office.

DOT Area Office & Address: _____

PROJECT NUMBER: _____

PCN: _____ COUNTY: _____

TYPE OF CONSTRUCTION: _____

PRIME CONTRACTOR (NAME AND ADDRESS): _____

NAME OF CONTRACTOR REPRESENTATIVE COMPLETING THIS FORM (Please Print):

The following provisions are to be reviewed. The underlined text, below, are links to the most recent electronic documents. To certify that you have read and understand each of the Provisions under each of the main topics; please sign and date below and also please initial each main topic below.

Name Printed: _____ Title: _____

Signature: _____ Date: _____

I. SUBCONTRACT APPROVAL AND REQUIRED CONTRACT PROVISIONS

If you plan to sublet a portion of the contract work, a Request to Sublet Work, [Form DOT-202](#), must be signed by the prime contractor and sent to the address listed in the lower left-hand corner of the form PRIOR to such sublet work being performed. If a *subcontractor* plans to sublet a portion of their work, the Request to Sublet Work form must be signed by the PRIME CONTRACTOR then submitted to the DOT. The SDDOT's Subletting of Contract Standard Specification, [Section 8.1](#) stipulates the requirements for obtaining written consent to sublet work, limits the percent of work that may be sublet, defines what the Department will not consider as subcontracting and defines the project limits.

The form [FHWA-1273 Required Contract Provisions, dated May 1, 2012](#) and the [SD-1273 South Dakota Special Provision for Required Contract Provisions, dated July 18, 2012](#) must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA, as stipulated in Section I.(3) of the FHWA-1273.

I have read and understand the requirements of Section I.	
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II. PROJECT BULLETIN BOARD POSTER REQUIREMENTS

- A. The bulletin board poster requirements for the various types of South Dakota Department of Transportation's (SDDOT's) highway construction or repair projects are listed on the [Bulletin Board Requirements](#) web page.
- B. The appropriate posters are to be posted by the prime contractor. The posters MUST be displayed on a weatherproof bulletin board in a conspicuous and accessible location to the employees who are working at the construction project site. In addition, each subcontractor whose subcontract is \$10,000 or more is required to post the EEO #7 poster.
- C. The following posters (indicated with an "X") have been provided to you for this project:
 - U.S. DOL Davis-Bacon Wage Decision poster
 - [WH-1321 Davis-Bacon Employee Rights \(English\)](#) (formerly FHWA-1495 "Important" poster)
 - [WH-1321 Davis-Bacon Employee Rights \(Spanish\)](#)

- X [FHWA-1022 "Notice" poster \(English\)](#) (Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certified, or report submitted pursuant to the provisions of the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355) as amended and supplemented, is subject to applicable State and Federal laws, including Title 18, United States Code, Section 1020)
 - X [FHWA-1022 "Notice" poster \(Spanish\)](#)
 - X EEO #1 "Equal Employment Opportunity is THE LAW"
 - X EEO #7 (EEO Policy Statement & Company EEO Officer)
 - X Job Safety & Health Protection (OSHA)
 - X [WH-1462 Employee Polygraph Protection Act \(English\)](#)
 - X [WH-1462 Employee Polygraph Protection Act \(Spanish\)](#)
 - [*WH-1420 Your Rights Under the Family Medical Leave Act \(English\)](#)
 - [*WH-1420 Your Rights Under the Family Medical Leave Act \(Spanish\)](#)
- * If a company employs more than 50 employees and 50 or more employees of this company are working within 75 miles of the project site, this poster is required to be posted. If your company meets this requirement, please print and post the WH-1420 poster on the project bulletin board.

I have read and understand the requirements of Section II.	
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III. LABOR COMPLIANCE AND DAVIS-BACON & RELATED ACTS (DBRA) REQUIREMENTS

- A. The Davis-Bacon & Related Acts (DBRA) minimum wage and payroll requirements apply to Federal-aid construction contracts of \$2,000 or more, and to SDDOT's State-funded highway construction contracts of \$100,000 or more.
- B. Minimum wage requirements and payroll reporting requirements are specifically set forth in: 1) the U.S. DOL Wage Decision, 2) the FHWA-1273 Required Contract Provisions, and 3) the SDDOT Special Provisions, of which all three are contained in the proposal/contract documents and all three shall be physically included in each subcontract.
- C. Additional Labor Compliance information for contractors is available at: <http://sddot.com/business/contractors/labor/Default.aspx>. This web site has links to the most current U.S. DOL Wage Decision, SDDOT payroll forms and instructions, defined work classifications, important subcontract requirements, and bulletin board requirements. It is the responsibility of the Contractor to visit this site, and to ensure that each subcontractor visits this site. Ignorance or lack of knowledge as to the information available at this web site or in the Required Contract Provisions will not be an acceptable defense for not complying with the required regulations or specifications.

- D. Each prime contractor and each subcontractor that performs any project work during a work week must submit a Weekly Certified Payroll Report accompanied with a SDDOT Contractor's Statement of Compliance form, directly to the SDDOT. The mailing address is: SDDOT Office of Labor Compliance, 700 E. Broadway Avenue, Pierre SD 57501-2586.
- E. Failure of a contractor or a subcontractor to submit the required weekly payroll reports to SDDOT within seven days following the weekly payment of wages, as stipulated in 29 CFR 3.4 and 29 CFR 5.9, will result in suspension of contract pay estimates. The Contractor may receive only one written notice prior to suspension.
- F. The Labor/EEO Compliance handouts will be distributed twice each season to all persons employed on all Federal-Aid Projects. The Office of Labor Compliance will provide these handouts and will coordinate distribution time with DOT Project Personnel.
- G. The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) regulations prohibit retaliatory actions. Employers may not intimidate, threaten, coerce, or discriminate against any employee for participating in any manner during a wage and hour review or in exercising his/her right to file a wage complaint. If this office discovers retaliation actions of this nature against any of your employees, the SDDOT is required to notify the OFCCP.

I have read and understand the requirements of Section III.	
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IV. EEO (Equal Employment Opportunity) Requirements

EEO requirements and information is found at:

<http://www.sddot.com/services/civil/eo.aspx>

Equal Employment requirements for this project are found in two special provisions which are included in all contracts and must be included in all subcontracts. Those provisions are found at: <http://www.sddot.com/services/civil/forms/default.aspx>.

EEO provisions apply to all federal-aid contracts and subcontracts over \$10,000.

Contractors (and subcontractors) agree to be an EEO employer by signing the federal-aid contract (or subcontract). By their signature, these employers have agreed that all personnel matters for projects will be handled without regard to race, creed, color, sex, disability, age, religion or national origin. The general requirements include but are not limited to:

- A. Adopt an EEO policy
- B. Company policy must be posted on the job site bulletin boards (EEO #7 Poster)
- C. Disseminate the policy to the workers through various means including company meetings, written notices, employee handbook, etc.
- D. Post EEO is the Law Posters and EEO #7 (Policy Statement & Notification of EEO Officer) on the job site
- E. Identify an EEO Officer and establish in writing the job duties
- F. Agree to adhere to Minority & Female Employment Goals
- G. Establish an EEO Affirmative Action Plan
- H. Actively recruit beyond the traditional sources to attract minority/female applicants such as TERO/TECRO Offices and other minority referral sources
- I. Review all personnel actions to ensure actions taken are in compliance with company EEO policy
- J. Develop a basic complaint procedure
- K. Retain records of employment and personnel actions for a three year period from the date of project closing
- L. Complete the EEO #1391 form for including all federal-aid projects on one form.
- M. Other areas as specified in the special provisions.

EEO Compliance reviews, if scheduled for this, or any other federal project will focus on the Contractor's compliance with ALL of the EEO requirements and documentation of such compliance, thus the Contractor must have all EEO documentation in his file.

The Contractor is to submit the EEO #7 at the preconstruction meeting. An EEO #7 is required for all subcontractors over \$10,000 (one copy for Area Office file, one copy is to be on the bulletin board).

Ensure EEO posters are on project bulletin board:

- 1) EEO #1 – Equal Opportunity is the Law (English & Spanish)
- 2) EEO #7 - Company EEO policy/officer – If not previously submitted.
- 3) OSHA 3165 – OSHA Safety Poster (English)
- 4) OSHA 3167 – OSHA Safety Poster (Spanish)

Copies of the above notices MUST be displayed on a weatherproof bulletin board in a conspicuous and accessible location(s). If subcontractors utilize the prime's board they need not post their own EEO is the Law (EEO #1 Poster) but they must have an EEO # 7. Faded and weathered posters should promptly be replaced.

Minority and Female Employment Goals

- 1) Female employment goals are as specified in the contract. To the extent possible this goal is to be achieved for each major job classification.

- 2) Minority employment goals are as specified in the contract by county wherein the project is located. Again, this goal applies to each major job classification.

Documentation of the meeting to inform employees of the Contractor's EEO policy.

- 1) Notify the Project Engineer of the time, date and location of the meeting.
- 2) At least one meeting should be held on the Contractor's EEO Policy every six months on the project.

EEO #1391 – Every Contractor and subcontractor with a federal-aid (sub) contract of \$10,000 or more shall submit this form only for a designated period in July (last full pay period in the month of July). Forms, instructions, etc., will be sent directly to the prime Contractor and all subcontractors from the Civil Rights Office and the forms will be returned to that office. This is a condition of the contract and failure to submit may result in withholding of progress payments until compliance is achieved.

I have read and understand the requirements of Section IV.	
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V. On-the-Job Training Requirements (if OJT Special Provision included in proposal)

The Contractor's obligations in terms of providing training is as set out in training materials that were mailed to the Contractor's home office earlier and as specified in the Training Special Provision.

The Civil Rights office will mail a packet of OJT information to the applicable prime contractor that includes instructions and forms.

Targeted groups for training program are minorities and females. It may also be possible to upgrade current employees. Contact the Civil Rights Program for further information.

At the preconstruction meeting, the Contractor (or sub if applicable) should provide a list of training program(s)/trainee name(s) to be utilized on this project. If unable to supply the information at the time of the preconstruction meeting, it must be submitted to the Area Office prior to the start of work.

The appropriate original trainee registration form must be filed with the Civil Rights Office within two weeks after training begins. It must be a signed original trainee registration. **Duplicates, facsimiles or emailed copies are not acceptable.** The original of the approved registration will be sent to Area Office and copy to the Contractor. Late trainee registrations may result in sanctions.

Trainees must be clearly identified on payroll by classification as "Form Builder Trainee", or "Scraper Trainee", etc.

Monthly Trainee Status Report -(separate report for each trainee) only at 1) termination; 2) suspension or layoff; 3) graduation, 4) monthly-last full week. One copy of the monthly status report should be sent directly to Civil Rights Office within 30 days of the final pay period for the month. Monthly status reports may be faxed, emailed or sent via US Mail. Late monthly status reports may result in project sanctions.

All SDDOT Training Program materials and instructions are found on the Internet site at: <http://www.sddot.com/services/civil/ojt.aspx>. The SDDOT/AGC OJT Manual is also available on the Internet site.

Mailing information for the OJT Registrations forms and Monthly status reports is found on the forms.

Contact the Civil Rights Office (605) 773-3540 if there are questions regarding the OJT program.

I have read and understand the requirements of Section V.	
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VI. DISADVANTAGE BUSINESS ENTERPRISE (DBE) REQUIREMENTS

- A. The DBE listed on the commitment form 289R/C or 289R/N must perform a commercially useful function by performing, managing and supervising the work involved.
- B. Substitutions of DBEs listed on form 289R/C (with a DBE goal) must first be approved by the DBE Compliance Officer. For specific requirements, refer to the DBE Special Provision.
- C. Twice a year while project is ongoing and within 30 days of the date of the Acceptance of Field Work on the contract, the contractor is required to submit a DOT 289 (Certification of DBE Performance and Payments) to the DOT Area Office.

I have read and understand the requirements of Section VI.	
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PCN 6925
 * Project No. P 0044(149)40 County Pennington
 Prime Contractor HEAVY CONSTRUCTORS INC
 Type of Work Grading, Storm Sewer, Curb & Gutter, PCC Paving, Lighting and Signals

Contract Amount \$8,943,453.31
 Period Ending 01/24/2015
 Orig Compl Date 11/04/2016
 Orig Contract Time Working Days
 Penalty Days 0.0 Days

EXHIBIT B

Work Started	09/15/2014	Work Suspended	Work Resumed	Field Work Completed
	Working Days This Period	Working Days To Date	Penalty Days This Period	Penalty Days To Date
	0.00	0.00	0.00	0.00
Phase 1A	0.00	33.50	0.00	0.00
Phase 1B	0.00	3.00	0.00	0.00
Phase 1C	7.50	7.50	0.00	0.00
Phase 4-CLD	0.00	0.00	0.00	0.00
Phase 5-CLD	0.00	0.00	0.00	0.00
Phase ALL	0.00	0.00	0.00	0.00
				Percent Complete 7.67%
				Amount Paid to Date \$685,589.20

Work In Progress This Period

Week 1: 1/11/2015 - 1/17/2015

Heavy Constructors, Inc.: Install Type S Drop Inlet at STA 11+44 R; Install 42" RCP from Type S Inlet at STA 11+44 R to Type S Inlet at STA 12+71 R; Install Type S Inlet at STA 12+71 R; Backfill trench from STA 11+44 R to STA 12+71 R; Install 42" RCP from Type S Inlet at STA 12+71 R toward the inlet at STA 15+70 R; Install RCP 7.5-degree Bend at STA 13+58; Backfill trench from the the Type S Inlet at 12+71 toward the east, just past the 7.5-degree bend near STA 13+58.

RHS, Inc.: Install "Sidewalk Closed" signage; maintain traffic control devices; Extend lane closure on Jackson Blvd to Canyon Lake Drive;

Three Sons Landscaping: Install perimeter control wattles around the work area.

Week 2: 1/18/2015 - 1/24/2015

Heavy Constructors, Inc.: Install 42" RCP and backfill trench up to pipe bend at STA 14+77 R; Install sanitary sewer service near STA 10+61 R; Install 42" RCP and backfill trench up to the Type S Inlet at STA 15+70 R; Install Type S Inlet at STA 15+70 R; Install 42" RCP between the Type S inlet at STA 15+70 R and the Type S inlet at STA 16+30 R; Install Type S Inlet at STA 16+30 R; Second pipe crew installed storm drain beginning at the Type S Inlet at STA 11+44 and ending at an existing utility conflict near STA 10+60; Install 24" RCP between the Type S inlet at STA 16+30 R and the Type S inlet at STA 16+92 R; Install Type S Inlet at STA 16+92 R; Begin installing 18" RCP from the inlet at STA 16+92 R toward the east.

RHS, Inc.: Install Flagger Sign so a flagger could be used along the lane closure; Change messages on the message boards.

General Comments

Revision Comments

Contractors Working	Name	Week 1	Exempt	Week 2	Exempt
	Arleth & Associates				
	Frank's Tree Service LLC				
	HEAVY CONSTRUCTORS INC	Worked		Worked	
	Hills Materials Co				
	JMD Excavating LLC				
	Muth Electric Inc				
	Pat Meier Trucking Inc				
	Project Solutions Inc				
	RHS Inc	Worked		Worked	
	Three Sons Landscaping	Worked			

CC: Region Engineer
 FHWA
 Region Materials Engineer
 Construction Engineer
 Bridge Engineer
 File

Prepared by _____

Approved by _____

Rapid City Area Engineer

LABOR STANDARDS INTERVIEW			
PROJECT NUMBER		PCN NUMBER	
Project Location:		EMPLOYEE'S NAME, ADDRESS & PHONE NUMBER	
NAME OF PRIME CONTRACTOR		EMPLOYEE'S PERMANENT ADDRESS (Street, City, ZIP Code)	
NAME OF EMPLOYER		WORK CLASSIFICATION	WAGE RATE
		SUPERVISOR'S NAME (First & Last Name.)	
1.	DO YOU COMPLETE YOUR OWN TIME SHEET?		IF NO, WHO DOES?
2.	DO YOU WORK OVER 40 HOURS PER WEEK?		<input type="checkbox"/> YES <input type="checkbox"/> NO (average # hours each week _____)
3.	ARE YOU PAID AT LEAST TIME AND A HALF FOR OVERTIME HOURS?		<input type="checkbox"/> YES <input type="checkbox"/> NO
4.	ARE YOU RECEIVING ANY CASH PAYMENTS OR FRINGE BENEFITS?		<input type="checkbox"/> YES <input type="checkbox"/> NO (EX: HEALTH INSURANCE OR RETIREMENT CONTRIBUTIONS PAID BY THE EMPLOYER)
5.	WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE WITHHELD FROM YOUR PAY?		
6.	WHAT EQUIPMENT HAVE YOU OPERATED ON THIS PROJECT? WHAT TOOLS HAVE YOU USED ON THIS PROJECT?		
7.	DO YOU RECEIVE THE SAME PAY FOR EVERY TYPE OF WORK YOU PERFORM?		
8.	HOW OFTEN DO YOU RECEIVE A PAYCHECK?		
9.	ARE YOU REQUIRED TO RETURN ANY OF YOUR WAGES TO YOUR EMPLOYER?		<input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, FOR WHAT REASON?
10.	HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?		
10a.	HOURS	10b.	WHAT DATE WAS THAT (MMDDYY)?
10c.	WHAT TOOLS OR EQUIPMENT DID YOU USE?		
10d.	WHEN DID YOU BEGIN WORK ON THIS PROJECT (MMDDYY)?		
10e.	WHAT DAYS DO YOU NORMALLY WORK DURING THE WEEK?		
10f.	WHAT TIME DO YOU NORMALLY START & STOP WORKING EACH DAY?		
11.	HAVE YOU HAD ANY PROBLEM RECEIVING THE CORRECT PAY FOR THE TYPE OF WORK YOU PERFORM, OR DO YOU HAVE ANY ADDITIONAL COMMENTS?		
I HAVE READ THE ABOVE AND CERTIFY IT TO BE CORRECT TO THE BEST OF MY KNOWLEDGE			
EMPLOYEE'S SIGNATURE		DATE	
INTERVIEWER'S SIGNATURE		DATE	
INTERVIEWER'S COMMENTS			
WORK EMPLOYEE WAS DOING WHEN INTERVIEWED			
IS EMPLOYEE PROPERLY CLASSIFIED AND PAID?		<i>(If additional space is needed, use Comments section)</i> <input type="checkbox"/> YES <input type="checkbox"/> NO	
ARE WAGE RATES AND POSTERS DISPLAYED?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
FOR USE BY PAYROLL CHECKER			
IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA?		<input type="checkbox"/> YES <input type="checkbox"/> NO	
COMMENTS			
DATE OF CHECK	NAME OF CHECKER	JOB TITLE	SIGNATURE