



RECREATIONAL TRAILS PROGRAM GRANT MANUAL

Supported by
US DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION

OREGON PARKS AND RECREATION DEPARTMENT

725 Summer Street NE, Suite C
Salem, OR 97301
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QUICK FACTS

Program Information:	https://www.oregon.gov/oprd/GRA/Pages/GRA-rtp.aspx
Source of Funds:	U.S. Department of Transportation, Federal Highway Administration
Program Name:	Recreational Trails Program (RTP)
RTP Funding Allocation:	Approximately \$1.6 million annually
Permissible Uses:	New trail construction Heavy trail restoration Trail head facilities Purchase or lease of trail construction and maintenance equipment Land or easement acquisition for trail purposes Safety and education programs or materials Assessment of trail conditions for accessibility or maintenance Water trails
Grants Available to:	Federal agencies State agencies Municipal agencies Nonprofits (registered for at least 3 years) Tribal Governments Other government entities
Minimum Grant Amount:	\$10,000
Maximum Grant Amount:	No maximum for motorized projects Recommended \$200,000 maximum for non-motorized projects
Match Requirements:	20% match required
Retainage:	25% of grant funds are held until project completion is verified and all required documentation is approved.
Grant Term:	Approximately two years, as specified in a grant agreement; One year for safety and education projects
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SECTION 1: RTP OVERVIEW AND PROCESS

1.1 PROGRAM OVERVIEW

History and Funding:

The Recreational Trails Program (RTP) is a Federal-aid assistance program authorized in 1998. The program was reauthorized by Congress in 2016 under the Fixing America's Surface Transportation Act (FAST Act) and again in the 2021 Infrastructure Investment and Jobs Act (IIJA). RTP replaced the original National Recreational Trails Funding Program, established in 1991.

The U.S Department of Transportation, Federal Highway Administration (USDOT, FHWA) administers RTP. In Oregon, FHWA RTP funds are apportioned to Oregon Department of Transportation (ODOT) and administered by Oregon Parks and Recreation Department (OPRD), as designated by the Governor of the State of Oregon. RTP funds represent a portion of the federal gasoline tax attributed to recreation on non-gasoline tax supported roads. FHWA's annual apportionments to states are based on funds voted on by the U.S. Congress.

Purpose:

RTP grant funds are intended to provide, expand, and improve public recreational trails for both motorized and non-motorized trail users. Project uses include pedestrian (hiking, running, and wheelchair or other mobility device access), biking, mountain biking, water trail use, equestrian use, cross-country skiing, snowmobiling, off-road motorcycling, all-terrain vehicle riding, four-wheel driving, or using other off-road motorized vehicles. Project selection is partly informed by the needs identified in [Oregon's 2016-2025 Statewide Recreation Trails Plan](#).

The intent for RTP grant funding is to enhance trail opportunities by achieving results that would not otherwise be possible. RTP grants are for projects that are primarily recreational in nature, rather than serving a more utilitarian transportation function. RTP grants typically fund on-the-ground projects, while limited funds are available for educational or trail assessment components (policies 2.3-2.3C).

An RTP project must be a distinct project with a distinct purpose. All project elements, including the project match, must be tied to the distinct scope.

1.2 RTP GRANT COMMITTEE

Legislation for RTP requires that each state establish a state RTP Grant Advisory Committee that represents both motorized and non-motorized recreational trail users and meets at least once per fiscal year.

Oregon's RTP Committee reviews, scores, and recommends projects for funding to the OPRD Director for approval by the OPRD Commission and authorization by FHWA. The Committee also advises OPRD regarding program policy and the development of project selection criteria.

1.3 30-30-40 REQUIREMENT

RTP Legislation (23 U.S.C. 206) requires that States use:

- 30 percent of funds in a fiscal year for uses relating to motorized recreation;
- 30 percent for uses relating to non-motorized recreation;
- 40 percent for diverse recreational trail use.

These are the minimum percentages that must be met and may be exceeded. A project for diverse motorized use (such as snowmobile and OHV use) may satisfy the 40 percent diverse use requirement and the 30 percent motorized use requirement simultaneously. A project for diverse non-motorized use (such as pedestrian and bicycle use) may satisfy the 40 percent diverse use requirement and the 30 percent non-motorized use requirement simultaneously.

Oregon sets aside 30% of funds for motorized projects. Projects are scored and ranked within the motorized and non-motorized categories. Diverse use projects are ranked within the category of primary use, and do not compete separately.

FHWA has established five categories to account for the 30-30-40 requirements:

- 1) **Non-motorized single use project:** A project primarily intended to benefit only one mode of non-motorized recreational trail use, such as pedestrian only, or equestrian only. RTP projects serving various pedestrian uses (walking, hiking, wheelchair use, running, birdwatching, etc.) constitute a single use for the purposes of this category. A project serving various non-motorized human-powered snow uses (skiing, snowshoeing, etc.) is single use for this category.
- 2) **Non-motorized diverse use project:** A project primarily intended to benefit more than one mode of non-motorized recreational use such as: walking, bicycling, and skating; both pedestrian and equestrian use; and pedestrian use in summer and cross-country ski use in winter.
- 3) **Diverse use projects:** A project intended to benefit both non-motorized recreational trail use and motorized recreational trail use. This category includes projects where motorized use is permitted but is not the predominant beneficiary. This category includes RTP projects where motorized and non-motorized uses are separated by season, such as equestrian use in summer and snowmobile use in winter.
- 4) **Motorized single use project:** A project primarily intended to benefit only one mode of motorized recreational use, such as snowmobile trail grooming. A project may be classified in this category if the project also benefits some non-motorized uses (it is not necessary to exclude non-motorized uses), but the primary intent must be for the benefit of motorized use.
- 5) **Motorized diverse use project:** A project primarily intended to benefit more than one mode of motorized recreational use, such as: motorcycle and ATV use; or ATV use in summer and snowmobile use in winter. A project may be classified in this category if the project also benefits some non-motorized uses (it is not necessary to exclude non-motorized uses), but the primary intent must be for the benefit of motorized use.

SECTION 2: RTP POLICIES

2.1 GRANT FUNDING BASICS

Grant Amount: Grant requests are limited to a minimum of \$10,000. There is no maximum grant request amount for motorized project proposals. The recommended maximum grant request amount for non-motorized project proposals is \$200,000. Applications will not be denied if they exceed \$200,000 but will face increased scrutiny and should include a strong justification in the fiscal considerations section of the application.

Reimbursement Payments: RTP functions as a reimbursement grant program. Applicants must have the financial capacity to pay for project expenses prior to being reimbursed by grant funds. Once project expenses have been incurred and paid for by the Sponsor, payment documentation can then be submitted to OPRD for reimbursement, up to the amount of the grant award. Advance payments may be considered on a case-by-case basis.

Matching Requirements: RTP grant funds can pay up to 80% of a project's total cost. Project Sponsors must provide at least **20%** of the total project cost as match. The exact match requirement for individual projects will be determined by an approved budget and identified in the grant agreement. Eligibility of match and grant expenses are detailed further in this section.

Retainage: OPRD will retain (i.e. hold back) 25% of grant funds until the project is verified as complete, and all required documentation is approved.

See Section 5 of the grant manual for detailed funding and reporting requirements.

2.2 PROJECT SPONSOR ELIGIBILITY

Eligible Projects Sponsors for RTP include:

- Local Governments (cities, counties, park districts, port districts, etc.)
- State Agencies
- Federal Government Agencies
- Tribal Governments
- Other Government Entities
- **Nonprofit organizations** – must meet the following criteria:
 - Registered with the State of Oregon as a nonprofit for a minimum of 3 years
 - Nonprofits registered in another state must submit documentation of their nonprofit status to OPRD. The nonprofit must be registered with the other state for a minimum of three years prior to applying to RTP. Refer to the Oregon Secretary of State rules to determine if your organization must also be registered to do business in Oregon:
<https://sos.oregon.gov/business/Pages/doing-business-means.aspx>.
 - Must have a federal tax ID and Unique Entity Identifier (see policy 3.3A)

- Will name a successor at the time of any change in organizational status (for example: dissolution)
- Does not discriminate on the basis of age, disability, gender, income, race, or religion
- Nonprofit organizations must maintain their nonprofit status throughout the duration of a project. Should the original organization's status change, a successor organization must agree, in writing, to complete all RTP project responsibilities required by the contract. OPRD recommends a government agency be successor.

2.3 PROJECT ELIGIBILITY

In general, RTP funds may be used for the following types of projects:

- New trail construction
- Heavy trail restoration
- Trailhead facilities
- Purchase or lease of trail construction and trail maintenance equipment
- Land or easement acquisition for trail purposes
- Safety and education programs or materials
- Assessment of trail conditions for accessibility or maintenance
- Water trails

There are expense allowances and restrictions within these categories, as detailed in the following sub-sections.

All projects are subject to approval by the land manager and are subject to all applicable local, state, and federal laws and regulations

2.3A ELIGIBLE PROJECT ELEMENTS

Construction of new recreational trails: This category includes construction of entirely new trails, expansion of trails, and new linkages between existing trails. This category may include construction of new trail bridges or providing appropriate wayfinding signage along the newly constructed trail.

Restoration or improvement of existing trails: This category includes a wide variety of trail improvements or restoration work beyond the land manager's maintenance capacity. Examples of eligible project types include trail bridge replacements, heavy tread restoration, trail reroutes, rehabilitation after wildfire or natural disaster, accessibility improvements, features to improve the user experience, addressing safety issues, trail improvements to mitigate negative impacts to natural or cultural resources, and providing appropriate wayfinding signage along an existing trail.

Purchase, rental, or lease of trail construction and maintenance equipment: The purchase, lease, or rental of equipment dedicated to trail building and trail maintenance activities is

eligible. Equipment is defined as tangible personal property having a useful life of more than one year and a per-unit acquisition cost of \$10,000 or more. Labor costs to operate the equipment cannot be used as match unless the purchase is included in a construction project proposal that has all necessary environmental and cultural resource clearances, etc.

Nonprofits proposing to purchase tools or equipment must submit documentation that demonstrates partnership(s) with a public land manager. The application must clearly justify why the equipment or tool purchase is necessary to perform work under the partnership agreement(s).

Grant recipients must have the funding and capacity available to maintain the equipment over its useful life or duration of the lease. Refer to Section 5 of the RTP Grant Manual for equipment disposition instructions.

Buy America Note: As of August 16, 2023, USDOT has waived Buy America requirements when the total federal financial assistance included in the project budget, including RTP funds, is less than \$500,000 (policy 2.4). This will allow many equipment purchases to become eligible again under RTP. Leasing and renting remain an option if the total federal financial assistance is \$500,000 or more. FHWA may also consider a project-specific waiver.

Development and improvement of trailhead facilities: This can include developing new or improving existing parking or staging areas for trails. Projects can include amenities and items such as restrooms, trail information kiosks, loading ramps, bike fix-it stations, warming shelters, and more. The application must clearly demonstrate a direct benefit to *trail users*, as parking areas and amenities for general park facilities would not be eligible under RTP.

Water Trails: The definition of “recreational trail” in the RTP legislation includes “aquatic or water activities”. To be eligible, these projects must either be along a designated water trail or other rivers, lakes, and waterways providing corridors between specific locations with access points open to the public. Examples of water trail projects include staging areas or trailhead facilities near access points and the installation of accessible docks. Water trails are counted within the overall 30-30-40 requirement.

Land and easement acquisition for recreational trail development or corridors: RTP funds may be used for land or easement acquisition for trail development. Acquisition can be by fee simple title or by whatever lesser rights will insure public access for a minimum of 25 years (policy 2.5). RTP legislation prohibits condemnation of any kind of interest in property. Therefore, acquisition of any kind of interest in property must be from a willing landowner or seller. Because acquisition projects are uncommon in Oregon’s RT Program, applicants should seek additional guidance and information from OPRD.

The [Uniform Appraisal Standards of Federal Land Acquisitions \(UASFLA\)](#), commonly referred to as the “Yellow Book”, must be used to prepare appraisals for acquisitions and donations if used

for federal match. Generally, appraisals older than one year from the date of application must be updated. Completed appraisals must be submitted with the application.

All acquisitions with RTP funds must comply with the provisions of the [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, as amended](#). The Uniform Act provides for the uniform and equitable treatment of persons displaced from their homes, businesses, or farms by federal and federally assisted programs and establishes uniform and equitable land acquisition policies for federal and federally assisted programs, such as RTP.

Assessment of Trails for Accessibility and Maintenance: The purpose of this category is for the assessment of trails for accessibility and maintenance needs.

- **Accessibility Assessments:** RTP funds can be used to hire a consultant, or equity and design expert with lived experience, to assess existing trails for accessibility. The assessment could be used to share descriptive information with trail users (on signage or online) and/or used to develop a plan to improve accessibility of the trail(s). In addition, assessments can include training staff or partners to conduct assessments that will be used for similar goals. Assessments of existing trails can either be standalone projects, or assessments can be included within proposals for construction projects that will improve existing or construct new trails.
- **Maintenance Assessments:** RTP funds can be used to hire an expert to assess existing trails and develop a maintenance plan. However, proposals for maintenance plans may not be competitive.

This category authorizes specific projects to assess trails to determine the level of accessibility for people with disabilities and/or to assess trails for current or future maintenance and sustainable design needs. This allows for the hiring of a professional trail builder or engineer (civil, structural or landscape architect) to create a report that provides construction or heavy restoration drawings and recommendations to address sustainable trail design and/or accessibility design needs. This category is not intended to be used for general trail project or trail system planning.

Safety and Education: The purpose of this category is for the operation of educational programs to promote safety and environmental protection as related to the use of recreational trails. Eligible projects include the development and operation of trail safety education programs, development and operation of trail-related environmental education programs, or production of trail-related education materials. Safety and education materials include classroom or field training, online training, information displays, printed materials, signage, etc. Materials with minimal educational information, or that are otherwise promotional, are not eligible (keychains, t-shirts, other swag). Applicants must provide example materials if included in the proposal.

Safety and education projects are counted within the overall 30-30-40 requirement and are limited to 5% of the total RTP allocation for the state. Safety and education projects cannot be

combined with other project types (example: cannot combine a trail construction project and education project in the same RTP proposal).

NOTE: per federal rules, funding for safety and education projects is limited to one federal fiscal year (October 1-September 30). Applicants must plan accordingly.

2.3B CONDITIONAL PROJECT ELEMENTS

Condemned Land: The RTP legislation prohibits using RTP funds for condemnation of any kind of interest in property. An RTP project may be located on land condemned with funds from other sources. However, it is not permissible to use the value of condemned land toward the match requirement.

Design and Engineering Costs: Costs for design and engineering, plans and specifications, and land use or building permits may not exceed **15%** of the total project cost. Note: costs specifically for an accessibility assessment may be exempt from the 15% limitation.

Environmental Assessment: Projects intended solely for the purpose of covering environmental evaluation and documentation costs are not permissible. However, reasonable costs, including costs associated with environmental permits and approvals, may be included as part of an approved project's budget.

Food: Food or beverage purchases are generally ineligible under RTP. Exceptions may be made for backcountry projects where crews must camp overnight. These costs must be identified in the application budget and cannot exceed [GSA per diem limits](#).

Interpretive Signage: Incidental costs for natural and cultural interpretive signage are eligible as part of a larger project to construct or restore trails and their support facilities. Interpretive signage may also be eligible as a safety and education proposal.

Law Enforcement: Law enforcement-related expenses are not permitted in RTP legislation. However, minimal use of projects supported by RTP for search and rescue or law enforcement activities may be allowed. Examples of eligible activities include storing search and rescue equipment in a building primarily used to house a snowmobile trail groomer, or minimal use of equipment purchased with RTP funds for search and rescue operations.

Lighting: Incidental costs for lighting at a trailhead or along a trail are eligible within a trail construction or restoration project.

Pre-Agreement Work: Some pre-agreement project planning and environmental review costs may be eligible for match. The work must have taken place within 18 months of the Notice to Proceed and be pre-approved by OPRD through the application process. Time spent preparing the project application is not eligible. Examples of eligible pre-agreement costs are archaeological surveys, appraisals, and final engineering or design expenses.

Property Appraisals and Appraisal Reviews for Land Acquisitions and Donations: The cost of an appraisal may be counted as pre-agreement match. Appraisals must be submitted with the application. The Uniform Appraisal Standards of Federal Land Acquisitions (UASFLA), commonly referred to as "Yellow Book," must be used to prepare appraisals for acquisitions, or

donations if used for a federal match. OPRD does not provide this service. Additional guidance can be found at: https://www.fhwa.dot.gov/real_estate/uniform_act/property_valuation/.

Railroads: RTP projects may be located within or along railroad rights-of-way if trail users will not traverse on or between railroad tracks and if adequate safety measures are implemented in coordination with the railroad owner, operator, and agency with jurisdiction over railroads.

Skill building facilities: Skill building facilities and features that are within a trail system or serve to enhance a trail system may be eligible (example: a beginner level pump track at a trailhead or within a larger trail system). Standalone skill building facilities that are not within or connected to a trail system are not eligible (example: an asphalt pump track in a park but not connected to a trail system).

Staff: Salary and wage expenses for activities directly related to project implementation are either eligible for match or reimbursement following these conditions. Examples of project implementation activities include on-the-ground construction work, project management and oversight, and contracting or contract management. Refer to policy 5.3B for documentation and reporting requirements.

- **Match:** staff costs related to project implementation are eligible as match.
- **Reimbursement:**
 - **Government agencies:** staffing costs are not eligible for reimbursement except for seasonal or temporary staff hired to complete the RTP project.
 - **Nonprofits:** nonprofit grant recipients may charge staff costs for direct project implementation to the RTP grant.

Transportation Facilities: Bike lanes, sidewalks, and other active transportation facilities are generally not eligible for RTP. However, if a bike lane or sidewalk is necessary to complete a missing link in a regional trail, a case may be made to demonstrate the recreational need and why transportation funds are not being used. Applicants proposing these types of facilities are required to consult with ODOT's Pedestrian and Bicycle Program as part of the application process. Contact the RTP Coordinator for more information.

Wilderness Areas: Projects within Wilderness Areas are subject to the restriction of the Wilderness Act of 1964 as amended.

Within a Road Right-of-Way: If your project is primarily within the road right-of-way of a federal-aid highway, you will need to follow these additional regulations:

- Davis-Bacon Act - federal prevailing wage law that applies to contracts and subcontracts exceeding \$2,000
- Copeland Act – no kickbacks from employees to employer for “privilege” of employment
- Convict (Inmate) labor is not allowed unless performed by persons who are on parole, supervised release, or probation (23 U.S.C. 114(b))

Use this map to determine if the road is a federal-aid highway:

<https://gis.odot.state.or.us/transgis/>. Click on the Classifications layer, select Federal Aid Eligible Road Network, and click Submit.

2.3C INELIGIBLE PROJECT ELEMENTS

Ineligible project elements are not eligible for reimbursement or as project match.

Budget Contingencies: The grant application may not include contingencies as specific line items in the budget.

Feasibility Studies: Trail feasibility studies are not a use permitted in the RTP legislation.

Gifts: Gifts and promotional items, including clothing, purchased for volunteer work crews, employees, or the general public are not eligible under RTP.

Grant Administration and Reporting: Time spent completing progress reports and reimbursement requests required by the grant program is not eligible as match or for reimbursement, as these activities are not directly attributed to project implementation.

Indirect Costs: Indirect costs are not eligible as match or for reimbursement. Only direct costs that can be identified specifically with a particular final cost objective directly related to the trail project are eligible.

Landscaping: Landscaping is outside of the intent of RTP and is not an eligible expense. However, mitigation planting for areas disturbed by trail construction, or planting required as a permit condition for the trail work, is typically eligible and is not considered landscaping under RTP policy.

Legal Fees: Legal fees are not eligible in any project budget.

Overhead: The regular operating expenses such as rent, building upkeep, utilities, insurance, and fixed costs associated with the organization, is not allowed under RTP

Planning: Project proposals solely for the purpose of trail planning are not eligible under the RTP guidance.

Roads: Funds may not be used to improve roads for passenger vehicle use.

Routine and deferred trail maintenance: Maintenance projects are not eligible. This includes work that should be conducted on a frequent basis to keep a trail in its originally constructed serviceable standard (e.g. mowing, tree and brush pruning, leaf and debris removal, cleaning and repair of drainage structures culverts, water bars, drain dips). Routine maintenance work is usually limited to minor repair or improvements that do not significantly change the trail location, width, surface, or trail structure.

2.3D ELIGIBLE MATCH

RTP grant funds can pay up to 80 percent of a project's total cost. Project Sponsors must provide at least **20 percent** of a project's cost.

Non-Federal Share (applies to federal agency applicants only): If federal funds are used as match, **five percent** of the total project cost must come from a **non-federal funding source** (23

U.S.C. 206). Funds made available through certain federal programs or grants may be treated as non-federal share, including but not limited to:

- Land & Water Conservation Fund grants
- In-kind match contributed by Americorps
- In-kind match contributed by a Youth Conservation Corps
- Community Development Block Grants
- Federal-aid highway program funds, including the Federal Lands Highway Program
- Funds made available under the Federal Emergency Management Administration
- Federal funds made available to or by a Tribal Government
- Challenge Cost-Share programs of a federal land management agency

Match used for other grants: Matching funds or other match contributions used to satisfy RTP match requirements must not be included as match for any other federal award or OPRD administered grant. Match cannot be double-counted across multiple federal awards or OPRD-administered grants. When in-kind contributions, volunteer labor, or other donations are used as match for more than one federal award or OPRD administered grant, the match can be split out proportionally between grant sources.

Match may include:

Cash: Payments made towards eligible project expenses

Inmate labor: Use the cost of the crew as charged to the grantee, or other valuation provided by the county or Department of Corrections. Refer to the Road Right-of-Way policy under 2.3B for certain restrictions.

In-Kind Goods & Services:

- **Donated Materials:** The fair market value of any materials donated by a person, group, or organization. Documentation supporting the valuation is required.
- **Project Planning and Environmental Compliance Services:** The donation of professional or accredited planning and environmental compliance services will be valued at the fair market value. Documentation supporting the valuation is required. These services are limited to costs incurred less than 18 months prior to or after the RTP grant contract document is fully executed (policy 2.3B). This service must apply specifically to supporting a project that will be accomplished with approved RTP funds.
- **Donated Land:** Valuation of land donated to a governmental agency or a nonprofit organization for public trail development, valued at the appraised value of the donation. The donation of land must have taken place less than 18 months prior to or after the RTP grant agreement is fully executed (unless prohibited by FHWA).

Volunteer Labor: Volunteer labor may be used as match only and is never a reimbursable item. It's recommended that Project Sponsors choose one of the following two methods to calculate volunteer labor. The method must be used throughout the entire project. Unique

situations may be handled by case-by-case basis. See page 56 for volunteer reporting requirements.

1. Volunteer labor is valued at the current rate provided by the Independent Sector. Current valuation for the State of Oregon can be found at <https://independentsector.org/research/value-of-volunteer-time/>. When reporting time as match, grantees may use the rate that was in effect at the time the hours were worked.
2. Volunteer labor is valued at a rate not to exceed prevailing wage rates determined by the U.S. Department of Labor or Oregon Bureau of Labor and Industries (BOLI). A general laborer's wage value must be used unless the volunteer is performing specialized work where there is a separate wage valuation. The BOLI rates can be found at <https://www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx> and are specific to the location where work is to be performed. If this method is used, documentation of the current rate must be uploaded as an attachment to the application.

Force Account: Force Account refers to the use of a Project Sponsor's staff, equipment, or materials. All or part of the Project Sponsor's share may be provided through force account. Documentation must be verifiable from the Project Sponsor's records and must be reasonable and necessary for efficient completion of the project.

- Use of agency or organization's paid labor to accomplish approved RTP deliverables and valued at the current hourly rate of pay, including taxes and benefits, for employee labor per hours worked for the associated deliverable.
- Use of agency or organization owned or leased equipment to accomplish approved RTP deliverables and valued according to the federally approved Federal Emergency Management Agencies (FEMA) equipment rates. Valuation rates are provided at: <http://www.fema.gov/schedule-equipment-rates>. Agencies with pre-determined use rates may submit those for review in place of FEMA rates.

2.3E SCOPE REVISIONS

Once a project is approved by the RTP Committee, OPRD Commission, and FHWA, Project Sponsors must request pre-approval for changes to the scope or project deliverables. If approved, project changes generally require an amendment. In cases of major scope changes, additional environmental review, SHPO review, project approval, and updates to other application documents may be required. Refer to policy 5.2 for more information.

Scope change requests must be emailed to the RTP Grant Coordinator at least **30 days** before the grant end date. Some scope changes may be too significant to process within that timeframe. Other scope changes may be too far outside of the project scope to approve.

2.4 BUY AMERICA

As of August 16, 2023, Buy America and Build America, Buy America Act requirements have been waived for projects when the total federal financial assistance included in the

project budget, including RTP funds, is less than \$500,000. Read the waiver notice here: <https://www.regulations.gov/document/DOT-OST-2022-0124-0095>.

The following requirements apply to RTP projects when the total federal financial assistance included in the project budget, including RTP funds, is \$500,000 or more:

Buy America laws apply to steel and iron permanently incorporated in a project funded by RTP when the total value of the materials or equipment exceeds \$2,500. The provision requires these materials be melted and manufactured domestically and that documentation is obtained to verify Buy America compliance.

These provisions apply to all materials and equipment permanently incorporated into the project, regardless of whether the items are acquired and paid for with matching funds or donated to the Project Sponsor as part of the RTP match. Examples of materials that must comply with Buy America include steel bridge girders, steel railings, steel structures, steel trailers, steel structural elements of trailhead facilities, and steel tools and equipment. Steel tools or incidental materials that do not comply with Buy America must be tracked and the total may not exceed \$2,500.

Documentation of Buy America compliance must be obtained by project sponsors and may include heat mill certificates for steel and iron products, letters or statements from the manufacturer, or alternate documentation provided by the vendor. Documentation must be retained in the project sponsor's grant files.

FHWA's Buy America laws are different from other Buy American and Made in America laws that might apply to other agencies and programs. Ensure that vendors are aware that RTP funds fall under FHWA's Buy America requirements.

Resource: <https://www.fhwa.dot.gov/federal-aidessentials/companionresources/28buyamerica.pdf>

Request for Buy America Waiver: Waiver requests may be made for items that do not meet Buy America requirements. Project Sponsors must work with OPRD's RTP Grant Coordinator who will further coordinate the request with FHWA. Waiver requests are then made available for [public review and comment](#). For vehicle and equipment purchase waivers, FHWA processes requests on a quarterly schedule, on the condition that the product has final domestic assembly. The processing of waiver requests can cause significant delays for a project.

Expanded Buy America Guidance effective November 10, 2022:

Buy America requirements were expanded under the 2021 Build America, Buy America Act (BABA). The Act expands existing Buy America requirements to other types of materials and manufactured products incorporated into an RTP project when the total federal financial assistance included in the project budget, including RTP funds, is \$500,000 or more.

Build America, Buy America requires that the following conditions be met, and that documentation be obtained from suppliers and contractors to demonstrate compliance.

- **Iron and Steel:** same as the existing requirements described above, steel and iron materials incorporated into the project must be produced in the United States. This

includes all manufacturing processes, from the initial melting stage through the application of coatings.

- **Manufactured Products:** must be produced in the United States. This means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product.
- **Construction Materials:** in addition to steel and iron, all construction materials must be manufactured in the United States. Construction materials include an article, materials, or supply that is or consists primarily of: non-ferrous metals, plastic and polymer-base products (including polyvinylchloride composite building materials), glass, lumber, and drywall.
 - Under these rules, construction materials do not include cement or cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

Grant applicants should research product availability as part of the scope and budget development process. While standards to document compliance have not been provided to states at the time of publication of this manual, grant applicants should request Buy America documentation from potential vendors, contractors, and suppliers in line with the requirements described above. Refer to [FHWA's website](#) for answers to frequently asked questions. As noted at the beginning of this policy, Buy America requirements have been waived if the total federal financial assistance included in the project budget, including RTP funds, is less than \$500,000.

2.5 OWNERSHIP AND PUBLIC ACCESS

Ownership: Adequate control must be established by an applicant over any land (public or private) to be improved and/or developed with RTP grant funds. Control is generally understood to mean ownership, lease, easement, or use agreement of not less than **25 years**. Control and tenure must be confirmed by the following documentation:

- Fee title,
- Lease,
- Easement, or
- Legally Binding Use Agreement

The applicant must identify all outstanding rights or interests held by others on land upon which the project is proposed. When a project covers multiple properties and ownership interests, the applicant should submit a tax lot map identifying control over each property where work is proposed.

The applicant will be required to submit a signed approval form from the official responsible for management of the project property, regardless of ownership (see **Land Manager Approval Form**).

Public Access: Land managers shall allow open and unencumbered public access to the completed project by all persons without regard to race, color, religious or political beliefs, sex, national origin, or place of primary residence. Access to the trail system must be made to all members of the public and cannot be exclusively limited to members of a specific trail club, municipal residents, etc.

Land managers maintain discretionary management responsibilities, as needed to keep the project property open, accessible and safe for public use during reasonable hours and time of year.

User Fees: RTP legislation does not prohibit charging use fees, permits, or parking fees. Land managers may charge use fees at RTP-assisted sites as permitted under their normal policies and procedures.

2.6 FEDERAL ENVIRONMENTAL REVIEW REQUIREMENTS

Documentation of compliance with the National Environmental Policy Act (NEPA) and other Federal environmental laws, regulations, and Executive Orders must be provided as part of an authorized project under the RTP Federal laws. FHWA procedures in [23 CFR 771](#) applies to RTP.

2.6A NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Background: The National Environmental Policy Act (NEPA) of 1969 was created to ensure federal agencies consider the environmental impacts of their actions and decisions. NEPA Section 101(b) states “it is the continuing responsibility of the federal government to use all practicable means, consistent with other essential considerations of national policy” to avoid environmental degradation, preserve historic, cultural, and natural resources, and “promote the widest range of beneficial uses of the environment without undesirable and unintentional consequences.”

Compliance with the National Environmental Policy Act is required regardless of where a project is located (federal, state, county, city, private land, etc.) because the RTP is federally funded. FHWA will not approve funds for individual projects until NEPA requirements have been met.

Many RTP projects will qualify as **Categorical Exclusions** (CE) under NEPA ([23 CFR 771.117](#)). However, each project must be reviewed to ensure that it does not have a significant impact on the environment.

Applications lacking final and approved NEPA documentation will not be made available to the RTP Advisory Committee for consideration. If NEPA documentation will not be available until after the grant application deadline, contact the RTP Grant Coordinator.

Environmental Review Process: Federal Lands

For projects on Federal Lands, applicants must submit a record of decision, or other NEPA decision document, with the application. If the project is a Categorical Exclusion project, a letter from the appropriate authority is required that outlines how it was determined.

If the project is not a Categorical Exclusion project, there will need to be a higher level of NEPA review. This would require the completion of an Environmental Impact Statement (EIS) or Environmental Analysis (EA).

Submit with the application:

- **Copy of the Record of Decision and EA or EIS, as applicable, or**
- **Letter justifying determination of the categorical exclusion**

Environmental Review Process: Non-Federal Lands

For projects located not on federal lands, FHWA is the lead NEPA agency.

To assess projects for their environmental impact and for compliance with state and federal laws, applicants proposing work on non-federal land must submit the following:

- **RTP Environmental Screening Form** completed and signed
- **Copy of an IPaC report (Information for Planning and Consultation report) for the project location** using this link: <https://ipac.ecosphere.fws.gov/location/index>
- **Intergovernmental Consultation Forms** completed by:
 - Division of State Lands
 - Department of Fish & Wildlife
 - Department of Environmental Quality
 - Other state agencies as applicable to the project (refer to the State Agency Contact List for a list of those agencies and which projects should be submitted)

Applicants do **NOT** need to submit the above documents for the following project types when no ground disturbing work is included in the grant or match:

- Purchase of trail maintenance equipment or tools
- Development and distribution of safety and educational materials
- Assessment of trails for accessibility or maintenance
- Land acquisition

COMPLETION OF THE RTP ENVIRONMENTAL SCREENING FORM:

These instructions are for projects located on non-federal lands.

All project proposals must be assessed for their environmental effect and for qualification as a Categorical Exclusion. The RTP Environmental Screening Form (Screening Form) provides pertinent information about the proposal that is used to assess environmental and cultural resource impacts.

When completing the form, an environmental impact should be quantified when possible. In all cases the level of activities involved should be given (ex: number of trees to be removed, cubic yards or debris to be removed, cubic yards of fill to be required, etc.). The Screening Form should include the following:

1. **Project Description:** Describe the proposed action and detailed information about each deliverable included, Refer to Part I of the Screening Form for detailed instructions about what to include.
2. **Alternatives to Proposed Action:** Include a brief description of appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts concerning the alternative uses of available resources. The environmental impacts of the proposal and the alternatives should be presented in comparative form and should define the issues, pros and cons of a reasonable range of alternatives, and provide a clear basis for choice between them.
3. **Environmental and Cultural Resource Impacts:** Impacts are defined as causing direct or indirect changes in the existing environment, whether beneficial or adverse, which are anticipated because of the project proposal or future actions. This part of the Screening Form must be completed to describe impacts in the following areas: property acquisitions, social and economic, archaeological and cultural resources, fish and wildlife, wetlands and floodplains, water bodies, water quality, and hazardous waste. Attach additional pages of documentation if necessary.
4. **Public Involvement:** If public involvement or comments were solicited and received related to the environmental and cultural resource impacts of the project, describe the process and input received, including public meetings held, notice given, comments solicited, etc.
5. **Environmental Commitments and Mitigation Measures:** Environmental commitments are actions that the applicant will be held to during the project implementation. List commitments and measures that will be taken to avoid, minimize, or mitigate all resources impacts as identified in the previous sections of the Screening Form, including permit conditions.
6. **Motorized Project Questions:** If the project includes motorized recreation (OHV and/or snowmobile use), complete this section regarding air quality and noise.

If responses received from state or federal natural resource agencies impact the information or mitigation measures already described on the Screening Form, update and resubmit the Screening Form accordingly.

INTERGOVERNMENTAL CONSULTATION – STATE AGENCY REVIEW:

These instructions are for projects located on non-federal lands.

Applicants must consult with at least three state natural resource agencies listed earlier in policy 2.6A. The purpose of consultation is to assure compliance with state and federal laws, assure that project proposals do not have a significant impact on the environment, and identify mitigation measures to minimize environmental impact. Consultation with additional agencies

may be prudent for certain projects. Refer to the State Agency Contact List for required and other natural resource agencies to consult with.

For all projects on non-federal land, except for those that do not include any ground disturbing work, complete and compile the following forms or documentation. These should be emailed to each state agency whose consultation is required, and other agencies as needed.

1. RTP Environmental Screening Form
2. Transmittal Memo addressed to individual state agencies
3. State Agency Review Form addressed to the individual state agencies
4. Project location map
5. Project site plan

Upload to the application once completed:

1. RTP Environmental Screening Form
2. State Agency Review Forms completed by individual state agencies

Allow the state agencies **at least 30 days** to respond and return the completed Intergovernmental Consultation Form or alternate documentation. If an agency has not responded before submitting your grant application, indicate the date of your submission to them under the Supplemental – Environmental section of the application. Any late forms can be emailed to the RTP Grant Coordinator during the technical review period.

If the project has been submitted to and responded to by State agencies in a previous grant cycle, you do not need to resubmit unless scope changes are proposed.

Applicants are responsible for following any regulations or requirements indicated in an agency's response. Applicants must contact state agency staff who indicates the project will have adverse effects or requires additional information to evaluate the proposal. Do not delay responding to the review.

If a dispute arises between the applicant and a state agency that cannot be resolved, contact the RTP Grant Coordinator. If resolution to an adverse effect cannot be mitigated, it's possible that the project will not be made available to the Committee for funding consideration.

2.6B AIR QUALITY

Many RTP projects and project-related activities are exempt from air quality conformity requirements of the Clean Air Act Amendments of 1990. However, RTP projects and project-related activities which involve new construction within air quality non-attainment or maintenance areas may be subject to the air quality conformity rule (40 CFR parts 51 and 93).

2.7 SECTION 106

Section 106 is a portion of the National Historic Preservation Act (NHPA) that requires Federal agencies to consider the effects of their undertakings on historic properties and cultural resources and ensure compliance with federal and state law regarding these properties and resources.

All projects must be reviewed the State Historic Preservation Office (SHPO). The process varies between Federal and non-Federal land. Projects including ground disturbance or land acquisition must include the appropriate documentation.

Section 106 Process: Federal Lands

Federal land management agencies are the lead for Section 106 review under their programmatic agreement (PA) with SHPO. The action will either be covered under the PA or will require SHPO concurrence.

Submit with the application:

- **A copy of SHPO's concurrence letter, OR**
- **A completed heritage review form signed by the staff archaeologist or other authorized representative, indicating that the action is covered under a PA**

If SHPO concurrence is required but not yet received, indicate the anticipated timeline for concurrence in your application. Concurrence is required prior to receiving Notice to Proceed.

Section 106 Process: Non-Federal Lands

For projects on non-federal land that include ground disturbance or land acquisition, the RTP Grant Coordinator will submit it to SHPO for review if the project is recommended for funding by the RTP Committee.

Documentation Requirements: If the project has previously been reviewed by SHPO, indicate that in your application. Include the SHPO case number and copies of relevant documentation.

Use the RTP Environmental Screening Form (Part 3, Section C), to describe known cultural or historic resources in the project area, whether a cultural resource survey has been done, how the project would affect historic resources, and whether the applying entity has had any contact with local tribes about the project.

If the project is recommended for funding, more information and documentation may be requested by the RTP Grant Coordinator.

Review Process and Budget Impacts: SHPO, FHWA, and tribal governments may request a cultural resource survey to be conducted by a professional archaeologist prior to project approval. Surveys are at the expense of the applicant and are not eligible for grant reimbursement.

The survey expense may be eligible as pre-agreement match if the cost is incurred within 18 months prior to Notice to Proceed (see policy 2.3B). It is highly recommended that applicants proposing projects on non-federal land budget for a cultural resource survey as pre-agreement match, or for additional measures to avoid, minimize, or mitigate adverse effects to cultural resources and historic properties. If archaeological monitoring *during* project implementation is recommended, it is eligible for reimbursement.

FHWA will provide notification to tribes of the recommended projects on non-federal land. This gives tribes the opportunity to comment or request more information. Tribal consultation may result in a request for an archaeological survey in advance of final project approval, archaeological monitoring during project implementation, mitigation, or project modification.

FHWA will not authorize a project prior to tribal consultation and SHPO concurrence.

Inadvertent Discovery Plan: An Inadvertent Discovery Plan (IDP) will be incorporated into grant agreements for projects on non-federal land. The IDP provides protocol for coordination with SHPO, Oregon State Police, and tribal governments in the event cultural materials or human remains are encountered during construction. For projects on Federal lands, the established IDP of the Federal agency will be followed.

Grantees managing projects on non-federal land must incorporate an IDP into contracts, subcontracts, and other agreements in place with partners or organizations performing on-site work. If the grantee doesn't have their own IDP, use the template provided on [SHPO's website](#). It is further recommended to review IDP protocols with any staff, volunteers, or other individuals working on the project that are not covered by a contract or agreement.

2.8 ACCESSIBILITY

Accessibility: Non-Motorized Trail Construction and Restoration

Federal accessibility guidelines apply to single-use recreational hiking trails and multi-use trails designed primarily for hiking. Trails are classified by their **designed use** and **managed use**. A trail has only one **designed use** that determines the design, construction, and maintenance parameters for the trail. A trail can have more than one **managed use** based on a management decision to allow other uses on the trail. Trails that have a **designed use** for hikers or pedestrians are required to comply with the technical accessibility requirements for trails. Trails that have a **designed use** for other than hikers or pedestrians, such as mountain bike or equestrian trails, are not required to comply with the technical accessibility requirements for trails.

A trail system may include a series of connecting trails. Only trails that directly connect to a trailhead or another trail that substantially meets the technical accessibility requirements for trails are required to comply with the technical accessibility requirements for trails. A trail that complies with most of the technical accessibility requirements for trails is considered to substantially meet the technical accessibility requirements.

New Trail Projects: When a trail is designed for hiking and directly connects to a trailhead or other trail that substantially meets the technical accessibility requirements for trails, the new trail must comply with the technical accessibility requirements.

Restoration Projects: When a trail designed for hiking is reconstructed or restored, and the altered portion of the trail connects directly to a trailhead of other trail that substantially meets the technical accessibility requirements for trails, the altered portion of the trail must comply with the technical accessibility requirements.

The United States Access Board's guidelines include exceptions for when a trail designed for pedestrian use cannot reasonably comply with accessibility requirements. When a condition for exception does not permit full compliance with a specific provision in the technical accessibility requirements on a portion of a trail, that portion of the trail must comply with the specific provision to the extent possible. When extreme or numerous conditions for exceptions make it impracticable to construct a trail that complies with the technical accessibility requirements, the entire trail can be exempted from the technical accessibility requirements.

More information about these exceptions is detailed in OPRD's Accessibility Assessment Memorandum. If your project is for a single-use hiking trail or multi-use trail designed for hiking, attach the Accessibility Assessment Memorandum to your application.

Resources: Refer to the [United States Access Board's technical accessibility requirements](#) for trail construction and restoration. The [U.S. Forest Service's Accessibility Guidebook](#) is a helpful resource.

Accessibility: Trailhead Facilities and Staging Areas

For all types of trails, non-motorized and motorized, and including water trails, trailhead facilities should comply with the United States Access Board's technical accessibility requirements to the extent practicable. If your project will construct or restore trailhead or staging area facilities, they should be brought up to accessibility standards.

Trailhead signage for hiking trails should provide users with enough trail information to make an informed decision. Signs must provide information about the accessible characteristics of the trail, including at a minimum: length of trail, type of trail surface, typical and minimum trail tread width, typical and maximum grade, and typical and maximum trail slope.

Resources: Refer to the [United States Access Board's technical accessibility requirements](#) for trailhead facilities. OPRD's Quick Reference Guides for parking areas, restrooms, and other general facilities are available under the Accessibility Guidance section on the [RTP section of the OPRD website](#). Refer to the [Accessibility Toolkit for Land Managers](#) for additional recommendations and best practices.

Accessibility: Boating Facilities

Federal technical accessibility guidelines for boating facilities require that at least one accessible route connect any accessible boarding piers, boat launch ramps, and other accessible spaces within a boating facility. If boarding piers or launch docks are provided, at least 5 percent but not less than one, must comply with federal technical accessibility requirements. When gangways are provided as part of the accessible route, exceptions may apply to deal with the varying water level changes and other factors. There are no exceptions to the accessible route requirements where the accessible route connect fixed piers to land or other fixed structures.

Resources: Refer to the [United States Access Board's technical requirements](#) for boating facilities. The Institute for Human Centered Design provides a checklist for evaluating facilities [here](#).

Universal Design

Beyond federal technical requirements for accessibility, grant applicants and land managers should consider other universal design techniques and apply an accessibility lens to all projects. Universal design attempts to meet the needs of all people, and includes those of all ages, physical abilities, sensory abilities, and cognitive skills. It includes the use of integrated and mainstream products, environmental features and services, with the need for adaptation of specialized design. Examples of universal design elements in a trail project include mounting ramps and block for riders to mount their horses, installing safety barriers that don't obstruct views for wheelchair users, and taking the width of recumbent bikes into account when placing bollards or other barriers on a bike trail. Refer to the resources below for more examples and best practices.

Resources: [Accessibility Toolkit for Land Managers](#), [Access Recreation's Guidelines for Providing Trail Information to People with Disabilities](#), [American Trails' Accessible Trail Resources](#).

SECTION 3: APPLICATION PROCESS

3.1 ONLINE GRANT APPLICATION PROCESS

The RTP Grant Program utilizes an online grant application process. You must have an account with OPRD to be able to apply. Additionally, your agency or organization must be registered in the online system. You can request an individual and organization account at:

www.oprdgrants.org. System requirements are found at the same link.

An application worksheet is available on the OPRD RTP [website](#). The worksheet is a tool for applicants to prepare their application content prior to submitting it online. The application worksheet will not be accepted in place of the online application.

While completing the online application, Project Sponsors can save partial information and return to the application later.

If technical assistance is needed, contact the RTP Grant Coordinator or follow the grant application instructional guide: <https://www.oregon.gov/oprd/GRA/Documents/RTP-Online-Application-Instructions.pdf>.

3.2 LETTER OF INTENT

A letter of intent (LOI) is required and initiates the application process. The LOI is a simple online form submitted on the OPRD Grants website and is **not** a formal letter sent to the RTP Grant Coordinator or RTP Advisory Committee. Project Sponsors will submit the LOI either as a motorized or non-motorized project. Diverse use projects should be submitted under the category that is the primary use type.

All potential applicants must submit a LOI by the due date posted on the grant cycle schedule for the current grant cycle. The online grant application system will not allow any LOI's after the deadline. ***If the LOI deadline is missed, a grant application may not be accessed or submitted.***

Letters of intent provide OPRD with a general idea of the proposed project. The LOI review is also an opportunity for OPRD to identify any foreseen project eligibility issues. Project Sponsors are not held to the information submitted in an LOI and will provide further detail in the grant application.

The letter of intent requires the following information:

- ☐ Primary Contact for the Project Sponsor (you will be able to select any user who's account is associated with the Sponsor organization)
- ☐ Project Name (be concise and not too general)
- ☐ Brief Project Description (limited to 225 characters): describe what the project is proposed to do, deliverables to be included in the grant and match, and the intended user groups (e.g. connect X trail with Y trail; construct approximately

1.3 miles of new mountain biking trail; restore and re-route approximately 3 miles of trail).

- ☐ Location of the project
- ☐ Approximate grant request

OPRD must approve the LOI before you can proceed to the remainder of the application sections.

3.3 APPLICATION SECTIONS

The following is an overview of the application sections and required supporting documentation that must be submitted by each Project Sponsor. If approved for funding, the application is incorporated into a grant agreement.

3.3A CONTACT INFORMATION

☐ **Project Contact:** The person responsible to carry out the RTP project. This will be OPRD's main point of contact for the project. Grantees or the RTP Grant Coordinator can change this during the project period if needed.

☐ **Reimbursement Contact:** The person who will submit and be the main point of contact for reimbursement requests. This can be left blank if it will be the same person as the Project Contact. The RTP Grant Coordinator can change this during the project period if needed.

To update contact information, follow instructions in the [Online Grant Application Instructions](#).

☐ **TAX ID & Unique Entity Identifier (UEI):** These fields are only viewable to and editable by OPRD staff and are required for all applicants. If a tax ID and UEI number for the applying organization aren't already on file, the RTP Grant Coordinator will request them.

Note: Effective April 4, 2022, the federal government stopped using DUNS numbers and transitioned to the UEI. The UEI is required for doing business with the federal government, which includes recipients of federal grant funds. Learn more about obtaining a UEI here: <https://sam.gov/content/duns-uei>.

3.3B PROJECT INFORMATION

☐ **Project Name:** Name of Project (be concise and not too general)

☐ **Brief Project Description (limited to 225 characters):** The objective of the proposed project in one or two sentences. Save the detailed description and project justification for other areas of the application. This description is used for public reports describing RTP projects.

☐ **Estimated Project Start and End Dates:** Provide the estimated start and end dates for the project. The actual start date is dependent on a Notice to Proceed and the end date will be identified in a grant agreement (approximately a two-year term).

- ☐ **Site Name:** Enter the name of the park or trail system.
- ☐ **Site City/Town/Area:** Enter the city or closest city where the project is located.
- ☐ **Site County:** Select the county or counties where the project is located.
- ☐ **Site Description:** Describe the site where work is to be performed.
- ☐ **Site Acreage:** Enter the approximate acreage of the project area.
- ☐ **Project Location:** You will be asked to pinpoint the central project location using an interactive Google Map, which will translate into latitude and longitude coordinates. More detailed location information for your project will be communicated through maps or other supporting documents.

3.3C PROJECT FINANCIAL INFORMATION

- ☐ Complete the online **Project Budget Worksheet** by adding individual budget items. The financial information fields will auto-fill as you add and save worksheet items. Each item requires the following information:
 - Item description
 - Quantity
 - Unit of measurement (ex: hour, each, linear foot, mile, lump sum, etc.)
 - Cost per unit, for volunteer labor or other donated items, enter the **value** per unit.
 - Note: The system will calculate the line item cost using quantity and cost per unit.
- ☐ For any items where part or all of the cost includes match, complete these additional fields.
 - Does this item include match? (if yes, check the box)
 - Match amount (manually calculated, quantity x cost per unit)
 - Source of funding
- ☐ If other grants funds are being used as match, complete these additional fields.
 - Is the source of your funds is from another Grant? (if yes, check the box)
 - Grant name
 - Grant type
 - Granting agency
 - Grant status (ex: pending approval, approved, etc.)

Example budget:

Project Budget Worksheet								Add Worksheet Item	
Description	Qty	Unit	\$/Unit	Cost	Match	Request	Source of Funding		
Contracted trail construction	15840	FT	\$6.00	\$95,040.00	\$0.00	\$95,040.00			
Wayfinding signs	10	Each	\$500.00	\$5,000.00	\$0.00	\$5,000.00			
Trailhead Kiosks	2	Each	\$6,000.00	\$12,000.00	\$7,000.00	\$5,000.00	Donated funds		
Volunteer Labor	120	Hrs	\$25.43	\$3,051.60	\$3,051.60	\$0.00	ABC Trails Alliance		
Staff Project Mgmt	80	Hrs	\$40.00	\$3,200.00	\$3,200.00	\$0.00	Force Account		
Youth Corps Crew Labor	2	Wk	\$7,000.00	\$14,000.00	\$14,000.00	\$0.00	Force Account		
Totals				\$132,291.60	\$27,251.60	\$105,040.00			

3.3D SUPPLEMENTAL PROJECT INFORMATION

☐ **Eligibility Category:** Mark the appropriate Recreational Trail Project Type (refer to definitions in Section 2.3). If the project fits into more than one category, select the primary project type.

☐ **Trail Users:** Identify what trails users will utilize the trail or benefit from the project. Be realistic.

☐ **E-Bike Policy:** For projects related to non-motorized trails (hiker, biker, equestrian), describe the land manager's e-bike policy if one exists. This is for reporting purposes only.

3.3E ENVIRONMENTAL (FEDERAL AND/OR NON-FEDERAL)

Complete these sections based on if the project is located on federal and/or non-federal lands. Refer to policy 2.6 for more information.

3.3F ADDITIONAL SUPPLEMENTAL QUESTIONS

This information will be used to address the scoring criteria found in Section 4. Refer to each scoring criteria category for more information and detailed guidance.

The project scope and plan will need to be completed in this section. This will inform all reviewers of specifically what you are planning to do, a justification for the project, what specifications you are using and how you plan to complete the project. If recommended for funding, the scope and all other application responses are incorporated into a grant agreement.

3.3G ATTACHMENTS

Required attachments vary by project type. Refer to the Application Attachment Checklist posted [here](#) for a list of what documents are generally required for specific project types.

If a form is not applicable to your project, upload a document marked as "N/A" or similar. The application cannot be submitted until a required document is uploaded.

☐ **Maps:** Three types of maps are required with the application. In general, these maps should clearly demonstrate specifics of the site plan, context for how the project fits within the larger trail system, and where the project is located. Engineering documents should be submitted if completed, but are not required.

☐ **Site Plans and Other Visuals:** Submit project-related site plans or other design documents.

☐ **Park Boundary Map:** Submit a map indicating the specific site location, existing or proposed trail, or trail facility. This map must clearly depict the project location in relation to roads, trails, rivers/streams, and any other geographic features that will aid in identification of the project's precise location.

☐ **Vicinity Map:** Submit a map identifying the location of the project within a region of the State (county, city, Forest Service maps, etc.).

☐ **Environmental Review Forms:** These are required for projects on non-federal land that include on-the-ground development or restoration.

☐ **RTP Environmental Screening Form:** Submit a completed and signed RTP Environmental Screening Form. Refer to policy 2.6 for additional guidance.

☐ **State Agency Review Forms:** Applicants must seek consultation from state natural resource agencies. Submit copies of their responses. Refer to policy 2.6 for additional guidance.

☐ **Land Manager Approval Form:** Submit a form signed by the land manager responsible for the area where the project will be located, available [here](#).

☐ **Land Use Compatibility Statement (LUCS):** For projects on non-federal land, include a LUCS form completed by a County Planning Official. A city may be the responsible planning entity if the project is within an Urban Growth Boundary (UGB). Land use review ensures that proposed grant funded projects are consistent with local land use requirements. If the response indicates use permits, zoning amendments, or other actions are required, those same actions should be included in your responses to questions in the Supplemental section of the application. OPRD may require that certain permits are approved prior to Notice to Proceed.

☐ **Proof of Property Ownership:** Submit documentation demonstrating ownership and public access of the property. Include copies of any deeds, easements, or other use agreements. When a project covers multiple properties and ownership interests, also submit a tax lot map that clearly ties each property ownership document to the associated tax lot.

☐ **Project Timeline:** Submit a project timeline. A sample template is available on our [website](#) for construction related projects. Applicants can use an alternative format that provides an overview of the project steps involved (design, bidding, permitting, construction, closeout, etc.). A brief statement may be submitted in place of a timeline if appropriate (ex: project proposal to purchase equipment or tools).

☐ **Letters of Support:** Upload letters of support for the project. Refer to Category #7 of Section 4 for more information about the related scoring category. It's recommended to combine the letters or associated documents into one document with a cover page. DO NOT mail or email letters directly to the RTP Grant Coordinator or RTP Advisory Committee members.

☐ **Other:** Additional documentation may be included under the "Other" category, such as:

☐ **Accessibility Assessment Memo:** For projects that construct or improve trails and their facilities, that are either single-use hiking trails or multi-use trails designed primarily for hiking, upload a completed Accessibility Assessment Memo, available [here](#).

☐ **Photos:** It is recommended to submit photos of the project area to be improved or developed for new construction, major rehabilitation, water trail, and trailhead facility projects. It's also recommended to combine photos into a single document and include captions for reviewers to quickly and clearly understand the context.

☐ **NEPA and Section 106 Documentation:** For projects on federal land, upload NEPA and Section 106 documentation under "Other." Refer to policy 2.6 and 2.7 for more information.

☐ **Acquisition Proposal Documentation:** For projects to acquire property or easements, upload a copy of the completed Yellow Book appraisal and proof of a willing seller.

☐ **Safety & Education Materials:** For projects to develop or expand safety and education materials, upload samples of the education materials.

☐ **IPac Report:** For projects on non-federal land, run and upload a copy of an IPaC report using this link: <https://ipac.ecosphere.fws.gov/location/index>

3.4 APPLICATION SUBMISSION AND NEXT STEPS

Project Sponsors must submit their online applications by 11:59 PM of the due date as posted on the RTP schedule. Late applications are typically not accepted unless there are technical issues with the online submission process.

The RTP Grant Coordinator and other OPRD staff review all applications following the due date. Initial review includes verification of applicant eligibility, review of project eligibility, and screening the application and supporting documentation for accuracy and completeness of the information and attachments submitted. Incomplete applications will be sent back to the applicant and a deadline will be provided for final resubmission.

Once applications are deemed sufficient, they will be made available to the RTP Committee members for review.

Project Sponsors who request \$50,000 or more are required to make a brief presentation in front of the RTP Committee. Requests under \$50,000 are evaluated by the RTP Committee

based on the merit of the submitted application. Refer to policy 4.4 for more information about grant presentations.

All applications are reviewed and scored according to the criteria described in Section 4.

Application scores are ranked within the categories listed in policy 1.3. Refer to policy 4.5 for more information on next steps once projects are ranked and recommended by the Committee.

SECTION 4: PROJECT SELECTION

4.1 PROJECT SELECTION CRITERIA SUMMARY

All applications are reviewed by OPRD and scored by RTP Committee Members according to the following criteria. Descriptions of each criterion are detailed in the remainder of this Section.

CRITERIA TYPE	POSSIBLE POINTS
OPRD TECHNICAL REVIEW	
1. Technical Review & Compliance	0
RTP COMMITTEE EVALUATION CRITERIA	
2. Project Scope and Plan	10
3. Youth Conservation Corps	5
4. Benefits	5
5. Statewide, Regional, and Local Issues and Needs	25
6. User Needs	10
7. Public Support	5
8. Maintenance & Sustainability	
Maintenance & Management	5
Environmental & Design Sustainability	5
Social Sustainability	5
9. Project Urgency	5
10. Fiscal Considerations	5
11. Diversity, Equity, and Inclusion	5
12. Discretionary Committee Member Criteria	15
Total Points	105

COMPLIANCE CRITERION #1 TECHNICAL REVIEW AND COMPLIANCE (0 POINTS)

As part of the RTP evaluation process, OPRD grant personnel conduct a technical review of all grant applications. Each application must include all materials requested in Section 3 of the RTP Grant Manual. Ineligible or incomplete applications will be returned to the project applicant with an explanation of why their application was returned. If the project is eligible but the application incomplete, the applicant will be given a short timeframe to address any incomplete items. If these items are not addressed within the specified timeline given, the application may be denied.

No scoring points will be awarded for the technical review. The following factors will be considered.

A. Grant Performance and Compliance: The successful completion of projects in a timely and efficient manner is an important goal of the RTP. A project applicant's past performance in effectively meeting the administrative guidelines of the program is also an important factor in evaluating performance and compliance.

- a. Is the applicant on schedule with all active OPRD-administered grant projects?
- b. Is the applicant in compliance with applicable guidelines at previously assisted project sites (e.g., no public access restrictions)?

OR

- c. The project sponsor has never received an OPRD administered grant.

Serious instances of non-compliance may be reason for application denial. Past non-compliance may also be cause for OPRD to place additional requirements or special conditions on the grant, if awarded, and as allowed by [2 CFR 200.207](#).

B. General Project Suitability / Minimum Program Requirements: Because RTP grant funding is limited and competitive, OPRD intends to ensure that all proposed projects are a good fit with the intent of the program and meet minimum program requirements.

- a. Is the project a good fit and eligible for the program? If not, can the project applicant be referred to another grant program that is a better fit?
- b. Is the project's budget well researched and complete?
- c. Is the scope of work appropriate and complete?

CRITERION #2 PROJECT SCOPE AND PLAN (0-10 POINTS)

OPRD intends to ensure that available RTP grant funding is used in a timely manner once funding is awarded to a project sponsor. Having completed the necessary upfront tasks of detailing the project scope, budget, and pre-project planning will show the project applicant has a well thought out project that is ready to be completed.

The project scope communicates to OPRD, the RTP Advisory Committee, FHWA, and the public what the project deliverables are. For projects recommended for funding, the application will be incorporated into a legally binding grant agreement. For this purpose, it is imperative that the scope deliverables are clear, concise, and realistic.

- **What are the project deliverables?** Describe what you are proposing to do and all scope deliverables included in the grant and match. Relevant information varies by project type.
 - **Trail development and restoration:** trail mileage, intended use, design, materials, and other elements such as bridges and signage.
 - **Trailhead development or restoration:** trailhead size or number of parking spaces to be developed, materials, and elements such as bathrooms, kiosks, fences or bike fix-it stations.
 - **Equipment purchases:** a description of the equipment that will be purchased.
 - **Land or easement acquisition:** a description of the property to be acquired, how control will be held, and information about the trail to be developed under the RTP grant, or in the future with other funding.
 - **Assessment of Trail Conditions for Accessibility and Maintenance:** a description of the assessment or plan that will be developed.
 - **Safety and Education:** a description of the materials or programming that will be developed or expanded.
- **Why is the project proposed?** Relevant information includes whether this project addresses a particular problem or safety issue, provides access to trails or areas currently inaccessible, provides new or improved opportunities for communities or specific user groups, is a priority project as part of the applying entities parks or master plan, is a project in response to public input or support, etc.
- **How are you proposing to complete the work?** Explain your plan to complete the project. Relevant information includes the work agency staff will complete, if a contractor will be hired and what their role in the project is, the role of volunteers or youth crews, and key steps and a timeline for the work.
- **What trail standards or guidelines will be used (as relevant)?** For construction projects, identify what trail standards will be used. If the land manager has not adopted trail standards, refer to these [resources](#) provided by American Trails. Examples of commonly used trail standards include the U.S. Forest Service guidebook, the Bureau of Land Management's Guidelines, and guides produced by the International Mountain Biking Association.
- **Describe how the project was evaluated for accessibility.** Explain how the proposed project was analyzed for accessibility and universal access standards and features. Refer to Section 2.8 for more information on accessibility standards and best practices.

- **What accessibility and universal design features are incorporated into the proposed project, existing trail system, or existing trailhead? If accessibility upgrades are needed to trail facilities but are not included in the grant proposal, describe the plan to complete those upgrades in the future.** Use this space to describe other accessibility features of the trail system that aren't already captured in the RTP project scope. For example, if your proposal is to upgrade sections of an existing OHV trail, use this space to describe the accessibility features of the existing trailhead (restroom, trailhead signage, parking, etc.). If upgrades are needed but not included in the proposal, provide information about other plans or funding sources used to complete those upgrades.
- **Describe the level of readiness to proceed and indicate what the next step is if the project is selected for funding:**
 - **Trail and trailhead development or restoration:** indicate the level of design (conceptual, percentage designed, engineering documents, etc.), steps needed prior to soliciting bids, etc.
 - **Equipment purchases:** indicate if you're prepared to solicit bids once a grant is awarded, or if a price agreement is already in place through your agency's procurement system.
 - **Land or easement acquisition:** describe the status of a completed Yellow Book compliant appraisal and agreement with the current landowner. Support the response by uploading a copy of the appraisal, proof of a willing seller or donor, and preliminary title report.
- **List any required permits and the status of those permit applications.** In your response, describe any possible delays or challenges that could occur in receiving permits. OPRD may require that certain permits are approved prior to Notice to Proceed.

CRITERION #3

YOUTH CONSERVATION OR SERVICE CORPS (0-5 POINTS)

- **If a youth conservation or service corps, or similar group, will be utilized to complete the project, describe their role here.**

The Federal Highway Administration's (FHWA's) RTP guidance encourages states to award points to proposals that utilize qualified youth conservation or service corps as part of project implementation. Qualified youth conservation or service corps refers to groups that are part of [The Corps Network](#). Points may also be awarded for involving similar organizations or groups in project implementation that aren't part of The Corps Network, but engage youth, young adults, or veterans using a similar model (see the "What is a Corps?" section on [this page](#)).

If the applicant intends to utilize a youth conservation or service corps in direct project implementation, describe their role. Indicate if an existing contract or agreement is in place with the group, if the applicant intends on sole-sourcing a qualified youth conservation or service corps as allowed in policy 5.4B, or if other informal agreements or plans are in place with a youth conservation or service corps or similar group.

Committee members score this category on a range depending on the significance of the organization/group's role relative to the project scope and whether a commitment is in place.

CRITERION #4**BENEFITS (0-5 POINTS)**

Use of recreational trails is the source of many benefits to individuals, communities, and society. There are two primary benefits that this scoring category will focus on:

Economic Impacts: This measures how tourism spending by trail users (often defined as non-resident or non-local visitors/tourists) affects local economies. Typical trip-related expenditures measured in economic impact analysis include overnight lodging, restaurants and bars, groceries, gas and oil, other transportation, recreation use fees, entertainment, sporting goods, and souvenirs. Economic impact benefits are most often associated with dispersed-setting or other destination trails. [Oregon's 2016-2025 Statewide Trails Plan](#) provides additional data related to economic contributions associated with trail use.

Health Benefits: This measures how daily physical activity by trail users can decrease the risk of many chronic illnesses. Health benefits are particularly relevant in close-to-home settings, within or near communities, where physical activity benefits most often occur. [Oregon's 2019-2023 Statewide Comprehensive Outdoor Recreation Plan \(SCORP\)](#) provides additional data supporting the significant health care savings of increased access to recreation.

On the RTP application, applicants must identify the primary use of the trail as either a destination trail or community trail. Responses should be developed using the guidance for the specific trail type chosen.

Destination Trail: These are trails which draw large numbers of non-resident or non-local visitors or tourists. These non-resident or non-local trail users typically travel 50 miles or more from home to use the trail. Destination trails contribute to local economic development through tourism spending by such trail users.

Community Trail: These are trails in close-to-home, community settings where physical activity benefits most often occur. Daily physical activity on community trails can decrease the risk of many chronic illnesses.

- **Describe how the project will benefit the local community. For destination trails, applicants should focus on economic impact benefits. For community trails, applicants should focus on health benefits.**

The following questions are examples of what to address based on the primary trail type chosen. A successful application need not address each bullet. Applicants should elaborate on points clearly relevant to their project.

Economic Impacts of Destination Trails:

- How will this project facilitate additional trip-related expenditures?
- For new trail development, how does the project fit within local tourism or other economic development goals? How is the project anticipated to impact local businesses?
- For restoration or expansion projects, how can it be demonstrated that the local community is benefiting from the existing trail? How will the project sustain or increase economic development opportunities?
- What is the anticipated impact on the community if the project wasn't completed? For restoration or equipment purchases, how will the project sustain or increase economic opportunities?

Health Benefits of Community Trails:

- Does the project provide or improve opportunities within or near a body weight index (BMI) high priority county or UGB?

The Portland State University Population Research Center has identified these high-priority BMI counties and UGB's in the state:

Body Weight Index (BMI) High Priority Counties			
Morrow	Umatilla	Lincoln	Malheur
Coos	Jefferson	Lake	Clatsop
Curry	Linn	Harney	Columbia
Douglas	Klamath	Marion	

Body Weight Index (BMI) High Priority UGB's			
Jordan Valley	Spray	Waterloo	Garibaldi
Grass Valley	Prescott	Lakeside	Elgin
Huntington	Monroe	Pilot Rock	Willamina
Monument	Chiloquin	Richland	

- Does the project provide access to community members in an area with limited or no access to trails? What alternatives do community members have?
- Is the project expected to increase physical activity?
- Does the project fit within a larger plan to address health disparities in the community (ex: Blue Zone Project communities, etc.)?

**CRITERION #5 STATEWIDE, REGIONAL, AND LOCAL ISSUES AND NEEDS
(0-25 POINTS)**

- **How does the project address statewide and regional issues and needs as identified in the 2016-2025 Statewide Trails Plan?**
- **How does the project address other locally identified issues and needs? To what extent does the project satisfy priority needs as identified in the land manager's local planning document (park and recreation master plan, city or county comprehensive plan, trails master plan, federal resource management plan, etc.)?**

Applicants are strongly encouraged to develop project applications that meet high priority needs of the intended clientele. Project proposals addressing trail management issue and funding needs at the statewide and local levels will be given priority points.

The following is a summary of the issues and needs identified through development of the [2016-2025 Oregon Statewide Recreation Trails Plan](#). Refer to the Plan for more detailed information.

NOTE: Refer to Section 2 for RTP project eligibility. The statewide issues and needs include elements that are not eligible for RTP funding.

▪ **Statewide Trail Management Issues**

The statewide trails planning process identified a set of three top statewide trail management issues for each trail type (non-motorized, water, OHV, and snowmobile). Project proposals addressing statewide trail issues will receive additional priority points (see top statewide trail issues listed below). To receive these points, Project Sponsors should describe how the project addresses these issues for their designated project type.

Non-motorized Trail Projects

Issue 1. Need for more trails connecting towns/ public places.

This issue is addressed by trails projects that connect communities to each other; provide connections between existing trails; close a gap within an existing trail; provide links to trails outside Urban Growth Boundaries; provide access to parks and open space; and provide access to significant facilities within communities such as schools, libraries, indoor recreation facilities, and businesses.

Issue 2. Need for improved trail maintenance. For this issue, trail maintenance includes routine trail maintenance and trail rehabilitation/restoration.

Routine maintenance includes work that is conducted on a frequent basis in order to keep a trail in its originally constructed serviceable standards (e.g., mowing, tree and brush pruning, leaf and debris removal, cleaning and repair of drainage structures such as culvers, water bars, and drain dips), maintenance of water crossings, and repairs to signs and other amenities. Routine maintenance work is usually limited to minor repair or improvements that do not significantly change the trail location, width, surface, or trail structure.

Trail rehabilitation/restoration involves extensive trail repair (e.g., resurfacing of asphalt trails or complete replacement, regrading, and resurfacing of all trails) needed to bring a facility up to standards suitable for public use (not routine maintenance). In some cases, trail rehabilitation/restoration may include necessary relocation of minor portions of the trail.

NOTE: regular maintenance is not eligible for RTP. However, project proposals such as trail restoration or improvements, equipment purchases, and safety & education may support the issue of improved maintenance.

Issue 3. Need for more trail signs (directional and distance markers, and level of difficulty).

Trail users require a number of different types of signs to safely and enjoyably pursue their trail experience. Location signs that lead people to trailheads and parking areas, directional signs along the trail, destination signs to let people know they have reached end points, interpretive signs that describe the natural or cultural history of the area, and regulatory signs that explain the do's and don'ts of the area are important trail components. Trail managers should provide information about their trails that allows users to choose the trails within their skill and capability level. It is important for all users, but especially elderly or disabled users, to understand a specific trail's maximum grade and cross-slope, trail width, surface, obstacles and length before using the trail.

Water Trail Projects

Issue 1. Need for increased access for non-motorized boating.

The need for increased access for non-motorized boating is driven by a continuing increase in participation in non-motorized boating activities in both Oregon and the U.S. in recent decades. Access refers to a specific location where the public has the legal right and physical means to get to the water to launch a non-motorized boat. Non-motorized boating access may be unimproved or enhanced to varying degrees.

Issue 2. Lack of funding for non-motorized boater facilities.

Issue 3. Lack of non-motorized boating maps and information.

Projects addressing this issue could include water trail guides, information brochures, signage projects, websites, smartphone apps, and promotional materials.

Off-Highway Vehicle (OHV) Trail Projects

Issue 1. Closure of trails. The implementation of federal travel management planning has resulted in a loss of OHV trail riding opportunities in Oregon. Closure of designated trails and routes without providing other designated routes in the same area leads to overuse and impacts in new areas.

Issue 2. Closure of unimproved backcountry roads. Again, the implementation of federal travel management planning has also resulted in the loss of OHV riding on backcountry roads in Oregon.

Issue 3. Riding in closed areas. Land managers have reported a proliferation of user created trails arising from repeated unauthorized travel by OHVs.

Snowmobile Trail Projects

Issue 1. Closure of snowmobile trails/ riding areas. In the coming years, all Oregon USFS Forest Districts will go through a public planning process to review and designate roads, trails, and cross country areas which are open to snowmobile use as part of the over-snow vehicle (OSV) travel management rule. There is a need to minimize unwarranted snowmobile riding closures during upcoming OSV travel management planning in Oregon.

Issue 2. Riding in closed areas. In recent years, the USFS has been confronted with a proliferation of trails arising from repeated unauthorized cross-country snowmobile travel. Unauthorized access can result from either areas not mapped, signed, or marked clearly as open or closed; or snowmobilers ignoring designations.

Issue 3 Lack of snowmobile trail maintenance. A consistent snowmobile trail maintenance backlog exists in Oregon's national forests.

▪ **Regional Trail Management Issues**

The statewide trails planning process also identified a set of three top regional trail management issues for each trail type (non-motorized, water, OHV, and snowmobile). Project proposals addressing issues for the appropriate county will receive additional priority points (see top regional trail issues listed below). To receive these points, Project Sponsors should describe how the project addresses these issues for their designated project type and planning region.

See Appendix A – Regional Trail Management Issues

▪ **Statewide Trail Needs**

The statewide trails planning process identified a set of three top statewide trail funding needs for each trail type (non-motorized, water, OHV, and snowmobile). Project proposals addressing statewide non-motorized, water, OHV, or snowmobile trail issues will receive additional points. To receive these points, Project Sponsors should describe how the project addresses these issues for their designated project type.

Non-motorized Trail Projects

- Connecting trails into larger trail systems
- More signs/ trail wayfinding
- Repair of major trail damage

Water Trail Projects

- Public non-motorized boater access to the water (developed or undeveloped)
- Non-motorized boat launch facilities
- Restrooms

OHV Trail Projects

- Maintain existing trails in good/ sustainable condition
- More single-track off-road motorcycle trails (Class III)
- Prioritize loop over out-and-back trails

Snowmobile Trail Projects

- Expand existing trail system
- More trail grooming/ rehabilitation
- More back-country off-trail riding opportunities

▪ **Regional Trail Needs**

The 2016-2025 trails planning effort included a region-level analysis to identify priority projects. Project proposals addressing regional non-motorized, water, OHV, or snowmobile trail funding need will receive additional points. To receive these points, applicants should describe how the project addresses this need for their designated project type. In addition to water trail funding need, top nominations for water trail development and potential Scenic Waterway additions are also included to encourage water trail development on these waterways.

See Appendix B – Regional Trail Needs

▪ **Locally Identified Issues and Needs**

Local funding need can be demonstrated through coordinated and long-range planning of the land manager or with outreach to the local community. Describe the extent to which the project will satisfy priority needs, as identified in a current planning document such as a comprehensive plan or recreation master plan, county or regional master plan, trail system plan, capital improvements plan, or land use/management plan. Is the project part of an adopted plan?

If the project is not included in a current planning document, describe the public involvement effort that led to the selection of the project such as citizen involvement through public meetings, workshops, open houses, interviews, surveys, etc.

As not all project types might trigger a public planning process, relevant information can also include how the project meets goals of the land manager or partner's existing development or management plans.

Nonprofit partner applicants should demonstrate coordination with the relevant land manager and how the project fits within their local plan.

CRITERION #6 USER NEEDS (0-10 POINTS)

• **Describe how the project will satisfy needs of the intended user group(s).**

Beyond addressing statewide and regional issues and needs, applicants should explain in detail how elements of the project were decided on and how well those elements meet needs of the user group(s).

The following questions are examples of what to address. A successful application need not address each bullet. Applicants should elaborate on points clearly relevant to their project.

Project Use:

- What similar trail opportunities are available in the local area?
- Is the project intended to meet unmet needs of user groups or communities?
(Example: providing accessible hiking trails in a community where there are none, providing OHV class 3 trails in an area where they lack, etc.)
- Describe the level of existing or anticipated user impact (trail counts, sample data, comparisons to other systems, or other observations).
- For trail systems or areas considered overused, describe how the project will better accommodate large amounts of users or ease use on other nearby trails.

Project Design:

- Describe the extent to which the design is user friendly and/or universally accessible. Accessibility will be further detailed later in the application.
- For proposals to connect a gap in a trail system, what alternatives do users have if the gap were left incomplete?
- For restoration proposals, describe how the project will result in an improved user experience or provide access to closed areas.
- For projects designed to provide a specific level of difficulty (advanced, beginner, etc.), how does the trail complement other systems in the area? Is the trail meeting an unmet need?
- For equipment purchases, describe how the purchase will result in increased user access or satisfaction.
- For safety and education projects, describe what education gaps the proposal will fill.

CRITERION #7 PUBLIC SUPPORT (0-5 POINTS)

- **Other than letters of support, how can public support be demonstrated? Describe any processes or public meetings that have taken place to receive input and gain support.**

Public involvement is a means of building support and developing a constituency and partnership for the development effort. The intent of this category is to award points to project proposals that demonstrate public and user support, and to applicants or land managers who demonstrate a robust public input process.

Applicants are required to submit letters of support from citizen or user groups that articulate the proposal as a needed and supported project. A minimum of five letters are recommended. Examples of appropriate groups to solicit letters from include trail groups or alliances, user clubs, neighborhood organizations, and organizations who advocate on behalf of underserved groups or community members with disabilities. Less impactful are letters from public agencies or multiple form letters submitted by individuals with unidentified roles or affiliations. Letters from agencies may be appropriate if they are committing financial or other resources to the project, in addition to letters from users.

An alternative or addition to letters of support could be combining survey or other public comments into one document.

CRITERION #8 MAINTENANCE AND SUSTAINABILITY

This category is divided into three subsections: trail maintenance and management, environmental and design sustainability, and social sustainability.

8a: Trail Maintenance and Management (0-5 points)

- **Describe the land manager's capacity and commitment for trail maintenance.**

Maintaining existing trails in sustainable and user-accessible condition was identified as the top statewide funding priority and trails issue for all user groups in the Statewide Trails Plan process. When investing RTP funds in projects, the land manager's maintenance and management capacity is evaluated and taken into account.

The following questions should be addressed as relevant to the proposal. Nonprofit partners should develop responses with the land manager.

- Is dedicated funding in place for ongoing trail operation and maintenance? Is there a resolution of support or similar guarantee for long-term maintenance funding?
- Do you have permanent staff for ongoing trail operations and maintenance?
- Does the land manager partner with organizations or volunteer groups to assist with trail maintenance? Include names of those groups.
- Do staff and partners have capacity to meet maintenance needs?
- If you are proposing to build new trails, describe the condition of existing trails under management of the land owning agency or relevant district.
- If you are proposing major restoration of existing trails, how much maintenance backlog will be alleviated by the project?

8b: Environmental and Design Sustainability (0-5 points)

- **Describe how the proposal results in a well-designed and environmentally sustainable trail system.**

A sustainable trail system will allow for carrying more visitors into a natural area with little impact to the surrounding ecosystem. They will require less maintenance through sound construction techniques and using materials that are designed for long-term self-sustaining use and by using on-site materials as much as possible.

Specific environmental sustainability recommendations for OPRD-administered grant programs are included in a component of the 2013-2017 SCORP, "[Developing Sustainable Park Systems in Oregon](#)."

The following questions are examples of what to address. A successful application need not address each bullet. Applicants should elaborate on points clearly relevant to their project.

- Describe the methods of design and low-impact techniques that will be used to protect and complement the environment.
- How will habitat areas be enhanced?
- How will erosion be prevented?
- Describe how the project is designed for ease of maintenance.
- While RTP is intended to fund projects primarily recreational in nature, will the project encourage increased bicycle or pedestrian transportation?
- For equipment purchases, describe how the purchase will result in a more sustainable trail system.
- For safety and education projects, describe how the product is anticipated to result in user protection of natural resources.

8c: Social Sustainability (0-5 points)

- **Describe the social sustainability benefits of the project.**

Parks and trails serve as valuable places for shared social activity and public interaction. For a community, or statewide network of users, to enjoy a high quality of life and be sustainable, the basic needs of all residents must be met. A socially sustainable community must have the ability to build and maintain park facilities serving residents of all ages, abilities, and economic status. Social sustainability practices involve outreach to address the needs of the community, including underserved populations and underrepresented user groups. Sustainability should involve all individuals within a community or user network.

Benefits of social sustainability include promoting public health, promoting equity, and increasing social interaction with the natural environment.

Specific social sustainability recommendations for OPRD-administered grant programs are included in a component of the 2013-2017 SCORP, "[Developing Sustainable Park Systems in Oregon](#)."

The following questions are examples of what to address. A successful application need not address each bullet. Applicants should elaborate on points clearly relevant to their project.

- Will the project increase access and use of open spaces and trails?
- Is the project anticipated to increase and improve physical activity? As relevant, use data from the [2019-2023 SCORP](#) and [Parkland Mapping](#) project to support your project.
- Will the project encourage partnership with other entities and foster community support?
- Will the project create volunteer opportunities for the public to be directly involved in the protection, maintenance, and enhancement of natural and open spaces?
- How will the project enhance cultural educational experiences?
- Will the project promote ecological values through public education and interpretation?
- Is or will the project area be used for public events?

CRITERION #9 PROJECT URGENCY (0-5 POINTS)

- **Describe if and how the project has an urgent need to be completed.**

The timing of project implementation can often be a critical factor for applicants, particularly for acquisitions or in response to safety issues or natural disasters. The intent of this category is to give priority for project proposals showing an urgent need.

The following questions are examples of what to address. A successful application need not address each bullet. Applicants should elaborate on points clearly relevant to their project.

- Describe whether temporary alternatives exist if RTP funds are not awarded.
- Describe the consequences to users if the project is not funded. Will the project area be closed or suffer a loss of quality?
- Describe the consequences to the applicant or land manager if the project is not funded. Are those factors within the applicant or land manager's control?

CRITERION #10 FISCAL CONSIDERATIONS (0-5 POINTS)

The intent of this category is to award points to project proposals that demonstrate a strong financial need, superior leveraging of funds and partnerships, and a sustainable funding strategy. Applicants should use this section to briefly explain the land manager's budget versus need, describe plans for funding future phases of the project when relevant, briefly describe other funding sources that have been applied to, and make a case for large non-motorized requests when relevant.

- **Describe how critical RTP funds are to project implementation. Relevant information includes a high-level description of the agency's budget, when/if the project would be completed without RTP funds, and other funding sources already applied to for the same project.**

- For phased projects, describe the funding strategy for the entire project, including other funding sources already utilized for previous phases or grant programs that will be applied to for future phases.
- For non-motorized projects requesting over the recommended \$200,000 maximum, use this space to make a case about why RTP funds are the best fit for your needs.

CRITERION #11 DIVERSITY, EQUITY, AND INCLUSION (0-5 POINTS)

- Describe your organization's diversity, equity, and inclusion strategy or efforts. Relevant information could include the organization's outreach strategies to underserved communities in the recreation planning process, consulting users of all mobility levels, and other efforts to work towards equitable access to the outdoors.
- Describe any project elements included in the RTP proposal that advance diversity equity or inclusion.

Diversity, equity, and inclusion (DEI) strategies direct organizations to address inequity in the communities they serve; ensure diverse representation in the planning and decision-making process, and promote welcoming environments for all visitors, employees, and volunteers. If your organization has adopted or is working towards an inclusion strategy, describe that here.

Examples of DEI efforts that would be relevant to address in the application response, as applicable:

- Description of the organization's DEI action plan
- Staff DEI training
- DEI efforts in hiring and advisory board diversification
- Partnerships with groups and organizations representing culturally-specific or underserved communities
- Targeted outreach during project, master planning, and policy efforts to include culturally-specific and underserved community perspectives
- Programming and educational efforts to address barriers for new or beginner recreationalists
- Ongoing efforts to evaluate and remove barriers
- Providing information about the accessibility of sites to inform users of all abilities
- Language translation for publications and outreach efforts
- Centering equity and underserved communities within decision making and prioritization of investments
- Efforts to promote welcoming environments

In addition, describe any elements of the project proposal that advance DEI. Examples could include constructing an accessible trail or trailside amenity, making improvements to an existing mountain bike trail to accommodate adaptive riders, or upgrading maps and kiosks to better inform users of accessible characteristics of the trail.

The committee will award points based on the demonstration of the applicant or land manager's commitment to DEI values in their work, project proposal, and ensuring diverse representation in their outreach and project planning process.

CRITERION #12 DISCRETIONARY COMMITTEE MEMBER CRITERIA (0-20 POINTS)

Consistent with federal RTP guidance, committee members represent a broad range of motorized and non-motorized trail users within the state, and other sectors of Oregon's recreation community. This category allows committee members to bring their specific knowledge of statewide and local recreation patterns, resources, and needs into consideration. The determination of points awarded is an individual decision, based on informed judgement.

Reviewers may award the project additional points based upon their subjective evaluation of the following: superior design, ADA compliance or universally accessible design, superior leverage of funding or partnerships, the use of volunteers, enhancement of significant cultural or heritage sites, enhancement of regional or statewide significant trails, context, potential for legacy, exceptional meeting of an unmet user group need, and the basic intent of federal RTP guidance. These factors are examples and not an exhaustive list of all discretionary criteria to be considered by RTP Advisory Committee members.

4.2 TECHNICAL REVIEW PROCESS

Upon submission, project applications undergo a technical review by OPRD staff and an initial project eligibility review by FHWA. Technical review includes verification of applicant eligibility, review of project eligibility, and screening the application and supporting documentation for accuracy and completeness. Ineligible applications may be denied during the technical review. Incomplete applications will be sent back to the applicant and a deadline will be provided for final resubmission.

Once applications are deemed eligible and complete, they are made available to RTP Committee members for review.

4.3 COMMITTEE REVIEW PROCESS

Following staff technical review, qualified applications are reviewed and scored by the RTP Advisory Committee members according to the criteria detailed earlier in this section. The criterion reflect the RTP guidelines and are based on the findings of the current state trails plan and reflect priorities identified by workshop participants, trails plan steering committee members, and trail user survey respondents. These criteria have been designed to evaluate and prioritize motorized and non-motorized terrestrial trail and water trail projects.

The project score will be calculated as an average of the sum of all individual RTP Committee member scores. The highest possible score for a project will be 105 points. The priority rank of a project will depend on its score relative to other projects and in relation to the amount of RTP

grant funds available each year. Projects are scored and ranked with the motorized and non-motorized categories. Diverse use projects are ranked within the category of primary use.

Applicants requesting \$50,000 or greater will be required to make a brief presentation to the Committee. Applications for RTP funding of less than \$50,000 will be evaluated by the RTP Advisory Committee based on the merit of the application.

4.4 PROJECT PRESENTATIONS

Grant presentations are required when requesting \$50,000 or more. Presentations are the opportunity to make a final case to the RTP Advisory Committee for your project. Presentations are limited to twenty minutes, including Committee Q&A.

The purpose is not to repeat all information in your application, but to provide an overview, emphasize key points, and provide any additional justification. The purpose is also for committee members to ask clarifying questions prior to finalizing their individual project scores.

PowerPoint presentations or other visuals are not required but are strongly recommended. Presentations must be submitted in advance to OPRD by a date specified to applicants by the RTP Grant Coordinator. Applicants may have more than one person attend to give the presentation or be available to answer Committee member questions. While applicants may choose to have an elected official present on the project, the Committee may ask questions that require a technical response.

OPRD will send applicants additional information prior to the grant meeting about meeting location, time slots for presentations, a deadline to submit presentation materials, etc.

4.5 PROJECT SELECTION AND NEXT STEPS

The RTP Advisory Committee ranks project applications according to the selection criteria detailed earlier in this section. The Committee's project recommendations are provided to OPRD. Applicants are notified of what projects were recommended. The RTP Grant Coordinator then submits recommendations to the OPRD Director for approval by the OPRD Commission. The Commission meets every 2-3 months.

Once the Committee recommends projects, further review is conducted by SHPO and FHWA. Oregon's Department of Justice reviews the RTP grant agreement for approval and conducts Legal Sufficiency Review for agreements exceeding \$250,000. Additional information may be requested from applicants at any point during the additional review steps.

After all review steps are completed, projects are submitted to ODOT for inclusion in the [Statewide Transportation Improvement Program \(STIP\)](#). Once added to the STIP, OPRD requests funding authorization from ODOT and FHWA.

Once funding is authorized, Project Sponsors will be emailed a RTP grant agreement for signature by their authorized representative. Once signed and returned, OPRD will execute the

agreement and issue a Notice to Proceed, allowing work to begin. It takes an average of five months to receive a grant agreement for signature after the Committee makes their recommendations.

SECTION 5: GRANT RECIPIENT REQUIREMENTS

5.1 GRANT TERM

The term for a specific project is identified in the grant agreement. Costs and activity taking place outside of these dates will not be eligible for reimbursement, with the exception of pre-approved pre-agreement planning and environmental survey costs (policy 2.3B).

Start Date: Once an executed grant agreement is in place, Project Sponsors will be issued a Notice to Proceed which authorizes work to begin and costs to be incurred.

End Date: Projects must be completed by the end date specified in a grant agreement. No additional costs may be incurred, or project work performed after the end date.

Closeout Period: No later than 45 days after work is completed, and no more than 45 days after the grant end date, Project Sponsors must submit a final progress report and request for reimbursement. Payments can be issued to vendors or contractors during the closeout period, but no work performed during the closeout period can be counted as match or reimbursed.

5.2 SCOPE REVISIONS AND EXTENSIONS

Scope Changes: The grant agreement, scope of work, and budget are the beginning point to determine project cost eligibility. The items sought for reimbursement must be identified in, or related to, the scope of work and budget for the project.

No change to the grant agreement, scope of work, project location, or project deliverables may be made without prior written approval from OPRD. In cases of major scope changes, additional environmental review, SHPO review, project approval, and updates to other application documents may be required. Generally, an amendment is needed to make scope changes.

Requests for scope changes must be submitted in advance, via email, to the RTP Grant Coordinator at least **30 days** before the grant end date. Depending on the level of environmental, SHPO, or other review needed, some changes may not be possible to process in that timeframe. An updated Accessibility Assessment Memo may be required when relevant.

As projects are recommended by the RTP Advisory Committee and approved by the OPRD Commission and FHWA, some scope changes could be considered too significant to approve.

Extensions: OPRD reviews requests for extensions on a case-by-case basis. If an extension is needed, Projects Sponsors must submit a request, via email, to the RTP Grant Coordinator at least **30 days** before the grant end date. The request should include detailed information explaining why the project has been delayed, what work remains, and a timeline for the remaining work. Sponsors must be up to date on progress reports if requesting an extension.

Some factors for an extension may be out of the Project Sponsor's control (e.g. wildfire, cultural resource discovery). While extensions may, at times, be granted for factors within the Project Sponsor's control, this could reflect on the Sponsor's performance for future grant requests.

5.3 REPORTING REQUIREMENTS

The following reports are required for all RTP grants:

- Reimbursement requests
- Quarterly progress reports, including a final report once the project is completed

OPRD utilizes an online grant management system for submitting reimbursement requests and quarterly progress reports (<https://oprdragrants.org/>). Progress reports must be up to date in order to submit reimbursement requests.

5.3A QUARTERLY PROGRESS REPORTS

Project Sponsors are required to submit quarterly reports to OPRD to ensure that OPRD is aware of the project's progress. Progress reports must be submitted in OPRD's online grant management system. Refer to the [Online Grant Reimbursement and Reporting Instructions](#) manual for how to complete and submit the online reports.

The progress report summarizes the work accomplished to date, any issues that may be arising with the project, any potential changes to the scope or design as submitted on the application, an estimated percentage of project completion, and an estimate of funds to be expended over the next quarter. Photos or other documents are not required until the final report but are recommended to assist in communicating the status of your project.

Once a Notice to Proceed has been issued, Sponsors must submit reports on a quarterly basis as follows:

- | | |
|---|---------------------------|
| • Period beginning January 1, ending March 31: | report is due April 30. |
| • Period beginning April 1, ending June 30: | report is due July 31. |
| • Period beginning July 1, ending September 30: | report is due October 31. |
| • Period beginning October 1, ending December 31: | report is due January 31. |

A project that has not made progress for six months may be terminated.

If it is determined that a project cannot be completed by the end date of the grant agreement, or at all, contact OPRD as soon as possible.

5.3B REIMBURSEMENT REQUESTS

Requests for reimbursement must be submitted at least every six months following Notice to Proceed. FHWA will inactivate funding and close the project if there is a lack of payment activity. Requests can be submitted no more frequently than on a monthly basis.

OPRD will generally review the request for approval within **30 days** after receipt. If information or edits are needed, the request will be returned to the Project Sponsor. Payment will be issued once the request is approved.

Requests must be submitted in OPRD's online grant management system. Refer to the [Online Grant Reimbursement and Reporting Instructions](#) manual for how to complete and submit the online reports.

Reimbursement requests are based on actual project expenditures that align with the Sponsor's RTP agreement, including the approved project application scope and budget.

Adequate supporting documentation for all expenses is required to be uploaded as an attachment with each request, as applicable, including but not limited to:

- Proof of payment, including payment for match items
- Invoices
- Donation and in-kind documentation
- Equipment purchase or rental documentation

OPRD may request additional supporting documentation in order to process a reimbursement.

Advance payments will be considered by OPRD on a case-by-case basis. Contact the RTP grant coordinator for information about advance payment options and restrictions.

This section further details the required documentation for certain expense types. Some expense types require completing forms made available on the [RTP section](#) of the OPRD website.

PARTIAL BILLINGS:

Partial billings are requests made before the project is completed. **Partial billing may not exceed 75% of the total grant amount until completion and closeout.** The final 25% is held as retainage and should be requested by the Sponsor in the final request.

In addition to retainage, OPRD requires that individual requests meet or exceed the required match percentage as indicated in the grant agreement. Limited exceptions to the partial billings policy and retainage amount may be allowed on a case-by-case basis. If match reported on an individual request exceeds the percentage required, it can be applied to future requests, so long as the cumulative match stays within the approved ratio.

FISCAL YEAR-END BILLINGS:

All grantees are required to submit a state fiscal year-end request for reimbursement for all project costs incurred up to June 30 of each state fiscal year. The state fiscal year begins July 1 and ends June 30. Fiscal year-end reimbursement requests must be submitted by August 15 of each year. Expenses incurred after June 30 must be submitted on a separate request.

A fiscal year-end request for reimbursement does not need to be submitted if:

- No project costs have been incurred by June 30, or
- The remaining grant balance is held as retainage and the project has not been completed, or
- Not enough match has been incurred to maintain the cumulative match requirement for payments to-date.

FINAL BILLING:

A final billing is made when the project scope of work is completed, all required documentation has been submitted and approved, and the project is open to the public. Submit a final Reimbursement Request in the online system (see policy 5.3C).

If all grant funds have not been expended, include a memo or comment within the request that verifies the amount of funds that will remain unspent. Once a project has been closed, remaining funds are deobligated, rolled back into the program, and OPRD cannot make additional payments.

PUBLIC INFORMATION:

All information and documentation submitted to OPRD is open to public review. OPRD requires that confidential or sensitive information, including home addresses, social security numbers, and bank account numbers, be removed or redacted from documents submitted to OPRD.

PROOF OF PAYMENT:

RTP payments are generally made on a reimbursement basis. Project Sponsors must use a verifiable payment method and submit proof of payment for all project expenses with each request, including expenses submitted as match.

Proof of payment may include a ledger or transaction report generated by the Sponsor's accounting system, a bank statement, or a cancelled check. **Account numbers must be redacted from bank statements and check copies before uploading to the reimbursement request.** OPRD will not reimburse for payments made in cash, as this method does not provide a verifiable audit trail. Cash payments may not be used for expenses submitted as match either.

U.S. Forest Service: Requests submitted by USFS must include a copy of the Bill for Collection, also referred to as a Dunning Notice, and the corresponding USFS Spending Detail Report. The requested amount should match the amount on the Bill for Collection.

Oregon Department of Forestry: Requests submitted by ODF must include a copy of ODF's invoice made out to OPRD.

DOCUMENTING GOOD AND SERVICES:

For all goods and services purchased for the project, Sponsors must retain and submit a copy of the original invoice or receipt. All good and services must be directly related to the approved scope of work.

DOCUMENTING PAYROLL (FORCE ACCOUNT):

Force account refers to the use of a Project Sponsor's or their partner organization's staff. Employee time directly related to the approved scope of work may be reported as a project cost or as match (see policy 2.3B). The reportable amount is the employee's regular rate of pay, including taxes and benefits (e.g. fully loaded rate). Taxes and benefits are eligible only if you pay them when they are due.

Refer to policy 2.3D for requirements around eligibility of force account expense for reimbursement or match.

All payroll related costs must be documented on a timesheet that meets the following standards. Alternative reports generated by the Sponsor's accounting system may be considered sufficient supporting documentation.

- Reflect an after-the-fact determination of the actual activity of each employee.
- Account for the total activity for which employees are compensated.
- Be signed or authorized electronically by the individual employee or by a responsible supervisor having firsthand knowledge of the activities performed by the employee.
- Be prepared at least monthly and coincide with one or more pay periods.
- Not be budget estimates or other distributions based on a percentage before the work was performed.

Sponsors using payroll costs as match must provide supporting documentation for the wage value and of a tracking system that clearly shows those hours as grant related activity.

If payroll costs from an agency other than the Sponsor are used as match, it must be to the same documentation standards.

DOCUMENTING TRAVEL AND TRANSPORTATION:

If travel costs are allowable for your project, they are limited to the current GSA [per diem](#) and [mileage rates](#). Reimbursements will be based on the actual cost incurred, and not to exceed GSA limits. You must maintain a detailed travel log, which includes a name with dates, times, locations, business purpose and itemized travel costs. Reimbursement for food is not allowed unless an exception is granted under policy 2.3C.

DOCUMENTING CORRECTIONS LABOR:

Corrections labor is work performed by inmates or people performing community service instead of a fine or jail time. Corrections labor is not donated labor. Actual costs for the crew to complete their work may be reimbursed or used as match. Submit a copy of the invoice along with proof of payment. See policy 2.3B for restrictions on projects within a road right-of-way.

DOCUMENTING DONATIONS:

Donations are third party contributions provided at no cost. The value of donated labor or donated items must be included in the project application budget. The value of donations cannot be reimbursed, cannot include items previously purchased with RTP funds, and cannot be reported on more than one grant. To be counted towards a project's match, donations must be supported by a detailed log or third party donation statement.

Refer to the following sections for more information on documenting donations and volunteer labor.

DOCUMENTING DONATED OR VOLUNTEER LABOR:

Donated labor is time provided by a person without compensation. Labor donations are valued at an hourly rate of pay, excluding taxes, benefits and overtime. Refer to policy 2.3D for volunteer labor rates. When reporting donated labor, grantees may use the rate in effect at the time the hours were worked.

Use the **Volunteer or Donated Labor Timesheet** available on the [RTP section](#) of the OPRD website. Two versions are available for use, one for individual volunteers, and one better suited for instances when a group of volunteers performs work together.

Alternate documentation may be accepted and must include the following. Contact the RTP Grant Coordinator if your existing volunteer tracking system doesn't cover these requirements and it will be reviewed on a case-by-case basis.

- Individual volunteer names
- Dates of service
- Worksite or location name
- Description of work performed
- Hours worked
- Individual volunteer or crew leader signature. Electronic signatures or certification statements may also be accepted.

For travel to and from the worksite, you can claim either the hourly labor donation rate or the mileage rate, **not both**. If you choose to claim mileage, donated labor time starts once the volunteer has arrived at the project site and begins work. Costs associated with the volunteer's food or beverages are not eligible as match.

DOCUMENTING DONATED MATERIALS AND SUPPLIES:

Materials and supplies are considered donated when they are given to the project at no cost. The reported value of donated materials is the market value of the materials or supplies at the time used. To document donated materials and supplied, submit the **Donated Materials Record** form along with information to support the valuation determination.

DOCUMENTING VENDOR DISCOUNTS:

Normal vendor discounts and sales cannot be counted towards the match. However, discounts can be counted when provided to a Sponsor from a vendor as an amount or percentage off their retail price as a project specific donation or due to your organizational mission or affiliation. Discounts can be used as match if the following is provided:

- Invoice that clearly shows the retail process and discount provided **and/or**
- Letter from the vendor that states they have provided a discount as a donation and includes the valuation of the discount

DOCUMENTING DONATED SERVICES:

Services are considered donated when they are provided by a third-party organization at a reduced cost or free to you. Some examples include surveys, appraisals, and engineering services. You must retain a copy of the invoice and/or a letter from the organization acknowledging the donation and its value.

DOCUMENTING DONATED VEHICLE MILEAGE AND ANIMAL STOCK USE:

Mileage donated to the project is limited to the current rate found at:

<http://www.gsa.gov/portal/content/100715>. For travel to and from the worksite, you can claim either the hourly labor donation rate or the mileage, not both. If you choose to claim mileage, donated time starts once the volunteer has arrived at the project site and begins work. Mileage documentation must include the starting and end locations and daily mileage for each volunteer.

Stock animals, such as pack animals, are valued at no more than \$100 a day for each animal.

DOCUMENTING DONATED REAL PROPERTY:

Property acquired at less than its appraised market value may be considered donated real property. To be considered as donated real property, a statement of donation from the donor must be submitted for each property acquired. An appraisal from the time of donation must be provided. If the donation occurs during the RTP grant project period (after the Notice to Proceed), then the real estate transaction must conform to the Uniform Act.

DOCUMENTING EQUIPMENT OR TOOL USE ALLOWANCE:

If you use your organization's equipment or tools, you may be allowed to claim some of the costs as a non-reimbursable amount (match). If the lower of the purchase price or fair market value of the equipment or tool is equal to **\$1,000 or more**, you may claim a use allowance. The use allowance is either an established rental rate or your own calculation, but that may not exceed the current rental rate for equivalent equipment or tools in the project area for the period of use.

For example, if you use a mini-excavator for 24 months and the daily rental rate is \$150 (720 days x \$150 = \$108,000), but they have a monthly rental rate of \$1,000 (\$1,000 x 24 = \$24,000), you must use the lower of the two rates (\$24,000). To take it one step further, if the mini-excavator's fair market value was \$15,000, you would only be able to show a use allowance of \$15,000 which is the lower of rental cost and fair market value.

Equipment purchased with RTP grant funding is not allowed to be claimed for equipment use allowance.

When reporting use allowance, you must track the time and date of use, location of use and identification information (make, model, serial number, description, etc.) to accompany the reimbursement request. The **RTP Donated Materials or Supplies Form** should be used.

5.3C FINAL REPORT

No later than 45 days after work is completed, and no more than 45 days after the grant end date, Project Sponsors must submit a final progress report and request for reimbursement on the OPRD Grants website.

- **Final Progress Report:** submitted in OPRD Grants and marked as final. The final report serves as notice that the Sponsor has completed the project deliverables, as described in the grant agreement, in compliance with applicable regulations, and should include:
 - Description of all deliverables completed as included in the grant agreement scope and any amendments
 - Indication that the project is complete, accessible, and open to the public
 - Photos of the completed work, including all elements included in the agreement and showing compliance with ADA/ABA standards where relevant
 - A map of the completed trail system or project area may be required for some projects.
 - An updated Accessibility Assessment Memo may be required.
- **Final Reimbursement Request:** submitted in OPRD Grants, marked as final, and including documentation of all final expenditures and match.

OPRD grants staff reserves the right to inspect completed RTP projects. Final payments will not be made until final documentation is received and approved, and the project has been verified as complete.

5.3D PUBLICITY

Project Sponsors must make every effort to acknowledge and publicize OPRD's participation and assistance with the RTP project. Upon completion, signs should be placed at the project location acknowledging OPRD support. OPRD can make acknowledgement signs available upon request or Sponsors may incorporate acknowledgements onto existing or new signage at the project location. Contact the RTP Grant Coordinator for guidance on acknowledging projects where signs may not be appropriate (example: wilderness areas, equipment purchases, etc.).

If a public grand opening or other public event is held upon project completion, please make the RTP Grant Coordinator aware of it.

5.3E EQUIPMENT ACQUISITION & DISPOSITION

Acquisition: Equipment is defined as tangible personal property having a useful life of more than one year and a per-unit cost of \$10,000 or more. If equipment is acquired with RTP funding, a completed **RTP Equipment Record Form** must be submitted. The initial record form can be submitted as an attachment to the online Reimbursement Request form once purchased, or via email to the RTP Grant Coordinator.

Annual Reporting: Project Sponsors that purchase equipment with RTP funds must conduct a physical inventory of the property and submit an updated **RTP Equipment Record Form** once a year until the equipment is valued at less than \$10,000 or is disposed of. Email the form to the RTP Grant Coordinator. Notify the grant coordinator when the equipment is valued at less than \$10,000 or has been disposed of. Equipment purchased with RTP funds must be used as

described in the project agreement through the equipment's useful life and in accordance with [2 CFR 200.313](#).

Insurance: Non-federal Project Sponsors purchasing equipment with RTP funds must provide insurance as required by [2 CFR 200.310](#).

Disposition: For equipment valued at \$10,000 or more, the Project Sponsor may not dispose of or sell the equipment without prior written approval from OPRD and FHWA. Send a request to the RTP Grant Coordinator with a description of the equipment and reason for sale or disposal. OPRD will then request disposition approval from FHWA. Equipment with a current fair market value of \$10,000 or less may be sold or otherwise disposed of with no further obligation to FHWA. Notify the RTP grant coordinator when equipment valued at less than \$10,000 has been disposed of.

5.4 PROCUREMENT

Procurement of goods and services under RTP must follow, at a minimum, the guidelines found in Oregon procurement code (ORS 279A-C, OAR Chapter 137 Division 47) and federal procurement requirements for grant management ([2 CFR 200.317-326](#)). [Per 2 CFR 1201.317](#), notwithstanding 2 CFR 200.317, subrecipients of states shall follow such policies and procedures allowed by the state when procuring property and services under a federal award.

All procurement transactions must be documented and conducted in a manner to provide, to the maximum extent possible, free and open competition. Methods of procurement depend on the estimated cost and are detailed further in policy 5.4A.

A copy of FHWA Form-1273 must be incorporated into all contracts or subcontracts for construction work (Appendix C, also incorporated into RTP grant agreements).

Documentation related to procurement activities must be kept on file per the retention requirements (policy 5.5) and must be made available to OPRD or FHWA upon request.

5.4A PROCUREMENT METHODS

Procurement methods and thresholds are based on the requirements in [ORS 279B](#). When a project sponsor's internal policy is more stringent, those requirements may take precedence.

1. **Small Purchases (ORS 279B.065):** For purchases or subawards for goods or services not exceeding \$25,000, project sponsors may award contracts in any manner deemed practical or convenient. This includes direct selection without a competitive process so long as the price is determined reasonable. To the extent practicable, project sponsors must distribute small purchases equitably among qualified suppliers or contractors. Procurements may not be artificially divided or fragmented as to constitute a small purchase.
2. **Intermediate Purchases (ORS 279B.070):** For procurement for goods or services exceeding \$25,000 and not exceeding \$250,000, project sponsors may use an informal

request for quote process. Contractor selection may be based on price as well as other considerations documented in the request for quote, such as experience, expertise, product functionality, suitability for a particular purpose, and contractor responsibility. Project sponsors should directly solicit a minimum of three bids and/or publicize their request in an effective manner to solicit the type of goods or services requested.

3. **Competitive Sealed Bids or Proposals:** Procurement for contracts exceeding \$250,000 may follow one of the following methods:
 - a. **Competitive Sealed Bids (ORS 279B.055):** The project sponsor must award contracts by using a formal invitation to bid process if the sponsor is basing contractor selection on lowest cost bid. Sponsors must give public notice of the solicitation.
 - b. **Competitive Sealed Proposals (ORS 279B.060):** The project sponsor must award contracts by using a formal request for proposal (RFP) if the sponsor is basing contractor selection on criteria in addition to cost or wants the ability to negotiate terms and conditions with the selected contractor. These options are not allowed under the competitive sealed bidding process. Sponsors must give public notice of the solicitation.

5.4B SOLE SOURCING OF QUALIFIED YOUTH CORPS

FHWA encourages RTP sponsors to enter into contracts or agreements with qualified youth service or conservation corps to perform work on recreational trail projects. Federal requirements exempt contracts and agreements with qualified youth corps from federal contracting requirements. This means that project sponsors may sole-source contracts and agreements with these youth corps.

A list of these qualified youth service and conservation corps can be found here:

<https://corpsnetwork.org/find-a-corps/>.

Note: Criterion #3 of Section 4 indicates that applicants may be awarded points for utilizing youth corps or youth crews in an RTP project. While points may be awarded by the RTP Advisory Committee for using groups not identified on the Corps Network website, sole-sourcing is only authorized for groups listed on the Corps Network website.

5.5 RETENTION REQUIREMENTS

RTP grant recipients are subject to state and federal audit of their RTP project file. Sponsors must retain and keep accessible all books, documents, papers, and records that are directly related to the RTP project for a minimum of six years following the close of the program agreement. These documents include but are not limited to:

- Invoices and receipts
- Timesheets

- Copies of payments
- Copies of internal transactions
- Travel and mileage logs
- Records pertaining to a use allowance for sponsor-owned equipment
- Procurement documentation
- Donation logs and statements
- All books, records, documents, data, and other materials relevant to the grant agreement.

The records must support all project-related costs reported to OPRD and be made available upon request. If any litigation, claim or audit is started before the end of the 6 years, you must keep the records until all litigation, claims or audit findings involving the records have been resolved and final action is taken.

The federal government has different audit procedures for non-federal entities depending on when their fiscal year of funding was received.

5.6 RTP RULES AND REGULATIONS

Compliance with Law: Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to implementation of the Project, including without limitation 23 USC 206 and ORS 390.980 which makes funds available for the purposes of the Oregon Recreation Trails System Act. Key regulations applicable to RTP include but are not limited to:

- 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR 1201
- [FHWA Recreational Trails Program Interim Guidance](#)
- 23 U.S.C. 206 Recreational Trails Program
- 23 U.S.C. 104 (h), Recreational Trails Program Apportionments
- 23 U.S.C. 106, Project Approval and Oversight
- 23 CFR 1.36, Compliance with other Federal Laws and Regulations
- 23 CFR 771, Environmental Requirements
- 23 CFR 635.410 Buy America
- 49 CFR 29, Suspension and Debarment
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- 23 U.S.C. 114, Convict Labor
- 23 U.S.C. Prevailing Wage Rate (Davis Bacon Act)

APPENDIX A - REGIONAL TRAIL MANAGEMENT ISSUES

REGIONAL NON-MOTORIZED TRAIL ISSUES

Region 1 (Clatsop, Tillamook, and Lincoln Counties)

Within Urban Growth Boundaries	Dispersed Settings
More trails connecting towns/ public places	Ability to experience the natural environment
Ability to experience the natural environment	Improved trail maintenance
Trail maps at trailheads	More trails connecting towns/ public places

Region 2 (Columbia, Washington, Clackamas, Multnomah, and Hood River Counties)

Within Urban Growth Boundaries	Dispersed Settings
Improved trail maintenance	More trails connecting towns/ public places
More trails connecting towns/ public places	Improved trail maintenance
Ability to experience the natural environment	Ability to experience the natural environment

Region 3 (Yamhill, Polk, Benton, Marion, and Linn Counties)

Within Urban Growth Boundaries	Dispersed Settings
More trails connecting towns/ public places	Improved trail maintenance
Improved trail maintenance	More trails connecting towns/ public places
More trail signs (directional & distance markers, and level of difficulty)	More trail signs (directional & distance markers, and level of difficulty)

Region 4 (Non-coastal Lane County)

Within Urban Growth Boundaries	Dispersed Settings
More trails connecting towns/ public places	Improved trail maintenance
More trails	More trails connecting towns/ public places
Improved trail maintenance	More parking space at trailheads

Region 5 (Coastal Lane, Coastal Douglas, Coos, and Curry Counties)

Within Urban Growth Boundaries	Dispersed Settings
More trails connecting towns/ public places	Improved trail maintenance
Improved trail maintenance	Ability to experience the natural environment
Trail maps at trailheads	Trail maps at trailheads

Region 6 (Non-Coastal Douglas, Josephine, and Jackson Counties)

Within Urban Growth Boundaries	Dispersed Settings
More trails connecting towns/ public places	Improved trail maintenance
Improved trail maintenance	Ability to experience the natural environment
More trail information on the Internet	More trail information on the Internet

Region 7 (Wasco, Sherman, Gilliam, Morrow, and Umatilla Counties)

Within Urban Growth Boundaries	Dispersed Settings
Improved trail maintenance	Improved trail maintenance
Ability to experience the natural environment	Ability to experience the natural environment
More trails connecting towns/ public places	More trails connecting towns/ public places

Region 8 (Jefferson, Deschutes, Crook, and Wheeler Counties)

Within Urban Growth Boundaries	Dispersed Settings
More trails connecting towns/ public places	Improved trail maintenance
Improved trail maintenance	More trails connecting towns/ public places
Ability to experience the natural environment	Ability to experience the natural environment

Region 9 (Klamath and Lake Counties)

Within Urban Growth Boundaries	Dispersed Settings
Improved trail maintenance	Improved trail maintenance
More trails connecting towns/ public places	More trail information on the Internet
More trail information on the Internet	More trails connecting towns/ public places

Region 10 (Grant, Baker, Union, and Wallowa Counties)

Within Urban Growth Boundaries	Dispersed Settings
More trails	Improved trail maintenance
More trails connecting towns/ public places	More trails connecting towns/ public places
Improved trail maintenance	More trail signs (directional & distance markers, and level of difficulty)

Region 11 (Harney and Malheur Counties)

Within Urban Growth Boundaries	Dispersed Settings
More trails	Improved trail maintenance
More trails connecting towns/ public places	More trails connecting towns/ public places
Trail maps at trailheads	Trail maps at trailheads

REGIONAL WATER TRAIL ISSUES

Region 1 (Clatsop, Tillamook, and Lincoln Counties)

Water trail issues
Too few water trails
Increased access for non-motorized boating
Lack of funding for non-motorized boating facilities

Region 2 (Columbia, Washington, Clackamas, Multnomah, and Hood River Counties)

Water trail issues
Increased access for non-motorized boating
Lack of funding for non-motorized boating facilities
Improved water conditions (quality, obstructions, rapids, currents, low levels, floating debris)

Region 3 (Yamhill, Polk, Benton, Marion, and Linn Counties)

Water trail issues
Increased access for non-motorized boating
Lack of funding for non-motorized boating facilities
More parking

Region 4 (Non-coastal Lane County)

Water trail issues
Increased access for non-motorized boating
Lack of funding for non-motorized boating facilities
Lack of law enforcement

Region 5 (Coastal Lane, Coastal Douglas, Coos, and Curry Counties)

Water trail issues
Increased access for non-motorized boating
More restrooms
Lack of funding for non-motorized boating facilities

Region 6 (Non-Coastal Douglas, Josephine, and Jackson Counties)

Water trail issues
Increased access for non-motorized boating
More trash receptacles
Lack of non-motorized boating maps/ information

Region 7 (Wasco, Sherman, Gilliam, Morrow, and Umatilla Counties)

Water trail issues
Lack of funding for non-motorized boating facilities
Increased access for non-motorized boating
Lack of separation at existing sites between motorized and non-motorized uses

Region 8 (Jefferson, Deschutes, Crook, and Wheeler Counties)

Water trail issues
Increased access for non-motorized boating
Lack of water accessible campsites
More parking

Region 9 (Klamath and Lake Counties)

Water trail issues
Increased access for non-motorized boating
Lack of water accessible campsites
More parking

Region 10 (Grant, Baker, Union, and Wallowa Counties)

Water trail issues
Increased access for non-motorized boating
More consistent water flows and/ or dam releases
Lack of funding for non-motorized boater facilities

Region 11 (Harney and Malheur Counties)

Water trail issues
Increased access for non-motorized boating
Lack of non-motorized boating maps/ information
More restrooms

REGIONAL OHV TRAIL ISSUES

Region 1 (Clatsop, Tillamook, and Lincoln Counties)

OHV trail issues
Closure of trails
Closure of unimproved backcountry roads
Riding in closed areas

Region 2 (Columbia, Washington, Clackamas, Multnomah, and Hood River Counties)

OHV trail issues
Closure of trails
Closure of unimproved backcountry roads
Riding in closed areas

Region 3 (Yamhill, Polk, Benton, Marion, and Linn Counties)

OHV trail issues
Riding in closed areas
Closure of trails
Closure of unimproved backcountry roads

Region 4 (Non-coastal Lane County)

OHV trail issues
Closure of trails
Closure of unimproved backcountry roads
Litter/ dumping

Region 5 (Coastal Lane, Coastal Douglas, Coos, and Curry Counties)

OHV trail issues
Litter/ dumping
Closure of trails
Riding in closed areas

Region 6 (Non-Coastal Douglas, Josephine, and Jackson Counties)

OHV trail issues
Closure of trails
Vandalism
Too little law enforcement

Trails Planning Region 7 (Wasco, Sherman, Gilliam, Morrow, and Umatilla Counties)

OHV trail issues
Litter/ dumping
Closure of unimproved backcountry roads
Closure of trails

Region 8 (Jefferson, Deschutes, Crook, and Wheeler Counties)

OHV trail issues
Closure of trails
Closure of unimproved backcountry roads
Litter/ dumping

Region 9 (Klamath and Lake Counties)

OHV trail issues
Closure of trails
Closure of unimproved backcountry roads
Vandalism

Region 10 (Grant, Baker, Union, and Wallowa Counties)

OHV trail issues
Closure of trails
Closure of unimproved backcountry roads
Litter/ dumping

Region 11 (Harney and Malheur Counties)

OHV trail issues
Closure of trails
Closure of unimproved backcountry roads
Litter/ dumping

REGIONAL SNOWMOBILE TRAIL ISSUES

Region 1 (Clatsop, Tillamook, and Lincoln Counties)

Snowmobile trail issues
No snowmobile trails in region

Region 2 (Columbia, Washington, Clackamas, Multnomah, and Hood River Counties)

Snowmobile trail issues
Closure of snowmobile trails/ riding areas
ATVs on snowmobile trails
Irresponsible/ dangerous/ reckless riding

Region 3 (Yamhill, Polk, Benton, Marion, and Linn Counties)

Snowmobile trail issues
ATVs on snowmobile trails
Too little law enforcement
Closure of snowmobile trails/ riding areas

Region 4 (Non-coastal Lane County)

Snowmobile trail issues
Too little law enforcement
Riding in closed areas
Irresponsible/ dangerous/ reckless riding

Region 5 (Coastal Lane, Coastal Douglas, Coos, and Curry Counties)

Snowmobile trail issues
No snowmobile trails in region

Region 6 (Non-Coastal Douglas, Josephine, and Jackson Counties)

Snowmobile trail issues
Closure of snowmobile trails/ riding areas
Riding in closed areas
ATVs on snowmobile trails

Region 7 (Wasco, Sherman, Gilliam, Morrow, and Umatilla Counties)

Snowmobile trail issues
Closure of snowmobile trails/ riding areas
Riding in closed areas
Natural resource damage

Region 8 (Jefferson, Deschutes, Crook, and Wheeler Counties)

Snowmobile trail issues
Closure of snowmobile trails/ riding areas
Riding in closed areas
Irresponsible/ dangerous/ reckless riding

Region 9 (Klamath and Lake Counties)

Snowmobile trail issues
ATVs on snowmobile trails
Riding in closed areas
Irresponsible/ dangerous/ reckless riding

Region 10 (Grant, Baker, Union, and Wallowa Counties)

Snowmobile trail issues
Riding in closed areas
Closure of snowmobile trails/ riding areas
Irresponsible/ dangerous/ reckless riding

Region 11 (Harney and Malheur Counties)

Snowmobile trail issues
Closure of snowmobile trails/ riding areas
More riding areas
ATVs on snowmobile trails

APPENDIX B REGIONAL TRAIL NEEDS

REGIONAL NON-MOTORIZED TRAIL NEEDS

Region 1 (Clatsop, Tillamook, and Lincoln Counties)

Within Urban Growth Boundaries	Dispersed Settings
Connecting trails into larger trail systems	Connecting trails into larger trail systems
Protection of natural features, including wildlife habitat	Protection of natural features, including wildlife habitat
Repair major trail damage	Repair major trail damage

Region 2 (Columbia, Washington, Clackamas, Multnomah, and Hood River Counties)

Within Urban Growth Boundaries	Dispersed Settings
Connecting trails into larger trail systems	More trails
Repair of major trail damage	Repair of major trail damage
Protection of natural features, including wildlife habitat	Connecting trails into larger trail systems

Region 3 (Yamhill, Polk, Benton, Marion, and Linn Counties)

Within Urban Growth Boundaries	Dispersed Settings
Connecting trails into larger trail systems	Repair of major trail damage
Repair of major trail damage	Connecting trails into larger trail systems
Protection of natural features, including wildlife habitat	More trails

Region 4 (Non-coastal Lane County)

Within Urban Growth Boundaries	Dispersed Settings
Connecting trails into larger trail systems	Connecting trails into larger trail systems
Protection of natural features, including wildlife habitat	Repair major trail damage
More trails	More trails

Region 5 (Coastal Lane, Coastal Douglas, Coos, and Curry Counties)

Within Urban Growth Boundaries	Dispersed Settings
Connecting trails into larger trail systems	Repair of major trail damage
Repair major trail damage	Connecting trails into larger trail systems
More trail maps/ trail information	More trails

Region 6 (Non-Coastal Douglas, Josephine, and Jackson Counties)

Within Urban Growth Boundaries	Dispersed Settings
Connecting trails into larger trail systems	Repair of major trail damage
Repair major trail damage	Connecting trails into larger trail systems
Protection of natural features, including wildlife habitat	Protection of natural features, including wildlife habitat

Region 7 (Wasco, Sherman, Gilliam, Morrow, and Umatilla Counties)

Within Urban Growth Boundaries	Dispersed Settings
Connecting trails into larger trail systems	Repair of major trail damage
Protection of natural features, including wildlife habitat	Protection of natural features, including wildlife habitat
Repair of major trail damage	Connecting trails into larger trail systems

Region 8 (Jefferson, Deschutes, Crook, and Wheeler Counties)

Within Urban Growth Boundaries	Dispersed Settings
Connecting trails into larger trail systems	Connecting trails into larger trail systems
Repair of major trail damage	More trails
Protection of natural features, including wildlife habitat	Protection of natural features, including wildlife habitat

Region 9 (Klamath and Lake Counties)

Within Urban Growth Boundaries	Dispersed Settings
Repair of major trail damage	Repair of major trail damage
Connecting trails into larger trail systems	Connecting trails into larger trail systems
More trail maps/ trail information	Protection of natural features, including wildlife habitat

Region 10 (Grant, Baker, Union, and Wallowa Counties)

Within Urban Growth Boundaries	Dispersed Settings
Connecting trails into larger trail systems	More trails
More trails	Repair major trail damage
Repair major trail damage	Protection of natural features, including wildlife habitat

Region 11 (Harney and Malheur Counties)

Within Urban Growth Boundaries	Dispersed Settings
More trail maps/ trail information	Repair major trail damage
Connecting trails into larger trail systems	More trails
Repair major trail damage	More trail maps/ trail information

REGIONAL WATER TRAIL NEEDS

Region 1 (Clatsop, Tillamook, and Lincoln Counties)

Water Trail Funding Priorities	Top Water Trail Nominations	Potential Scenic Waterway Additions
Public access to the water (developed or undeveloped)	Salmon River	R5 Nehalem River
Information available online	R5 Nehalem River	R17 Siletz River (Mainstem from confluence of North and South Forks to Siletz Bay)
Map of routes	B6 Siletz Bay	

Region 2 (Columbia, Washington, Clackamas, Multnomah, and Hood River Counties)

Water Trail Funding Priorities	Top Water Trail Nominations	Potential Scenic Waterway Additions
Public access to the water (developed or undeveloped)	R49 Tualatin River	R60 White River
Non-motorized boat launch facilities	R50 Clackamas River (River Mill Dam to Willamette River confluence)	R58 Sandy River (Source to confluence with Bull Run River)
Parking for cars without trailers	R5 Nehalem River	R5 Nehalem River
		R49 Tualatin River
		R125 Willamette River (Canby to Sam Daws Bend, near Peoria)

Region 3 (Yamhill, Polk, Benton, Marion, and Linn Counties)

Water Trail Funding Priorities	Top Water Trail Nominations	Potential Scenic Waterway Additions
Public access to the water (developed or undeveloped)	R63 Yamhill River	R66 North Santiam River (Pending dam status review)
Non-motorized boat launch facilities	R66 North Santiam River	R126 Willamette River (Sam Daws Bend, near Peoria, to Mid Fork Junction)
Parking for cars without trailers	R68 South Santiam River	R69 Middle Santiam River
		R125 Willamette River (Canby to Sam Daws Bend, near Peoria)
		R68 South Santiam River
		R17 Siletz River (Mainstem from confluence of North and South Forks to Siletz Bay)

Region 4 (Non-coastal Lane County)

Water Trail Funding Priorities	Top Water Trail Nominations	Potential Scenic Waterway Additions
Public access to the water (developed or undeveloped)	R70 McKenzie River	R70 McKenzie River (Paradise South)
Non-motorized boat launch facilities	L58 Waldo Lake	R126 Willamette River (Sam Daws Bend, near Peoria, to Mid Fork Junction)
Restrooms	R81 North Middle Fork Willamette River	R79 Coast Fork Willamette River

Region 5 (Coastal Lane, Coastal Douglas, Coos, and Curry Counties)

Water Trail Funding Priorities	Top Water Trail Nominations	Potential Scenic Waterway Additions
Public access to the water (developed or undeveloped)	R45 & R46 Chetco River (from Boulder Creek to the mouth at Pacific Ocean)	R27 Umpqua River (Mainstem from confluence of North and South Fork to the Pacific Ocean)
Designated water trails with signs	B10 Coos Bay	R28 Smith River
Information available online	R27 Umpqua River (mainstem from confluence of North and South Fork to mouth at Pacific Ocean)	

Region 6 (Non-Coastal Douglas, Josephine, and Jackson Counties)

Water Trail Funding Priorities	Top Water Trail Nominations	Potential Scenic Waterway Additions
Public access to the water (developed or undeveloped)	R84 North Umpqua River	R89 Rogue River (Lost Creek Lake to Applegate River)
Non-motorized boat launch facilities	R27 Umpqua River (from confluence of North and South Forks to mouth at Pacific Ocean)	R27 Umpqua River (Mainstem from confluence of North and South Fork to the Pacific Ocean)
Restrooms	R43 Illinois River (Deer Creek to Agness near confluence with Rogue River)	R44 Illinois River (Illinois River Forks State Park to Deer Creek)
		R28 Smith River

Region 7 (Wasco, Sherman, Gilliam, Morrow, and Umatilla Counties)

Water Trail Funding Priorities	Top Water Trail Nominations	Potential Scenic Waterway Additions
Public access to the water (developed or undeveloped)	R102 Umatilla River	R60 White River
Areas without motorized boats	R103 North Fork John Day River	R102 Umatilla River (Source to McKay)
Information available online	R60 White River	

Region 8 (Jefferson, Deschutes, Crook, and Wheeler Counties)

Water Trail Funding Priorities	Top Water Trail Nominations	Potential Scenic Waterway Additions
Public access to the water (developed or undeveloped)	R98 Crooked River	R98 Crooked River
Information available online	R97 Metolius River	
Parking for cars without trailers	L91 Hosmer Lake	

Region 9 (Klamath and Lake Counties)

Water Trail Funding Priorities	Top Water Trail Nominations	Potential Scenic Waterway Additions
Public access to the water (developed or undeveloped)	R94 Williamson River	R94 Williamson River
Non-motorized boat launch facilities	Wood River	
Map of routes	L109 Upper Klamath Lake	

Region 10 (Grant, Baker, Union, and Wallowa Counties)

Water Trail Funding Priorities	Top Water Trail Nominations	Potential Scenic Waterway Additions
Public access to the water (developed or undeveloped)	R110 Grande Ronde River (Confluence with the Wallowa River to WA state line, near Troy)	R100 John Day River (Picture Cr. To Service Cr.)
Areas without motorized boats	R114 Wallowa River (Minam to confluence with the Grande Ronde River)	R115 Imnaha River
Designated water trails with signs	R100 John Day River (Source to Service Creek)	

Water Trails Planning Region 11 (Harney and Malheur Counties)

Water Trail Funding Priorities	Top Water Trail Nominations	Potential Scenic Waterway Additions
Public access to the water (developed or undeveloped)	R120 Snake River (Owyhee Dam to state line)	R121 Owyhee River (Owyhee Dam to Snake River)
Non-motorized boat launch facilities	R122 Owyhee River (Lake Owyhee to Rome, near Hwy 95)	
Information available online	R118 Lake Owyhee	

REGIONAL OHV TRAIL NEEDS

Region 1 (Clatsop, Tillamook, and Lincoln Counties)

OHV funding priorities
More single-track off-road motorcycle trails (Class III)
Maintaining existing trails in good/sustainable condition
Reduce natural resource damage near trails

Region 2 (Columbia, Washington, Clackamas, Multnomah, and Hood River Counties)

OHV funding priorities
Maintaining existing trails in good/sustainable condition
More single-track off-road motorcycle trails (Class III)
Trail maps/ information

Region 3 (Yamhill, Polk, Benton, Marion, and Linn Counties)

OHV funding priorities
Maintaining existing trails in good/sustainable condition
Trail maps/ information
Reduce natural resource damage near trails

Region 4 (Non-coastal Lane County)

OHV funding priorities
Maintaining existing trails in good/sustainable condition
More single-track off-road motorcycle trails (Class III)
More trails for quads (Class I)

Region 5 (Coastal Lane, Coastal Douglas, Coos, and Curry Counties)

OHV funding priorities
More single-track off-road motorcycle trails (Class III)
More trails for quads (Class I)
More trails for 4x4s (Class II)

Region 6 (Non-Coastal Douglas, Josephine, and Jackson Counties)

OHV funding priorities
More trails for 4x4s (Class II)
More enforcement of existing rules/regulations in trail areas
Maintaining existing trails in good/sustainable condition

Region 7 (Wasco, Sherman, Gilliam, Morrow, and Umatilla Counties)

OHV funding priorities
Maintaining existing trails in good/sustainable condition
Reduce natural resource damage near trails
Trail maps/ information

Region 8 (Jefferson, Deschutes, Crook, and Wheeler Counties)

OHV funding priorities
More single-track off-road motorcycle trails (Class III)
Prioritize long-distance trails (over 100 miles)
More cross-country travel areas

Region 9 (Klamath and Lake Counties)

OHV funding priorities
More cross-country travel areas
More trails for quads (Class I)
More trails for 4x4s (Class II)

Region 10 (Grant, Baker, Union, and Wallowa Counties)

OHV funding priorities
More cross-country travel areas
Maintaining existing trails in good/sustainable condition
Trail maps/ information

Region 11 (Harney and Malheur Counties)

OHV funding priorities
More trails for quads (Class I)
More single-track off-road motorcycle trails (Class III)
More cross-country travel areas

REGIONAL SNOWMOBILE TRAIL NEEDS

Snowmobile Trails Planning Region 1 (Clatsop, Tillamook, and Lincoln Counties)

Snowmobile trail funding priorities

No snowmobile trails in region

Snowmobile Trails Planning Region 2 (Columbia, Washington, Clackamas, Multnomah, and Hood River Counties)

Snowmobile trail funding priorities

Expand existing trail system

More trail grooming/ trail rehabilitation

More parking/ sno-parks in the area

Snowmobile Trails Planning Region 3 (Yamhill, Polk, Benton, Marion, and Linn Counties)

Snowmobile trail funding priorities

Expand existing trail system

More trail grooming/ trail rehabilitation

More signs along trails

Snowmobile Trails Planning Region 4 (Non- coastal Lane County)

Snowmobile trail funding priorities

More enforcement of existing rules/regulations in trail areas
--

Expand existing trail system

More back-country off-trail riding

Snowmobile Trails Planning Region 5 (Coastal Lane, Coastal Douglas, Coos, and Curry Counties)

Snowmobile trail funding priorities

No snowmobile trails in region

Snowmobile Trails Planning Region 6 (Non- Coastal Douglas, Josephine, and Jackson Counties)

Snowmobile trail funding priorities

More parking/ sno-parks in the area

Expand existing trail system

More back-country off-trail riding

Snowmobile Trails Planning Region 7 (Wasco, Sherman, Gilliam, Morrow, and Umatilla Counties)

Snowmobile trail funding priorities

More parking/ sno-parks in the area

Increase safety/ reduce hazards

Expand existing trail system

Snowmobile Trails Planning Region 8 (Jefferson, Deschutes, Crook, and Wheeler Counties)

Snowmobile trail funding priorities

More back-country off-trail riding

Expand existing trail system

More parking/ sno-parks in the area

Snowmobile Trails Planning Region 9 (Klamath and Lake Counties)

Snowmobile trail funding priorities

More signs along trails

More trail maps/ information

Increase safety/ reduce hazards

Snowmobile Trails Planning Region 10 (Grant, Baker, Union, and Wallowa Counties)

Snowmobile trail funding priorities

More back-country off-trail riding

Expand existing trail system

More trail maps/ information

Snowmobile Trails Planning Region 11 (Harney and Malheur Counties)

Snowmobile trail funding priorities

More back-country off-trail riding

Expand existing trail system

More parking/ sno-parks in the area

APPENDIX C

FEDERAL FORM FHWA-1273

FHWA-1273 – Revised October 23, 2023

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

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

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:

The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

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

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

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

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

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

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

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

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

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

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

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

2. Withholding (29 CFR 5.5)

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

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

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

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

3. Records and certified payrolls (29 CFR 5.5)

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

(2) Information required. Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

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

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

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

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

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

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

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

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

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

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

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

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

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

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

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

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

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

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

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

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

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

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

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

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

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

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

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

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

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

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

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

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

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

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

3. Withholding for unpaid wages and liquidated damages

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

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

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

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

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

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

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

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

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

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

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

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

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

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

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

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

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

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

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

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

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

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

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

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

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

APPENDIX D
SAMPLE GRANT AGREEMENT

Oregon Parks and Recreation Department
Recreational Trails Program Grant Agreement

THIS AGREEMENT ("Agreement") is made and entered into by and between the State of Oregon, acting by and through its Oregon Parks and Recreation Department, hereinafter referred to as "OPRD" or the "State" and the **GRANTEE NAME**, hereinafter referred to as the "Grantee". Together, State and Grantee are hereinafter referred to as the "Parties" or individually as a party.

OPRD Grant Number: **RT##-###**

Project Title: **PROJECT TITLE**

Project Description: **[Brief Project Description]**. The Project is further described in the Project Scope and Budget included as Attachment B.

Grant Funds /

Maximum Reimbursement: **\$000.00** **(00.00%)**

Grantee Match Participation: **\$000.00** **(00.00%)**

Total Project Cost: **\$000.00**

Grant Payments / Reimbursements: Grant Funds are awarded by the State and paid on a reimbursement basis, and only for the Project described in this Agreement, and the original Project Scope and Budget included as Attachment B. To request reimbursement, Grantee shall use OPRD's online grant management system accessible at oprdrants.org. The request for reimbursement shall include documentation of all project expenses including, when applicable, documentation confirming project invoices have been paid. The request must also include documentation for all match expenses, as eligible under and in compliance with the rules, policies, and guidelines for the Recreational Trails Program, which may be found at <https://www.oregon.gov/oprd/GRA/Pages/GRA-rtp.aspx>. Grantee may request reimbursement as often as monthly for expenses incurred to date. Grantee must request reimbursement at least every six months. Grantee may request advance payments, which OPRD, in its sole discretion, may provide.

State Fiscal Year-End Request for Reimbursement: Grantee must submit a Progress Report and a Reimbursement Request to OPRD for all Project expenses, if any, accrued up to June 30, of each state fiscal year. The State Fiscal Year-End Reimbursement Request must be submitted to OPRD by August 15th of each year, 45 days after June 30.

Reimbursement Terms and Matching Funds: The total project cost is estimated at **\$000.00**. Subject to and in accordance with the terms and conditions of this Agreement, OPRD shall provide Grant Funds to Grantee for the project in an amount not to exceed **\$000.00** or **00.00** percent of the total eligible project costs, whichever is less, for eligible costs. Grantee shall provide Match Funds for the Project in an amount not less than **00.00** percent of the total eligible Project Costs.

Progress Reports: After OPRD issues the Notice to Proceed, Grantee shall report to OPRD regarding the status and progress of the project on a quarterly basis, as follows:

For the period beginning January 1, ending March 31:	report is due April 30
For the period beginning April 1, ending June 30:	report is due July 31
For the period beginning July 1, ending September 30:	report is due October 31
For the period beginning October 1, ending December 31:	report is due January 31

Progress Reports shall be submitted using OPRD's online grant management system accessible at oprdrants.org.

Agreement Period: The effective date of this Agreement is the date on which it is fully executed by the Parties unless noted otherwise on the Notice to Proceed letter. Unless otherwise terminated or extended, the Project shall be completed ("Project Completion Date") by **[DATE]**. This Agreement shall expire on the date final reimbursement payment is made by OPRD to Grantee. No grant funds shall be available for any expenditures incurred after the Project Completion Date.

Retention: OPRD shall disburse up to 75 percent of the Grant Funds to Grantee on a cost reimbursement basis upon approval of invoices submitted to OPRD. OPRD will disburse the remaining Grant Funds owing to Grantee under this Agreement, if any, upon approval by OPRD of the completed Project, the final progress report, and the final reimbursement request.

Final Report: Grantee must submit a final progress report, a final reimbursement request and digital pictures of the completed project site to OPRD within 45 days of the Project Completion Date. OPRD may, at its sole discretion, conduct appropriate inspections of the Project within a reasonable time following submission of the Final Report. Grantee shall assist OPRD and cooperate fully to the satisfaction of OPRD with all inspections that OPRD conducts.

Publicity: Grantee shall make every effort to acknowledge and publicize OPRD's participation and assistance with the Project. Grantee agrees to place a sign(s) at the Project location acknowledging program support. Grantee also agrees to maintain the signs throughout the useful life of the Project.

Agreement Documents: Included as part of this Agreement are:

- Attachment A: Standard Terms and Conditions
- Attachment B: Project Scope and Budget
- Attachment C: Form FHWA-1273
- Attachment D: Federal Requirements
- Attachment E: Insurance Requirements
- Attachment F: Inadvertent Discovery Plan for Cultural Resources

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents is as follows, listed from highest precedence to lowest precedence: this Agreement without Attachments; Attachment A; Attachment D, Attachment C, Attachment E, Attachment F, and Attachment B.

Contractor or Sub-Recipient Determination: In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.102, OPRD's determination is that:

☒ Recipient is a sub-recipient; OR ☐ Recipient is a contractor

Federal Award Identification information required by 2 CFR 200.332(a)(1):

- (i) Subrecipient Name: **[PLACEHOLDER]**
- (ii) Subrecipient Unique Entity Identifier (UEI): **[PLACEHOLDER]**
- (iii) Federal Award Identification Number (FAIN): **41RT##0##**
- (iv) Federal Award Date:
- (v) Sub-Award Period of Performance Start and End Date: **Date of execution – [END DATE]**
- (vi) Total Amount of Federal Funds Obligated by this Agreement: **[PLACEHOLDER]**
- (vii) Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity including this Agreement: **[PLACEHOLDER]**
- (viii) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: **[PLACEHOLDER]**
- (ix) Federal Award Project Description: **[Brief Project Description]**
- (x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the pass-through entity:
 - a. Name of Federal awarding agency: **U.S. Department of Transportation Federal Highway Administration**
 - b. Name of pass-through entity: **Oregon Parks and Recreation Department**
 - c. Contact information for awarding official of the pass-through entity: **Lisa Sumption, Director, (503)986-0660**
- (xi) CFDA Number and Name: **20.219, Recreational Trails Program**
- (xii) Is Award Research and Development (R&D): **No**
- (xiii) Indirect cost rate for the Federal Award: **0%**

Contact Information: A change in the contact information for either party is effective upon providing notice to the other party:

Grantee Administrator

Name
Agency
Address
City, State, Zip
Phone
Email

Grantee Billing Contact

Name
Agency
Address
City, State, Zip
Phone
Email

OPRD Contact

Jodi Bellefeuille, RTP Coordinator
Oregon Parks & Rec. Dept.
725 Summer ST NE STE C
Salem, OR 97301
503-856-6316
jodi.bellefeuille@oprds.oregon.gov

THE PARTIES, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

GRANTEE

By: _____
Signature

Printed Name

Title

Date

Oregon Department of Justice (ODOJ) approved for legal sufficiency for grants exceeding \$250,000:

By: _____
ODOJ Signature or Authorization

STATE OF OREGON

**Acting By and Through Its
OREGON PARKS AND RECREATION DEPT.**

By: _____
OPRD Deputy Director of Administration

Date

APPROVAL RECOMMENDED

By: _____
Michele Scalise, Manager, Grants & Community Programs

Date

By: _____
Jodi Bellefeuille, RTP Grant Coordinator

Date

Attachment A – Standard Terms and Conditions

Oregon Parks and Recreation Department Recreational Trails Program Grant Agreement

1. **Compliance with Law:** Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to implementation of the Project, including without limitation, Title 23 U.S.C Section 206, Federal Highway Administration (FHWA) Recreational Trails Program Guidance, FHWA Form-1273 (Attachment C), OPRD's Recreational Trails Program Grant Manual (as updated), OPRD's Grant Reporting and Reimbursement Instructions (as updated), 2 CFR Part 200, and federal, state, and local program guidelines. This section shall survive termination or expiration of this Agreement.
2. **Prevailing Wage:**
 - A. Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to implementation of the Project, including without limitation, OAR chapter 736, Division 56. Without limiting the generality of the foregoing, all employers, including Grantee, that employ subject workers who provide services in the State of Oregon shall comply with ORS.656.017 and provide the required Worker's Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included.
 - B. Grantee shall comply with state prevailing wage law as set forth in ORS 279C.800 through 279C.870, and the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) (collectively, state "PWR"). This includes but is not limited to imposing an obligation that when PWR applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage for workers in each trade or occupation in each locality as determined by the Commissioner of the Bureau of Labor and Industries ("BOLI") under ORS 279C.815.
 - C. When the federal Davis-Bacon Act applies to the Project, contractors and subcontractors on the Project must pay the prevailing rate of wage as determined by the United States Secretary of Labor under the Davis-Bacon Act (40 U.S.C. 3141 et seq.). See page 4 of Attachment C for Davis-Bacon exemptions that apply to recreational trail projects.
 - D. Notwithstanding (B) and (C) above, when both PWR and the federal Davis-Bacon Act apply to the Project, contractors and subcontractors on the Project must pay a rate of wage that meets or exceeds the greater of the rate provided in 4.A or 4.B above.
 - E. When PWR applies, Grantee and its contractors and subcontractors shall not contract with any contractor on BOLI's current List of Contractors Ineligible to Receive Public Works Contracts.
 - F. When PWR applies, Grantee shall be responsible for both providing the notice to the BOLI Commissioner required by ORS 279C.835 and the payment of any prevailing wage fee(s) required under ORS 279C.825 and BOLI's rules, including OAR 839-025-0200 to OAR 839-025-0230. For avoidance of any doubt, Grantee contractually agrees to pay applicable prevailing wage fees for the Project rather than OHCS, the public agency providing Financing Proceeds under this Contract.
 - G. When PWR applies, and before starting work, contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by ORS 279C.836 and OAR 839-025-0015, unless otherwise exempt under those provisions. The contractor shall also include in every subcontract a provision requiring any subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the subcontractor has

filed a public works bond before permitting the subcontractor to start Work.

- H. Pursuant to ORS 279C.817, Grantee and any contractors or subcontractors may request that the BOLI Commissioner make a determination about whether the Project is a public works on which payment of the prevailing rate of wage is required under ORS 279C.840 (i.e. whether PWR applies).

3. **Insurance; and Workers Compensation Laws:** All employers, including Grantee, that employ subject workers who provide services in the State of Oregon shall comply with ORS.656.017 and provide the required Worker's Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Grantee shall ensure that it and each of its subgrantee(s), contractor(s), and subcontractor(s) complies with the insurance requirements provided in Attachment E.
4. **Amendments:** This Agreement may be amended only by a written amendment to the Agreement, executed by the Parties.
5. **Expenditure Records:** Grantee shall document, maintain and submit records to OPRD for all Project expenses in accordance with generally accepted accounting principles, and in sufficient detail to permit OPRD to verify how Grant Funds were expended. These records shall be retained by the Grantee for at least six years after the Agreement terminates. If there are unresolved audit questions at the end of the six-year period, Grantee shall retain the records until the questions are resolved. The Grantee agrees to allow OPRD, Oregon Secretary of State auditors, the United States Department of Transportation, the Federal Highway Administration and any of their duly authorized representatives access to all records related to this Agreement for audit and inspection and monitoring of services. Such access will be during normal business hours, or by appointment. Grantee shall ensure that each of its subgrantees and subcontractors complies with these requirements. This section shall survive termination or expiration of this Agreement.
6. **Equipment:** Equipment is defined as tangible personal property having a useful life of more than one year and per-unit acquisition cost of \$10,000 or more. Equipment pre-approved to be purchased with Recreational Trails Program Grant funds, if any, must be used as described in the Project Agreement throughout the Equipment's useful life and in accordance with 2 CFR 200.313. The Grantee will maintain Equipment records in compliance with 2 CFR 200.313(d)(1). Within 90 days of purchase the Equipment records must be submitted to OPRD using the "RTP Equipment Record Form", available on the OPRD website. The Grantee will take physical inventory of the Equipment at least every two years and submit the updated Equipment records to OPRD until the Equipment value is below \$10,000 or the Equipment is disposed of. The Grantee will not sell or dispose of the Equipment without prior approval from OPRD and the Federal Highway Administration. This section shall survive termination or expiration of this Agreement.
7. **Use of Project Property:** Grantee warrants that the land within the Project boundary shall be dedicated and used for a period of no less than 25 years from the completion of the Project. Grantee agrees to not change the use of, sell, or otherwise dispose of the land within the Project boundary, except upon written preapproval by OPRD. If the Project is located on land leased from the federal government, the lease shall run for a period of at least 25 years after the date the Project is completed. If the Project is located on land leased from a private or public entity, other than the federal government, the lease shall run for a period of at least 25 years after the date the Project is completed, unless the lessor under the lease agrees that, in the event the lease is terminated for any reason, the land shall continue to be dedicated and used as described in the Project Application for a period of at least 25 years after the date the Project is completed. This section shall survive termination or expiration of this Agreement.
8. **Inspection of Equipment and Project Property:** Grantee shall permit authorized representatives of State, the Secretary of State, or their designees to perform site reviews of the Project, and to

inspect all Equipment, real property, facilities, and other property purchased by Grantee as part of the Project, and any transportation services rendered by Grantee.

9. **Public Access:** The Grantee shall allow open and unencumbered public access to the completed Project to all persons without regard to race, color, religious or political beliefs, sex, national origin or place of primary residence. This section shall survive termination or expiration of this Agreement.
10. **Contribution (included only for government entity grant recipients):** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which the State is jointly liable with the Grantee (or would be if joined in the Third Party Claim), the State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Grantee in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Grantee on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the State on the one hand and of the Grantee on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.

With respect to a Third Party Claim for which the Grantee is jointly liable with the State (or would be if joined in the Third Party Claim), the Grantee shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the State in such proportion as is appropriate to reflect the relative fault of the Grantee on the one hand and of the State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Grantee on the one hand and of the State on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The Grantee's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

Grantee shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Grantee's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims.

Indemnity (included only for nonprofit grant recipients): Grantee shall defend (subject to ORS chapter 180), save, hold harmless, and indemnify the State of Oregon and OPRD and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorneys' fees, resulting from, arising out of, or relating to the activities of Grantee, its officers, employees, subcontractors, or agents under this agreement. This section shall survive expiration or termination of this agreement.

11. **Condition for Disbursement:** Disbursement of grant funds by OPRD is contingent upon OPRD having received sufficient funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OPRD, in the exercise of its reasonable administrative discretion, to make the disbursement and upon Grantee's compliance with the terms of this Agreement.
12. **No Third Party Beneficiaries.** OPRD and Grantee are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as intended beneficiary of the terms of this Agreement.
13. **Repayment:** In the event that the Grantee spends Grant Funds in any way prohibited by state or federal law, or for any purpose other than the completion of the Project, the Grantee shall reimburse the State for all such unlawfully or improperly expended funds. Such payment shall be made within 15 days of demand by the State. This section shall survive termination or expiration of this Agreement.
14. **Termination:** This Agreement may be terminated by mutual consent of both parties, or by either party upon a 30-day notice in writing, delivered by certified mail or in person to the other party's contact identified in the Agreement. On termination of this Agreement, all accounts and payments will be processed according to the financial arrangements set forth herein for Project costs incurred prior to date of termination. Full credit shall be allowed for reimbursable expenses and the non-cancelable obligations properly incurred up to the effective date of the termination.
15. **Governing Law:** This Agreement is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit, or proceeding (collectively "Claim") between OPRD or any other agency or department of the State of Oregon, or both, and Grantee that arises from or relates to this Agreement must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event may this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States, or otherwise, to or from any Claim or from the jurisdiction of any court. GRANTEE, BY EXECUTION OF THIS GRANT, HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF SUCH COURTS.
16. **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties relating to the Project. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, Agreements, or representations, oral or written, not specified herein regarding this Agreement. The Grantee, by signature of its authorized representative on the Agreement, acknowledges that the Grantee has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

17. **Notices:** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Grantee contact or State contact at the address or number set forth in this Agreement, or to such other addresses or numbers as either party may hereinafter indicate. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against State, such facsimile transmission must be confirmed by telephone notice to State Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received, or five days after mailing.
18. **Counterparts:** This agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.
19. **Severability:** If any term or provision of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

RTP Grant Agreement – Attachment B
Project Scope and Budget
[Insert Project ID] [Insert Project name]

Project Scope:

[insert here]

Budget Summary:

Grant Funds/Maximum Reimbursement	
Grantee Match Participation	
Total Project Cost	

Project Budget:

Expense Item	Cost or Valuation
Total Project Cost	

Source of Match:

Source	Amount
Total Match	

ATTACHMENT C

Federal Form FHWA-1273

FHWA-1273 – Revised October 23, 2023

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

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

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:

The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

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

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

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

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

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

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

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

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

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

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

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

2. Withholding (29 CFR 5.5)

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

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

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

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

3. Records and certified payrolls (29 CFR 5.5)

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

(2) Information required. Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

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

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

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

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

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

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

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

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

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

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

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

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

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

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

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

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

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

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

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

(2) *Fringe benefits*. Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

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

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

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

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

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

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

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

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

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

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

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

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

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

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

3. Withholding for unpaid wages and liquidated damages

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

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

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

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

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

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

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

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

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

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

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

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

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

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

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

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

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

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

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

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

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

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

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

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

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

ATTACHMENT D

Federal Requirements

1. **Compliance with Law:** Grantee shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to implementation of the Project, including without limitation 23 USC 206 and ORS 390.980 which makes funds available for the purposes of the Oregon Recreation Trails System Act. Without limiting the generality of the preceding sentence, Grantee shall, in its performance of its obligations under this Agreement and implementation of the Project, comply with the following laws and regulations:
 - 23 U.S.C. 206 Recreational Trails Program
 - 23 U.S.C. 104 (h), Recreational Trails Program Apportionments
 - 23 U.S.C. 106, Project Approval and Oversight
 - 23 U.S.C. 114, Convict Labor
 - FHWA Recreational Trails Program Guidance: located at https://www.fhwa.dot.gov/environment/recreational_trails/guidance/rtp9908_toc.cfm
 - 40 U.S.C. 3141-3148, The Davis-Bacon & Related Acts
 - Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
 - 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, *as supplemented by* 2 CFR Part 1201 for Awards by the U.S. Department of Transportation
 - 2 CFR 1201
 - 23 CFR 1.36, Compliance with other Federal Laws and Regulations
 - 23 CFR 771, Environmental Requirements
 - 23 CFR 635.410 Buy America, as further described below
 - 41 U.S.C. § 4712, Enhancement of Contractor Protection from Reprisal for Disclosure of Certain Information
2. **Required Contract Provisions for Federal-Aid Construction Contracts:** Form FHWA-1273 must be physically incorporated in each construction contract funded with Grant Funds provided under this Agreement. The contractor (or subcontractor) must insert Form FHWA-1273 in each subcontract and further require its inclusion in all lower tier subcontracts. See Attachment C: Form FHWA-1273.
3. **Buy America – this section only applies if the total federal financial assistance included in the Total Project Cost, including RTP funds, is \$500,000 or more:** 23 CFR 635.410 is applicable to steel, iron and manufactured goods used in a “federal-aid highway construction project” including the Project funded under this Agreement. Based on the definitions of “construction” in 23 U.S.C. 101 and “project”, the Buy America provisions apply to steel and iron permanently incorporated in a project funded by RTP when the total value of these materials exceeds \$2,500. Documentation of Buy America compliance is required to be obtained and retained with the Grantee’s grant records.
4. **Buy America –this section only applies if the total federal financial assistance included in the Total Project Cost, including RTP funds, is \$500,000 or more:** As required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States,

unless subject to an approved waiver. The requirements of this section must be included in all contracts, subcontracts and purchase orders for work or products under this program. Recipients of an award of Federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- a. unless subject to the \$2,500 threshold described in item 3, all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
 - b. unless subject to FHWA's General Applicability Waiver of Buy America Requirements for Manufactured Products, all manufactured products used in the project are produced in the United States —this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
 - c. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.
5. **Audit Clause:** Subrecipients receiving federal awards in excess of \$1,000,000 in the Subrecipient's fiscal year are subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Subrecipient, if subject to this requirement, shall, upon request, at Subrecipient's own expense submit to Agency a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement and shall submit or cause to be submitted to Agency the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Subrecipient responsible for the financial management of funds received under this Agreement.
6. **Debarment and Suspension.** Recipient certifies that it is not listed, and shall not permit any person or entity to be a subcontractor if the person or entity is listed, on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.

ATTACHMENT E

Insurance Requirements

GENERAL.

Grantee shall require in its first tier contracts (for the performance of work on the Project) with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the contract commences, and ii) maintain the insurance in full force throughout the duration of the contract. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to the Oregon Parks and Recreation Department ("OPRD"). Grantee shall not authorize work to begin under contracts until the insurance is in full force. Thereafter, Grantee shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Grantee shall incorporate appropriate provisions in the contracts permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Grantee permit work under a contract when Grantee is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a contract in which the Grantee is a party.

TYPES AND AMOUNTS.

i. **WORKERS COMPENSATION.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Employers liability insurance with coverage limits of not less than \$500,000 must be included.

ii. **COMMERCIAL GENERAL LIABILITY.**

Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to OPRD. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following coverage amounts:

Bodily Injury, Death and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

ADDITIONAL INSURED. The Commercial General Liability Insurance must include the State of Oregon, OPRD, its officers, employees and agents as Additional Insureds but only with respect to the activities to be performed under the contract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

"TAIL" COVERAGE. If any of the required insurance policies is on a "claims made" basis, such as professional liability insurance, either "tail" coverage or continuous "claims made" liability coverage must be maintained, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the contract, for a minimum of 24 months following

the later of : (i) the contractor's completion and Grantee's acceptance of all services required under the subagreement or, (ii) the expiration of all warranty periods provided under the contract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and OPRD may grant approval of the maximum "tail " coverage period reasonably available in the marketplace. If OPRD approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

NOTICE OF CANCELLATION OR CHANGE. The contractor or its insurer must provide 30 days' written notice to Grantee before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

CERTIFICATE(S) OF INSURANCE. Grantee shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the contract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.

ATTACHMENT F

ARCHAEOLOGICAL INADVERTENT DISCOVERY PLAN (IDP)

Archaeological materials are the physical remains of the activities of people in the past. This IDP must be followed should any archaeological sites, objects, or human remains be found. Archaeological materials are protected under Federal and State laws and their disturbance can result in criminal penalties.

This document pertains to the work of the Grantee, including any and all individuals, organizations, contractors, or companies associated with the Project.

WHAT MAY BE ENCOUNTERED

Archaeological material may be found during any ground-disturbing activity. If encountered, all excavation and work in the area **MUST STOP**. Archaeological objects vary and can include evidence or remnants of historic-era and pre-contact activities by humans. Archaeological objects can include but are not limited to:

- **Stone flakes, arrowheads, stone tools, bone or wooden tools, baskets, beads.**
- Historic building materials such as **nails, glass, metal** such as cans, barrel rings, farm implements, **ceramics, bottles, marbles, beads.**
- Layers of **discolored earth** resulting from hearth fire
- Structural remains such as **foundations**
- **Shell Middens** (mounds)
- **Human skeletal remains** and/or **bone fragments** which may be whole or fragmented.

If in doubt call it in.

DISCOVERY PROCEDURES: WHAT TO DO IF SOMETHING IS FOUND

1. Stop ALL work in the vicinity of the find
2. Secure and protect area of inadvertent discovery with 30 meter/100 foot buffer—work may continue outside of this buffer
3. Notify Project Manager and Grantee
4. Project Manager will need to contact a professional archaeologist to assess the find.
5. If archaeologist determines the find is an archaeological site or object, contact SHPO. If it is determined to *not* be archaeological, work may continue.

HUMAN REMAINS PROCEDURES

1. If it is believed the find may be human remains, stop ALL work.
2. Secure and protect area of inadvertent discovery with 30 meter/100 foot buffer, then work may continue outside of this buffer with caution.
3. Cover remains from view and protect them from damage or exposure, restrict access, and leave in place until directed otherwise. **Do not take photographs. Do not speak to the media.**
4. Notify:
 - Project Manager
 - Grantee

- Contracted Archaeologist (if applicable)
 - Oregon State Police - **DO NOT CALL 911** 503-378-3720
 - SHPO (State Historic Preservation Office) 503-986-0690
 - LCIS (Legislative Commission on Indian Services) 503-986-1067
 - Appropriate Native American Tribes (as provided by LCIS)
5. If the site is determined not to be a crime scene by the Oregon State Police, do not move anything! The remains should continue to be *secured in place* along with any associated funerary objects, and protected from weather, water runoff, and shielded from view.
 6. Do not resume any work in the buffered area until a plan is developed and carried out between the State Police, SHPO, LCIS, and appropriate Native American Tribes, and you are directed that work may proceed.

CONFIDENTIALITY

The Grantee and employees shall make best efforts, in accordance with federal and state law, to ensure that its personnel and contractors keep the discovery confidential. The media, or any third-party member or members of the public are not to be contacted or have information regarding the discovery, and any public or media inquiry is to be reported to Grantee. Prior to any release, the responsible agencies and Tribes shall concur on the amount of information, if any, to be released to the public.

To protect fragile, vulnerable, or threatened sites, the National Historic Preservation Act, as amended (Section 304 [16 U.S.C. 470s-3]), and Oregon State law (ORS 192.501(11)) establishes that the location of archaeological sites, both on land and underwater, shall be confidential.

APPENDIX E COMMITTEE SCORING RUBRIC

RTP Scoring Rubric

This document provides guidance to RTP Advisory Committee members on scoring applications submitted for RTP funding. Section 4 of the RTP Policy Manual provides more detailed guidance for applicants on these scoring categories and their related application questions.

Project Scope and Plan, 0-10 points (RTP Grant Manual, Section 4, pages 34-36 and Section 2, pages 23-25): The intent of this category is to award points to project proposals with well planned, clear, and realistic scopes that are ready to proceed. This category also considers the site plan and appropriateness or clarity of costs in the budget as related to the scope.

8-10 Points	6-7 Points	4-5 Points	2-3 Points	0-1 Points
The project scope is well defined, well planned, well designed, and the project is ready to proceed.	The project scope is moderately defined, planned, designed, and the project is ready to proceed.	The project scope could use improvements and/or the project may not be ready to proceed.	The project scope needs significant improvements to the plan or design and/or is not ready to proceed.	The project scope is unclear, poorly planned, poorly designed, and/or not ready to proceed.

Youth Conservation Corps, 0-5 points (RTP Grant Manual, Section 4, page 36): The intent of this category is to award points to project proposals that will utilize a youth conservation corps or other youth organization to implement the project.

4-5 Points	1-3 Points	0 Points
A youth crew will have a direct role in project implementation and a commitment is in place.	The proposal indicates that a youth crew will be involved in project implementation, however: <ol style="list-style-type: none"> 1. A commitment is either not in place or is unclear, and/or 2. The role of the youth crew is unclear or relatively minor. 	A youth crew will not be involved in direct project implementation.

Benefits, 0-5 points (RTP Grant Manual, Section 4, pages 36-38): This category considers benefits to the community from either an economic development and tourism standpoint or from a health benefits standpoint. Applicants identify the primary category on the application and can elaborate on both categories when relevant.

Destination Trails: The intent is to award points to projects that demonstrate potential positive impacts to the local economy, or existing economic impacts that will be sustained or enhanced.

Community Trails: To award points to projects that show potential to improve health of the local community through improving access or increasing physical activity, or projects that are driven by a local health initiative.

4-5 Points	2-3 Points	0-1 Points
<p>Destination: The proposal clearly demonstrates that the project will have a positive economic impact on the local economy or will sustain existing economic impacts.</p> <p>Community: The proposal clearly demonstrates that the project has the potential to increase physical activity in the local community or is supported by a local health initiative.</p>	<p>Destination: The proposal indicates that the project will have a positive economic impact on the local economy but is not supported with much information or data.</p> <p>Community: The proposal indicates that the project has the potential to increase physical activity in the local community but is not supported with much information or data.</p>	<p>Destination: The proposal does not demonstrate that the project will have a positive economic impact on the local economy or will sustain existing economic impacts.</p> <p>Community: The proposal does not demonstrate that the project has the potential to increase physical activity in the local community or is supported by a local health initiative.</p>

Issues and Needs, 0-25 points (RTP Grant Manual, Section 4, pages 39-42, and Appendices A-B): The intent of this category is to award points to projects meeting statewide, regional, and/or locally identified issues and needs.

20-25 Points	15-19 Points	10-14 Points	5-9 Points	0-4 Points
<ul style="list-style-type: none"> The proposal clearly demonstrates that the project meets statewide, regional and/or locally issues and needs; and The project strongly meets those needs. 	<ul style="list-style-type: none"> The proposal demonstrates that the project meets statewide, regional and/or locally issues and needs; and The project moderately meets those needs. 	<ul style="list-style-type: none"> The proposal moderately demonstrates that the project meets statewide, regional and/or locally issues and needs; and The project moderately meets those needs. 	<ul style="list-style-type: none"> The proposal moderately demonstrates that the project meets statewide, regional and/or locally issues and needs; and The project doesn't meet those needs well. 	<ul style="list-style-type: none"> The proposal does not demonstrate that the project meets statewide, regional and/or locally issues and needs; and The project doesn't meet those needs.

User Needs, 0-10 points (RTP Grant Manual, Section 4, pages 42-43): The intent of this category is to award points to projects that meet unmet needs, better accommodate users, provide experiences that are not available in the area, fills gaps in a trail system, and more. This category digs deeper into the issues and needs from a user perspective.

8-10 Points	5-7 Points	2-4 Points	0-1 Points
The proposal demonstrates that the project will strongly meet the needs of the intended user group(s). For example:	The proposal moderately demonstrates that the project will meet the needs of the intended user groups(s).	The proposal only somewhat demonstrates that the project will meet the needs of the intended user groups(s)	The proposal does not demonstrate benefits to intended users.

<ul style="list-style-type: none"> - The project provides opportunities or experiences lacking in the area. - The project will ensure that needs continue to be met. - The project complements nearby systems or helps ease overuse. - The project improves user experience. 			
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Public Support, 0-5 points (RTP Grant Manual, Section 4 pages 43-44, and Section 3 page 31): The intent of this category is to award points to projects that demonstrate public and user support, and to applicants or land managers who demonstrate a robust public input process.

4-5 Points	2-3 Points	0-1 Points
The project proposal demonstrates strong public and user support through letters of support and/or description of the public process used to develop the project plan.	<p>The project proposal demonstrates some support, however:</p> <ul style="list-style-type: none"> a. letters or the description of a public input process are lacking in content, and/or b. The land manager did not seek public input or take the input into consideration in the project design (when appropriate and necessary) 	The project proposal does not demonstrate public or user support.

Trail Maintenance & Management, 0-5 points (RTP Grant Manual, Section 4, page 44): Maintaining existing trails in good and sustainable condition was identified in the 2016-2025 Statewide Trails Plan as the top statewide funding priority and trail issue for all user groups. The intent of this category is to assess the land manager and/or their partner's maintenance commitment and capacity, and to award points to projects that will be adequately maintained. This category also recognizes exemplary maintenance partnerships.

4-5 Points	2-3 Points	0-1 Points
The proposal demonstrates that the land manager and/or their partners have a strong commitment and capacity to maintain their proposed and existing facilities.	While the applicant indicates that they have the capacity to maintain the proposed assets, concerns exist around their capacity, funding and/or maintenance of existing facilities.	The proposal does not demonstrate that the land manager or their partners can adequately maintain the proposed or existing facilities.

Environmental & Design Sustainability, 0-5 points (RTP Grant Manual, Section 4, pages 44-45): The intent of this category is to award points to projects that utilize sustainable design methods that protect and complement the environment.

4-5 Points	2-3 Points	0-1 Points
The proposal strongly demonstrates that the project will result in a more sustainable trail system, will have minimal impact on the surrounding ecosystem, that sustainable design methods will be utilized, or will result in user protection of natural resources.	While the applicant indicates that the project is environmentally sustainable, concerns exist.	The project does not demonstrate positive environmental impacts or sustainable design methods.

Social Sustainability, 0-5 points (RTP Grant Manual, Section 4, pages 45-46): The intent of this category is to award points to projects that will foster community connectedness, partnerships, and educational opportunities. Examples of social sustainability benefits in the Policy Manual include creating volunteer opportunities, enhancement of cultural and environmental education opportunities, expanding partnerships, use of the project area for public events, etc.

4-5 Points	2-3 Points	0-1 Points
The proposal clearly demonstrates that the project will increase access to trails, encourage partnerships, create volunteer opportunities, and/or enhance educational experiences.	The proposal moderately demonstrates that the project will increase access to trails, encourage partnerships, create volunteer opportunities, and/or enhance educational experiences.	The proposal does not demonstrate that the project will increase access to trails, encourage partnerships, create volunteer opportunities, and/or enhance educational experiences.

Project Urgency, 0-5 points (RTP Grant Manual, Section 4, page 46): The intent of this category is to award points to project proposals that have an urgent need to be completed. Considerations include: whether temporary alternatives exist if RTP funds aren't awarded, consequences to users if the project isn't funded, whether the project area will be closed or suffer a loss of quality if not completed, and consequences to the applicant or land manager if funds aren't awarded and whether those consequences are within their control.

4-5 Points	2-3 Points	0-1 Points
The project has an urgent need to be completed.	The project is important but not immediately urgent.	The project does not have an urgent need to be completed.

Fiscal Considerations, 0-5 points (RTP Grant Manual, Section 4, page 46): The intent of this category is to award points to project proposals that demonstrate a strong financial need, superior leveraging of funds and partnerships, and a sustainable funding strategy.

4-5 Points	2-3 Points	0-1 Points
The proposal makes a strong case for needing RTP funds, demonstrates a sound funding strategy, and have a clearly articulated plan for future phases.	The proposal makes a moderate case for needing RTP funds.	The proposal does not make a strong case for needing RTP funds, does not demonstrate a sound funding strategy, and if relevant, doesn't include a clearly articulated plan for future phases.

Diversity, Equity, and Inclusion (DEI), 0-5 points (RTP Grant Manual, Section 4, page 47): The intent of this category is to award points for applicants who demonstrate a strong commitment to DEI in their work.

4-5 Points	2-3 Points	0-1 Points
The proposal strongly demonstrates that the applicant or land manager has a strong commitment to DEI in their work and ensures diverse representation in their outreach and project planning process.	The proposal moderately demonstrates that the applicant or land manager has a commitment to DEI in their work and ensures diverse representation in their outreach and project planning process.	The proposal does not demonstrate that the applicant or land manager has a commitment to DEI in their work and ensures diverse representation in their outreach and project planning process.

Discretionary Points, 0-15 points (RTP Grant Manual, Section 4, pages 47-48):

Committee members may award the project additional points based upon their subjective evaluation of the following: superior design, ADA compliance or universally accessible design, superior leveraging of funding or partnerships, the use of volunteers, enhancement of significant cultural or heritage sites, enhancement of regional or statewide significant trails, context, potential for legacy, exceptional meeting of an unmet user group need, and the basic intent of federal RTP guidance. These factors are examples and not an exhaustive list of all discretionary criteria to be considered by RTP Advisory Committee members.