

Federal Highway Administration, DOT

§ 633.211

(b) For prefinanced projects, the following additional provision shall be incorporated into the project agreement: "Project for Construction on the Appalachian Development Highway System in Advance of the Appropriation of Funds. This project, to be constructed pursuant to subsection 201(h) of the Appalachian Regional Development Act Amendments of 1967, will be constructed in accordance with all procedures and requirements and standards applicable to projects on the Appalachian Development Highway System financed with the aid of Appalachian funds. No obligation of Appalachian funds is created by this agreement, its purpose and intent being to provide that, upon application by the State highway department, and approval thereof by the Federal Highway Administration, any Appalachian development highway funds made available to the State by the Appalachian Regional Commission subsequent to the date of this agreement may be used to reimburse the State for the Federal share of the cost of work done on the project."

§ 633.207 Construction labor and materials.

(a) Construction and materials shall be in accordance with the State highway department standard construction specifications approved for use on Federal-aid primary projects and special provisions and supplemental specifications amendatory thereto approved for use on the specific projects.

(b) The provisions of 23 U.S.C. 324 and of title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d-2000d-4) and the implementing regulations in 49 CFR part 21, including the provisions of § 21.5(c)(1), and paragraphs (2)(iii) and (2)(v) of appendix C thereof relative to employment practices, shall be applicable to all types of contracts listed in appendix A.

(c) The "Required Contract Provisions, Appalachian Development Highway System and Local Access Roads Construction Contracts," Form PR-1316 (appendix B), shall be included in all construction contracts awarded under the Act.

(d) The required contract provisions set forth in Form PR-1317 (appendix C)

shall be included in all types of contracts described in appendix A, other than construction contracts.

(e) In the design and construction of highways and roads under the Act, the State may give special preference to the use of mineral resource materials native to the Appalachian region. The provisions of § 635.409 of this chapter shall not apply to projects under the Act to the extent such provisions are inconsistent with sections 201(d) and (e) of the Act.

[39 FR 35146, Sept. 30, 1974, as amended at 40 FR 49084, Oct. 21, 1975; 41 FR 36204, Aug. 27, 1976]

§ 633.208 Maintenance.

Maintenance of all highway projects constructed under the Act, whether on the development system or local access roads, shall be the responsibility of the State. The State may arrange for maintenance of such roads or portions thereof, by agreement with a local governmental unit.

§ 633.209 Notices to prospective Federal-aid construction contractors.

The State highway department shall include the notices set forth in appendix D in all future bidding proposals for Appalachian Development System and Appalachian local access roads construction contracts.

§ 633.210 Termination of contract.

All contracts exceeding \$2,500 shall contain suitable provisions for termination by the State, including the manner in which the termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

§ 633.211 Implementation of the Clean Air Act and the Federal Water Pollution Control Act.

Pursuant to regulations of the Environmental Protection Agency (40 CFR part 15) implementing requirements with respect to the Clean Air Act and the Federal Water Pollution Control

Act are included in appendix B to this part.

[40 FR 49084, Oct. 21, 1975]

APPENDIX A TO SUBPART B OF PART 633—TYPES OF CONTRACTS TO WHICH THE CIVIL RIGHTS ACT OF 1964 IS APPLICABLE

Section 324 of title 23 U.S.C., the Civil Rights Act of 1964, and the implementing regulations of the Department of Transportation (49 CFR part 21), including the provisions of paragraphs (2)(iii) and (2)(v) of appendix C thereof relative to employment practices, are applicable to the following types of contracts awarded by State highway departments, contractors, and first tier sub-contractors, including those who supply materials and lease equipment:

1. Construction.
2. Planning.
3. Research.
4. Highway Safety.
5. Engineering.
6. Property Management.
7. Fee contracts and other commitments with persons for services incidental to the acquisition of right-of-way including, but not limited to:
 - a. Advertising contracts.
 - b. Agreements for economic studies.
 - c. Contracts for surveys and plats.
 - d. Contracts for abstracts of title certificates and title insurance.
 - e. Contracts for appraisal services and expert witness fees.
 - f. Contracts to negotiate for the acquisition of right-of-way.
 - g. Contracts for disposal of improvements and property management services.
 - h. Contracts for employment of fee attorneys for right-of-way procurement, or preparation and trial of condemnation cases.
 - i. Contracts for escrow and closing services.

[40 FR 49084, Oct. 21, 1975]

APPENDIX B TO SUBPART B OF PART 633—REQUIRED CONTRACT PROVISIONS, APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM AND LOCAL ACCESS ROADS CONSTRUCTION CONTRACTS

- I. Application.
- II. Employment Preference.
- III. Equal Opportunity: Employment Practices.
- IV. Equal Opportunity: Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment.
- V. Nonsegregated Facilities.
- VI. Payment of Predetermined Minimum Wages.
- VII. Statements and Payrolls.
- VIII. Record of Materials, Supplies and Labor.
- IX. Subletting or Assigning the Contract.
- X. Safety: Accident Prevention.
- XI. False Statements Concerning Highway Projects.

XII. Implementation of Clean Air Act and Federal Water Pollution Control Act.

I. *Application.*

1. These contract provisions shall apply to all work performed on the contract by the contractor with his own organization and with the assistance of workmen under his immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided in sections II, III, and IV hereof, the contractor shall insert in each of his subcontracts all of the stipulations contained in these Required Contract Provisions and also a clause requiring his subcontractors to include these Required Contract Provisions in any lower tier subcontracts which they may enter into, together with a clause requiring the inclusion of these provisions in any further subcontracts that may in turn be made. The Required Contract Provisions shall in no instance be incorporated by reference.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be grounds for termination of the contract.

4. A breach of the following clauses may also be grounds for debarment as provided in 29 CFR 5.6(b):

Section 1, paragraph 2.

Section VI, paragraphs 1, 2, 3, 5 and 8a.

Section VII, paragraphs 1, 5a, 5b and 5d.

II. *Employment preference.*

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 United States Department of Labor 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 laborers, mechanics and other employees he anticipates will be required to perform the contract work, (b) the number of employees required