subcontract or agreement exceeds $10,000 and
is not exempt from the provisions of the
Equal Opportunity clause.

(b) Subcontractors and material suppliers
are cautioned as follows: By signing the sub-
contract or entering into a material supply
agreement, the subcontractor or material
supplier will be deemed to have signed and
agreed to the provisions of the “Certification
of Nonsegregated Facilities” in the sub-
contract or material supply agreement. This
certification provides that the subcontractor
or material supplier does not maintain or
provide for his employees facilities which are
segregated on the basis of race, creed, color,
or national origin, whether such facilities
are segregated by directive or on a de facto
basis. The certification also provides that
the subcontractor or material supplier will
not maintain such segregated facilities.

(c) Subcontractors or material suppliers
receiving subcontract awards or material
supply agreements exceeding $10,000 which
are not exempt from the provisions of the
Equal Opportunity clause will be required to
provide for the forwarding of this notice to
prospective subcontractors for construction
contracts and material suppliers where the
subcontracts or material supply agreements
exceed $10,000 and are not exempt from the
provisions of the Equal Opportunity clause.

II. Implementation of Clean Air Act.

(a) By signing this bid, the bidder will be
deemed to have stipulated as follows:

(1) That any facility to be utilized in the
performance of this contract, unless such
contract is exempt under the Clean Air Act,
as amended (42 U.S.C. 1857 et seq., as by Pub.
L. 91–604), Executive order 11738, and regula-
tions in implementation thereof (40 CFR part
15, is not listed on the U.S. Environmental
Protection Agency (EPA) List of Violating
Facilities pursuant to 40 CFR 15.20.

(2) That the State highway department
shall be promptly notified prior to contract
award of the receipt by the bidder of any
communication from the Director, Office of
Federal Activities, EPA, indicating that a
facility to be utilized for the contract is
under consideration to be listed on the EPA
List of Violating Facilities.

PART 635—CONSTRUCTION AND
MAINTENANCE

Subpart A—Contract Procedures

Sec.
635.101 Purpose.
635.102 Definitions.
635.103 Applicability.
635.104 Method of construction.
635.105 Supervising agency.
635.106 Use of publicly owned equipment.
635.107 Participation by disadvantaged busi-
ness enterprises.
Federal Highway Administration, DOT

§ 635.102 Definitions.

As used in this subpart:

Administrator means the Federal Highway Administrator.

Calendar day means each day shown on the calendar but, if another definition is set forth in the State contract specifications, that definition will apply.

Construction Manager/General Contractor (CM/GC) project means a project to be delivered using a two-phase contract with a construction manager or general contractor for services during both the preconstruction and construction phases of a project.

Contract time means the number of workdays or calendar days specified in a contract for completion of the contract work. The term includes authorized time extensions.

Design-build project means a project to be developed using one or more design-build contracts.

Division Administrator means the chief FHWA official assigned to conduct business in a particular State. A State is as defined in 23 U.S.C. 101.

Force account means a basis of payment for the direct performance of highway construction work with payment based on the actual cost of labor, equipment, and materials furnished and consideration for overhead and profit.

Formal approval means approval in writing or the electronic transmission of such approval.

Incentive/disincentive for early completion as used in this subpart, describes a contract provision which compensates the contractor a certain amount of money for each day identified critical work is completed ahead of schedule and assesses a deduction for each day the contractor overruns the incentive/disincentive time. Its use is primarily intended for those critical projects where traffic inconvenience and delays are to be held to a minimum. The amounts are based upon estimates of such items as traffic safety, traffic maintenance, and road user delay costs.

Liquidated damages means the daily amount set forth in the contract to be deducted from the contract price to cover additional costs incurred by a State transportation department because of the contractor’s failure to complete the contract work within the number of calendar days or workdays specified. The term may also mean the total of all daily amounts deducted under the terms of a particular contract.

Local public agency means any city, county, township, municipality, or other political subdivision that may be empowered to cooperate with the State transportation department in highway matters.

Major change or major extra work means a change which will significantly affect the cost of the project to the Federal Government or alter the termini, character or scope of the work.

Materially unbalanced bid means a bid which generates a reasonable doubt that award to the bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the Federal Government.

Mathematically unbalanced bid means a bid containing lump sum or unit bid items which do not reflect reasonable