



Preconstruction Conference Agenda – Part 2

Project Name and Number _____

Date & Time _____

Meeting Location _____

Call In Number _____

Access Code _____

Attendees			

1. Contractor’s Organization

- A. WFLHD-298 (Contractor’s Delegation of Authority) submitted.
- B. Superintendent identified in writing.
- C. Safety and/or Traffic Control Officers identified in writing (FP-14 section 156.09).
- D. Quality Control Manager identified in writing (SCR 153).

2. Subcontracting

- A. Contractual relations between the Government and the subcontractors (FP-14 section 108.02).
 - 1. Subcontracting does not create any contractual relationship between subcontractors and the Government.
 - 2. The Contractor is responsible for the subcontractor’s performance and contract compliance.
 - 3. All correspondence from the subcontractor will be routed through the Prime Contractor.
- B. FAR clause 52.219-8 states that small business concerns, veteran-owned small business concerns, service-disabled, veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in subcontracts under a Federal contract. This policy also states the importance of timely payments to these types of business concerns.
- C. Subcontracting plan. If the contract has a subcontracting plan, FAR clause 52.219-9 requires submittal of subcontracting reports in the Electronic Subcontracting Reporting System (eSRS); eSRS is located at <http://www.esrs.gov>. Submit the Individual Subcontract Report (ISR) semi-annually during contract performance for the periods ending March 31 and September 30. Submit the Summary Subcontract Report (SSR) annually for the twelve month period ending September 30. Questions concerning eSRS should be addressed to the Contract section Contracting Officer.

- D. If the contract was awarded under a small business set-aside, the requirements of FAR clause 52.219-14 *Limitations on Subcontracting* will be in effect for the contract. The percentage of work performed by Prime Contractor will be administered in accordance with FAR Clause 52.219-14 and Subsection 108.02 *Subcontracting*.
- E. The Contractor shall report the required subcontract information in the Federal Sub-award Reporting System (FSRS), located at <http://www.fsr.gov>, within 14 days of award of a first-tier subcontract with a value of \$30,000 or more, (and any modifications to these subcontracts that change previously reported data.) (FAR 52.204-10).
- F. SF-1413 (Statement and Acknowledgment) furnished for each subcontract within 14 days of award of the contract (FAR 52.222-11; FP-14 section 108.02).
- G. Required labor clauses incorporated into the subcontracts (FAR 52.222-11).
- H. Limits of subcontracted work:
 - a. FAR 52.236-1 applies if Full & Open competition. Minimum percent of work to be performed by Prime varies.
 - b. FAR 52.219-4 applies if Full & Open Competition and awarded to HUBZone firm after applying 10 percent evaluation factor. See manual section 5.19 for details.
 - c. FAR 52.219-3 applies if HUBZone Set-Aside. See manual section 5.19 for details.
 - d. FAR 52.219-14 applies if Small Business Set-Aside or if 8a (sole source or MATOC). Minimum percent of work to be performed by the Prime is 15 percent.
- I. Contractor is obligated to file *Notice Requirement for Affirmative Action to Ensure Equal Opportunity for each on site subcontract exceeding \$10,000*. The Notice is submitted directly to the Office of Federal Contract Compliance Programs (OFCCP); (FAR 52.222-23).

3. Labor Provisions

- A. Contract Work Hours and Safety Standards (FAR 52.222-4).

No Contractor or subcontractor employing laborers or mechanics shall require or permit them to work over 40 hours in any workweek unless they are paid at least one and one-half times the basic rate of pay for each hour worked over 40 hours.

- B. Davis-Bacon Act (FAR 52.222-6).

1. No laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates and fringe benefits as determined by the Secretary of Labor (SCR Page D-1).
2. Paid not less often than once a week.
3. Surveyors, Inspectors, and testers are not subject to Davis-Bacon wage rates.
4. Material source workers are not subject to Davis-Bacon wage rates, unless the source is immediately adjacent to the project site.
5. The “owner/operator” classification applies only to trucks. Anyone other than the truck owner operating the truck must appear on a payroll.

- C. Payrolls.

1. One copy of certified payrolls from both the Prime and the subcontractors are to go to the CO within seven

days of the payment date [FAR 52.222-8(b)(1)].

2. Do not include full social security numbers and home addresses on payrolls.
3. Subcontractor payrolls are to be submitted through the Prime Contractor.
4. If classification codes are used, two copies are to be submitted with the first payroll.

D. Davis-Bacon Wage Exception.

Apprentices and trainees may be paid less than the Davis-Bacon wage rates, if they belong to a bona fide Apprenticeship or Trainee Program in accordance with FAR 52.222-9. Proof must be provided to the CO prior to employee commencing work.

E. Labor compliance reviews may be conducted on the job site.

Labor and payroll complaints will be reported to the Department of Labor.

F. Withholding of funds (FAR 52.222-7).

1. The Contracting Officer can withhold progress payments from contractors who violate the Davis-Bacon Act to pay wages.
2. The Prime Contractor is ultimately responsible for payments.

G. Compliance with Copeland Act Requirements (FAR 52.222-10).

1. 29 CFR Part 3, Incorporated by reference.
2. Employees cannot be induced to give up portions of their pay.

H. Contractor obligation to file VETS-100, Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era. The report is filed annually by September 30 to the Department of Labor. (FAR 52.222-37).

4. Bulletin Board Requirements (FP-14 107.03)

- A. "Equal Opportunity" poster, according to FAR Clause 52.222-26;
- B. FHWA Form 1022, "Notice" that the project is subject to Title 18, U.S. Criminal Code, Section 1020;
- C. Department of Labor, Wage, and Hour Division (WHD), WHD 1321 *Employee Rights Under The Davis-Bacon Act* poster;
- D. Department of Labor, OSHA, Job Health and Safety: It's the Law poster;
- E. "General Wage Decision" contained in the contract;
- F. Company equal employment opportunity policy; and
- G. Emergency telephone numbers.
- H. WHD Publication, *Employee Rights and Responsibilities Under the Family and Medical Leave Act* poster;
- I. WHD 1462, *Employee Polygraph Protection Act* poster; and

- J. National Labor Relations Board (NLRA) *Employee Rights Under the National Labor Relations Act* poster

5. Worker Safety

- A. Contractor must furnish accident reports (FP-14 section 107.08). Maintain a “Log of Occupational Injuries and Illnesses,” OSHA form 300, and make it available for inspection.
- B. Accident Prevention Plan (FAR 52.236-13, SCR 107.08). Use form WFLHD-28 (Guide Outline of Contractor’s Accident Prevention Plan).
- C. MSHA Part 46 compliance for crushing operations.
- D. Project personnel will not inspect under unsafe conditions.

6. Equal Employment Opportunity

- A. Contractor’s designated official to monitor EEO Policy, submit reports and keep records [FAR 52.222-27(n)].
- B. Contractor obligations under FAR 52.222-26:
 - 1. Shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin; and
 - 2. Contractor is obligated to file SF-100 (EEO-1).
- C. Contractor Affirmative Action goals (FAR 52.222-23, FAR 52.222-27):
 - 1. Goals for minority participation for each trade: [PERCENT]; and
 - 2. Goals for female participation for each trade: [PERCENT].

7. Drug-free Workplace

- A. Contractor’s drug-free awareness program [FAR 52.223-6(b)(2)].
- B. Within 30 days of award, the Contractor is required to publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor’s workplace and specifying the actions that will be taken against employees for such violations of such prohibition [FAR 52.223-6(b)(1)].
- C. Government remedies for noncompliance (i.e., suspension, debarment, suspension of payments, or termination for default) [FAR 52.223-6(d)].

8. Paperwork

- A. Schedule.
 - 1. Preliminary Construction Schedule (SCR 155.03)
 - 2. Updated Construction Schedule (SCR 155.05)
- B. Specifications and Drawings (FAR 52.236-21 and SCR 104.03)
- C. Contractor’s Daily Record of Construction Operations

Construction operations report to be submitted within 24 hours for each day of work (form WFLHD 465 or an approved alternate) (SCR 155.07).

C. Requests for Information (RFIs)

D. Contractor Quality Control Reports (FP 153.07)

1. Submit written quality control and construction operations reports daily according to the QCP.

2. Document meetings, work locations, labor and equipment used including actual hours worked, testing and measurement activities, inspection results, deficiencies observed, corrective actions taken, and process changes

3. Use FHWA Form 1413, *Inspector's Daily Record of Construction Operations* or approved alternate forms. Include the following certification signed by the QCM on all reports:

D. Notice of Completion of Work, WFLHD 470. (SCR 153.04).

E. Pay Notes (FP-14 section 109 and SCR 109).

1. Format (Field Note Samples book);

2. Support documentation; and

3. Submittal time.

F. Weekly Erosion Control checks (FP-14 & SCR 157.14).

G Weekly Traffic Control reports [FP-14 section 156.09].

H. As-built Working Drawings [FP-14 section 104.03(c)].

Physical Data provided, 52.236-4; reports, as-built, cross section, etc.

a. Copies of examples of note formats, report forms, etc.

I. Control Charts (SCR 153.05) (QL-Pay program) at: <https://flh.fhwa.dot.gov/resources/materials/qlpay/>

9. Contract Modifications

A. The Contracting Officer may make changes in the work within the general scope of the contract (FAR 52.243-4).

B. Pricing of contract modification (FP-14 section 109.06).

C. Early notification of modification is required for an early settlement.

D. Contractor must provide prompt written notice of constructive changes, delays, and differing site conditions (FAR 52.243-4, 52.236-2).

E. Completed and upcoming contract modifications.

10. Schedule

A. Preliminary work plan – provided 7 days prior to the Preconstruction Meeting.

B. A maximum of 10 percent of the total progress payment amount will be retained, if an acceptable schedule is not received within 30 days after the notice to proceed is issued and an updated schedule is not received by the 15th day of the month (SCR 155).

- C. Updated construction schedule due on the 15th of each month or when the items in SCR 155.05 occur.
- D. Contracting Officer's recourse if Contractor fails to maintain progress explained in FAR 52.236-15.

If the Contracting Officer determines the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract, the CO may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of the contract.

- E. Liquidated Damages (FAR 52.211-12; SCR Table 108-1).

\$AMOUNT for each calendar day beyond the fixed completion date that work is not substantially completed.

- F. Contract time extensions (FP-14 & SCR 108.03).

Only delays or modifications that affect critical activities or cause non-critical activities to become critical will be considered for time extension.

- G. Suspension of work conditions (FAR 52.242-14).

- H. Stop work order (FP-14 section 108.05).

1. Weather or soil conditions.
2. Failure to correct unsafe conditions.
3. Failure to carry out written orders given by the Contracting Officer.
4. Failure to perform any provision of the contract.

11. General Requirements

- A. Insurance requirements (FP-14 section 107.05):

1. Worker's compensation;
2. Comprehensive or commercial general liability; and
3. Automobile liability.

- B. Measurement and Payment – FP 14 and SCR Section 109.

1. Prompt Payment Act and invoice certification process.
 - a. The Government shall make progress payments monthly as the work proceeds (FAR 52.232-5).
 - b. A proper invoice must include the items listed in subdivisions (a)(2)(i) through (a)(2)(ix) of this clause; [FAR 52.232-27(a)(2)], Form WFLHD 500.
 - c. Progress payment requirements (SCR Subsection 109.08).
 - d. Failure to provide required materials' documentation: test reports and certifications will result in nonpayment for the work in question.
2. Prompt Payment Act application to subcontract payments.

- a. Contractor's obligation to pay the subcontractor for satisfactory performance under its subcontract not later than seven days from receipt of payment out of such amounts as are paid to the Contractor under this contract [FAR 52.232-27(c)(1)].
 - b. The Contractor may not request payment from the Government for amounts withheld from the Subcontractor [FAR 52.232-27 (h)].
3. Payment for materials on hand and preparatory work.
- a. Invoices may include partial payment for material to be incorporated into the work, provided the material meets the requirements of the contract and is delivered on or in the vicinity of the project site or stored in acceptable storage places; [SCR 109.08(f)(1) & 52.232-5(b)(2)].
 - b. Partial payment does not constitute acceptance of material or work.
 - c. The Contracting Officer may adjust partial payments as necessary to protect the Government.
4. Adjustments for Price Fluctuations (fuel & asphalt escalation).
- SCR Subsection 109.06A lists the pay items that are subject to price adjustments.
5. Closing Date.
- Closing date will be the designated by the COper FP-14 109.08(b).
6. Process.
- a. Paynotes
 - b. Invoice with WFLHD 500.
 - c. Government Receiving Report.
 - d. Reviewing and Reconciling.
7. Electronic Funds Transfer (FAR 52.232-27).

12. Quality Control

- A. Material and workmanship (FAR 52.236-5).
1. All equipment, material, and articles incorporated into the work shall be new and of the most suitable grade for the purpose intended, unless otherwise provided in this contract.
 2. Contractor employees the Contracting Officer deems incompetent, careless, or otherwise objectionable may be removed.
- B. Superintendence by the Contractor (FAR 52.236-6).

At all times during the performance of the contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on site, a competent superintendent who is satisfactory to the Contracting Officer and has the authority to act for the Contractor.

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- C. Qualifications of the surveyors, Inspectors, and testers (FP-14 section 152.02 and SCR 152.02 and SCR 153.03).
- D. Inspection.
1. The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements [FAR 52.246-12(b) & SCR 153.01].
 2. Presence or absence of a Government Inspector does not relieve the Contractor from any contract requirement [FAR 52.246-12 (d)].
 3. References are made in FP-14 and SCR section 153 to section 154 for Quality Control sampling and testing requirements.
 4. Government assurance inspection.
 - a. Notification of Completion of Work (Form WFLHD 470).
 - b. Contractor Quality Control is accepted per SCR 153.06.
- E. Submittal, approval and review time for shop drawings. Correction procedures (FAR 52.236-21 & FP-14 section 104.03).
- F. Contractor's weighing system and checking procedure.
1. Weighing Procedures and Devices (FP-14 & SCR; 109.03).
- G. Maintain a clean work area (FAR 52.236-12).
- H. Operations and Storage Areas (FAR 52.236-10).
1. Confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer.
- I. Protection of the work until final acceptance (FP-14 section 107.06).
- Protect the work against injury, loss, or damage from all causes whether arising from the execution or nonexecution of the work. The Government will be responsible only for losses, injuries, and damages caused by declared enemies and terrorists of the Government and cataclysmic natural phenomenon such as tornadoes, earthquakes, major floods, and officially declared natural disasters.
- J. Acceptance of work.
1. WFLHD Specific test procedures (SCR 106.01).
 2. Visual Inspection (SCR 106.02).
 3. Certification requirements (FP-14 section 106.03).
 4. Measured or tested conformance (FP-14 section 106.04). An example is the embankment material requiring classification which then determines the T-99 method C or T-180 method D for determining density or roller

method per 204.11 depending on sieve analysis.

5. Elements of statistical acceptance, target values, pay factors, QL-Pay, etc. (FP-14 section 106.05).

K. Work zone traffic safety (FAR 52.236-13, FP-14 section 107.08, 156).

Protection of the public, Government employees, and Contractor’s employees.

13. CPARS Construction Evaluations Form

Final performance evaluations will be prepared when the project is completed.

Interim evaluations will be prepared:

- a. At the approximate mid-point, if the contract performance period (including winter shutdown) exceeds 1 year; or
- b. Any time the Contractor’s performance is generally unsatisfactory for any element for a period of 30 days or longer; or
- c. Any time the Contractor’s overall rating is headed toward a Would-Not- Recommend rating.

An interim overall Would-Not-Recommend rating is not a prerequisite to a final overall Would-Not-Recommend rating.

The Contractor will receive either a Would-Recommend or a Would-Not-Recommend rating. See CPARS Construction Performance Evaluation Form at: <http://www.wfl.fhwa.dot.gov/resources/construction/forms/wflhd-forms.htm>.

The performance evaluation will be used to make responsibility determinations and source selection decisions on future Federal projects.

14. Service Contract Reporting

The Contractor must submit reports in the System for Award Management (SAM) annually by October 31 covering the just ending government fiscal year (Oct 1 through Sep 30). This report includes the contract number, total dollar amount invoiced during the fiscal year and the number of direct labor hours expended during the fiscal year. Contractors must also report this information for subcontracts exceeding \$500,000 (FAR 52.204-14 or 52.204-15).

15. Additional Comments.

- *At the completion of the meeting notes and comments will be collected and added to the agenda before it is provided for signature by the contractor and the government.*

CERTIFICATION: The preceding items have been discussed.

Signature for the Contractor: _____

Signature for the Government: _____