



Pre-Bid Conference Guide

For Construction Projects
funded wholly or partially by the
Community Development Block Grant
Program.

Grant Services Division
One North Capitol, Suite 600
Indianapolis, Indiana 46204

800-824-2476

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PRE-BID CONFERENCE GUIDE

GENERAL INFORMATION

- The Grantee must receive a “Release of Funds” letter from OCRA before awarding any construction contracts.
- Prior to contract award, prime contractors must be actively registered in SAM.gov. Alternatively, provide documentation from SAM.gov that registration has been initiated. A copy of the applicable wage decision and the Federal Labor Standards Provisions (HUD-4010) must be physically attached to the contract that the grantee signs with the Prime contractor. The HUD-4010 must be included with all subcontractor contracts.
- The principal contractor (prime or general contractor) is responsible for the full compliance of all employers (the contractor, subcontractors, and any lower-tier subcontractors) with labor standards provisions applicable to the project. If the contractor or any subcontractor fails to comply with all applicable regulations, funds shall be withheld from the prime contractor until all requirements have been met.
- The Build America Buy America Act applies to all infrastructure projects. Under the Buy America Preference, the selected contractor is responsible to procure iron and steel, construction and manufacture materials produced in the United States.
- This project is subject to all federal and state laws, regulations and guidelines pertaining to public works projects in Indiana.

LABOR STANDARDS

1. The grantee may not enter into a contract with any contractor or subcontractor that has been debarred, suspended or is otherwise ineligible to participate in federally funded contracts or programs. The Grant Administrator must verify the eligibility status of all contractors before work is performed on this project. Any contract awarded to a prime contractor or subcontractor that is found to be ineligible for award will be terminated immediately. *HUD Handbook 1344.1 REV-3, (Ch. 5-5).*

Workers must receive hourly fringe benefits and/or a cash equivalent for all hours worked, including overtime. For workers that perform work in excess of 40 hours, all contractors and subcontractors must pay workers time and one half of the base wage rates listed on the wage decision for all hours worked over 40. Fringe benefits are to be paid straight time.

2. The Copeland Anti-Kickback Act makes it a Federal crime for contractors and subcontractors to coerce or intimidate any laborer or mechanic to relinquish or give up or pay back any of their wages earned on this project. This Act also requires the submission of weekly certified payroll reports (CPR) and signed statements of compliance and regulated permissible payroll deductions (Contractors Guide to Prevailing Wage Requirements, Section 1-1).
3. Payroll records must be kept for at least three years after grant closeout.
4. Payments made by a contractor to an employee must be verifiable. Payments may not be made with an I.O.U., equipment, or any other form of barter.
5. All contractors and subcontractors must submit signed weekly certified payroll reports (CPR) to the Grantee through the Grant Administrator within seven days after regular payment date of the payroll period. Certified payroll reports will be labeled with “initial” and “final” as appropriate. Best practice: label each certified payroll report in succession.
6. No contractor or subcontractor shall employ workers on this project under the age of 16.
7. Contractors and subcontractors are not permitted to make payroll deductions which are contrary to state and federal law.

DAVIS-BACON REQUIREMENTS

Wages/Worker Classifications

All contractors and subcontractors must pay their workers no less than the hourly wages listed on federal wage determination for each classification of work performed on this project. In addition, if the applicable wage determination contains an hourly fringe benefit amount, the worker must receive benefits equal to that amount or a cash equivalent. All workers must be paid, in full, at least once a week. These requirements apply to salaried workers employed on this project engaged in physical or manual construction labor. It is the responsibility of the general contractor to clearly communicate all labor standards and Davis-Bacon requirements to all subcontractors employed on this project. All workers must be paid at an hourly rate for the type of work performed.

Only the classifications listed in the applicable wage determination or apprentices may be used on this project. Helpers or trainees may not perform work or services on this project. Laborers are not permitted to perform any skilled work which falls under the classification of another trade. For example, a laborer may not perform any electrical, carpentry, plumbing, sheet metal, etc. work on this project. If an employee performs more than one classification per week on this project, that employee should be listed twice showing the division of work on separate lines of the payroll.

All contractors and subcontractors having questions regarding the classification of workers shall direct their inquiries to the Grant Administrator.

Fringe Benefits

Contractors and subcontractors must submit documentation to the Grantee through the Grant Administrator to verify the type and the amounts paid into a bona fide fringe benefit program. The following are examples of bona fide fringe benefit plans:

- 1) Health, life, dental, vision or other similar insurance premiums paid by the employer;
- 2) Pension or retirement contributions *made by the employer* into a plan recognized by the Internal Revenue Service;
- 3) Expenses of certain recognized training programs;
- 4) Vacation and holiday pay may be considered as long as the employee would receive any unused amounts at termination of employment.

NOTE: Payroll deductions required by law (e.g., social security, worker's compensation, unemployment insurance, Federal/State/Local taxes, etc.) are not considered fringe benefits under Davis-Bacon law.

The following are NOT eligible bona fide fringe benefits:

- 1) Travel time;
- 2) Bonus payments;
- 3) Use of company tools or equipment;
- 4) Use of company vehicle;
- 5) Uniforms or safety shoes
- 6) Union Dues; Contributions into industry campaigns, marketing or advancement;
- 7) Substance Abuse Testing/Training programs

Independent subcontractors and self-employed owners are considered to be subcontractors of the Prime contractor. They are subject to the same requirements as are all subcontractors. Independent subcontractors and self-employed owners must submit a Certified Payroll Report or be listed on another contractors' weekly payroll following the documentation guidelines as referenced by DOL, WHD-347.

If the contractor or its subcontractors do not pay the proper hourly rate and fringe benefit on this project, the grantee shall withhold a necessary amount from the prime contractor until restitution is made. The prime contractor may be held liable for liquidated damages if its workers or those of subcontractors on this project are not paid the proper hourly wage and benefit.

Apprentices

Contractors and subcontractors may use and classify workers on this project as apprentices provided that the workers are duly registered and certified in a bona fide apprenticeship program recognized by the U.S. Department of Labor, Bureau of Apprenticeship and Training or State Approved Apprenticeship Program. If a contractor or subcontractor intends to utilize apprentices on this project, they must provide documentation to the Grant Administrator to verify the certification of the employee in an approved Apprenticeship Program. Certification must be provided before the apprentice is permitted to work on the job site. Contractors and subcontractors may not exceed the ratio of apprentices to journeymen as established by the apprenticeship program. Apprentices performing work on project site without proper ratio for supervision will be compensated at full journeymen wage complying with the Davis-Bacon Prevailing Wage classification. Contractors must also provide wage and fringe information for various levels of apprenticeship.

On-site Interviews

The Grant Administrator, a representative from the U. S. Department of Labor, a representative of the U. S. Department of Housing and Urban Development and a representative of OCRA shall be permitted to visit the job site and interview workers employed on this project. A Record of Employee Interviews must be maintained in the project file. Employee interviews are to be conducted in person any deviation will require written approval from OCRA or Grant Services per project.

SECTION 3

Section 3 of the Housing and Urban Development Act of 1968 provides that to the greatest extent feasible, contractors and subcontractors should make training and employment opportunities available to Section 3 Residents and Businesses when creating new positions to work on federally assisted projects. "Greatest Extent Feasible" means that contractors must make every effort to recruit, target and direct economic opportunities to Section 3 residents and businesses.

Section 3 residents include Low and Very Low-Income level persons. HUD sets the low-income limit at 80% and very low-income limit at 50% of the median family income for counties and metropolitan areas across the country. A Section 3 Business is one that is owned by Section 3 residents, employs Section 3 residents or subcontracts with businesses that provide opportunities to low and very low-income persons.

Prior to start of construction, the Civil Rights/Section 3 Officer must place Section 3 Posters, providing the type and location of the project, and contact information where Section 3 residents and businesses may request additional information regarding Section 3 opportunities at the nearest Work One Office, (find location and contact person at www.in.gov/dwd/WorkOne/). The 11 x 14 Posters may be sent to Work One via electronic mail if desired. Posters should also be placed in local government offices, Post Office, Library, public housing developments or such other public place that Section 3 residents may have the opportunity to observe the Posters.

The Civil Rights/Section 3 Officer must maintain a list of names and contact information of persons who express an interest in obtaining employment or subcontracts under Section 3 guidelines and provide that information to the prime contractor or any subcontractors working on the federally assisted project as jobs, training or subcontracting opportunities become available.

The prime contractor and any known subcontractors subject to Section 3 must provide a list of current employees to the Civil Rights/Section 3 Officer at the Pre-construction Conference. When the work called for in their contract is complete, each of these contractors and subcontractors are required to submit a Section 3 Compliance Report together with a list of employees at completion of their contract. The beginning list and ending list will be used to determine whether any new employees were hired during the performance of their contract.

The prime contractor and any subcontractors who work on the project must place the appropriate job vacancy on Indiana Career Connect (ICC) at www.indianacareerconnect.com/. In addition, all contractors and subcontractors will search ICC for candidates that meet the requirements of the position and contact the appropriate regional Work One contact person to coordinate with the regional provider to help fill open positions. When the vacant position is filled, it is the responsibility of the Civil Rights/Section 3 Officer and/or the contractor or subcontractor

to advise Indiana Career Connect that the position is no longer available. Contractors are required to give first consideration to any Section 3 residents or Businesses for new positions, training, or subcontracting opportunities. Section 3 residents or businesses are not guaranteed employment or contracting opportunities under Section 3. Section 3 residents must demonstrate that they meet the qualifications for new employment opportunities created as a result of the federally assisted project. Section 3 business concerns must submit evidence to the satisfaction of the party awarding the contract to demonstrate that they are responsible firms and have the ability to perform successfully under the terms and conditions of the proposed contract.

In all instances where new positions are being created, the contractor must document the results of any Section 3 residents contacted regarding the position and the results of that contact. To ensure compliance with this federal regulation, all contractors and subcontractors (whose contract amount exceeds \$100,000) must complete a Section 3 Compliance Report when work on the project called for in their contract is complete. Any documentation regarding contacts or consideration of Section 3 applicants must be maintained by the contractor and provided to the Civil Rights/Section 3 Officer with the Compliance Report.

BUY AMERICA PREFERENCE

The Build America Buy America Act provides, to the greatest extent possible, for early coordination with engineers/architects to incorporate products that meet Buy America Preference in the design phase of infrastructure projects.

All contractors who receive federal financial assistance for an infrastructure project which includes construction, alterations, or repairs are subject to the BABA unless a waiver is in place. The Buy America Preference (BAP) requires the use of iron and steel, construction materials and manufactured goods produced in the United States.

Bidders must provide cost estimates based on the most current American made products available. It is the responsibility of the grantee to ensure that BABA requirements are included in bid advertisements. *Form 17: Sample Invitation for Bid Publication* has been updated to reflect Buy America Preference requirements. The Buy America Preference must be included in all subawards, contracts, and purchase orders for the work performed, or products supplied under an OCRA award.

OTHER FEDERAL REQUIREMENTS

Title VI of the Civil Rights Act of 1964 states that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Title VII of the Civil Rights Act of 1964 prohibits discrimination in hiring, promotion and other employment practices on the basis of race, color, religion, sex, or national origin.

Section 109 of the Housing and Urban Development Act of 1974 prohibits discrimination on the basis of race, color, national origin, disability, age, religion and sex within Community Development Block Grant programs or activities.

Title III of the Americans with Disabilities Act prohibits discrimination based on "disability" by requiring that places of public accommodation be readily accessible to and useable by persons with disabilities.

The Architectural Barriers Act of 1968 requires that a project meet at least the minimum requirements of accessibility. A Certificate of Accessibility must be provided to the Grantee with a copy to OCRA on or before the completion of the project.

Section 504 of the Rehabilitation Act of 1974 states that a contractor or subcontractor may not discriminate against an otherwise qualified individual from participating in or enjoying the benefits of this project as a result of a physical handicap.

Executive Order 11063 provides that no person on the basis of race, color, religion, sex, or national origin, shall be discriminated against in federal housing assistance, including lending assistance.

Executive Order 11246 as amended by Executive Order 11375 provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in any phase of employment on federally assisted construction contracts.

All contractors and subcontractors **awarded a federal contract or subcontract in excess of \$50,000.00 and having more than 50 employees** must have an Affirmative Action Plan established in writing and on file in its place of business. Failure to have an Affirmative Action Program may result in sanctions established under section 209(a) of Executive Order 11246. This regulation is enforced by the Office of Federal Construction Contract Compliance, and additional information may be found at www.dol.gov/ofccp or at 1-800-397-6251. The Indiana office is located at 46 East Ohio Street, Suite 419, Indianapolis, Indiana 46204 and phone number is 317-226-5680.

Other laws enforced by the U. S. Equal Employment Opportunity Commission (EEOC) may be found at www.eeoc.gov/policy/laws.html.

OTHER RESPONSIBILITIES WHEN PARTICIPATING IN A FEDERALLY FUNDED PROJECT

- A) The State of Indiana has established a Minority/ Women Owned Business Enterprise goal of 10% and Veteran Owned Small Business goal of 3% of the grant amount. Documentation of reasonable efforts to meet this goal must be maintained in the grantee's project files.
- B) The contractor must display the following posters on the project job site in a location assessable to all employees. Posters may be obtained from the Grant Administrator.
- Equal Employment Opportunity is The Law
 - Fair Housing Poster
 - Safety and Health Protection on the Job
 - Notice to All Employees working on Federally Financed Construction Projects
 - Employee Polygraph Protection Act
- C) A copy of the applicable wage decision assigned to the project must also be posted at the job site.