



DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Revised Form FHWA-1273

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice announces the availability of revised Form FHWA-1273 “Required Contract Provisions Federal-Aid Construction Contracts” (FHWA-1273).

This form includes certain contract provisions that are required on all Federal-aid construction contracts. This form also includes proposal notices that Federal-aid recipients must incorporate or reference in all solicitation-for-bids or request-for-proposals documents for Federal-aid construction projects. The changes to the form are those necessary to conform to the U.S. Department of Labor’s (DOL) August 23, 2023, final rule amending the Davis-Bacon Act (DBA) and the Davis-Bacon Related Acts (DBRA) implementing regulations and are aligned with the effective date of those regulations.

DATES: The revised Form FHWA-1273 is effective October 23, 2023.

FOR FURTHER INFORMATION CONTACT: Mr. James DeSanto, Office of Preconstruction, Construction and Pavements, (614) 357-8515, james.desanto@dot.gov or Mr. Silvio J. Morales, Office of Chief Counsel, (443) 835-8344, silvio.morales@dot.gov, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On March 18, 2022, the DOL published a notice of proposed rulemaking (NPRM), 87 FR 15698, proposing to update and

modernize the regulations at 29 CFR parts 1, 3, and 5, which implement the DBA and the DBRA. The DBA requires the payment of locally prevailing wages and fringe benefits on Federal contracts for construction. The DBA prevailing wage requirements were subsequently incorporated into Title 23 of the United States Code (U.S.C.) and are thus applicable to Federal-aid highway construction contracts. 23 U.S.C. 113. In compliance with the latter FHWA requires that all Federal-aid highway construction contracts physically incorporate the DBA prevailing wage requirements via FHWA-1273. See 23 CFR 633.102.

After considering public comments on the NPRM, the DOL on August 23, 2023, published a final rule notice in the Federal Register at 88 FR 57526, adopting, with some modifications, the NPRM's proposed changes to the DBA prevailing wage regulations at 29 CFR parts 1, 3, and 5. The modifications to the required contract provisions contained in 29 CFR 5.5 are applicable to the DBA prevailing wage requirements within FHWA-1273. Pursuant to 23 CFR 633.104(a), FHWA has updated Form FHWA-1273 to be consistent with the new regulatory requirements. As such, and in accordance with 23 CFR part 633, subpart A, the revised Form FHWA-1273, which can be found at <https://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>, must be used by recipients and contractors, including subcontractors at all tiers, as applicable under the regulations. As specified in DOL's final rule, the new regulations are applicable to all contracts awarded on or after October 23, 2023. Accordingly, States and other contracting agencies must use the revised Form FHWA-1273 in all prime construction contracts for Federal-aid construction projects awarded on or after October 23, 2023, as well as all subcontracts, including lower-tier subcontracts, that are awarded under such prime contracts.

AUTHORITY: 23 U.S.C. 113; 23 CFR 633.104; 29 CFR 5.5

Shailen P. Bhatt,
Administrator,
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[FR Doc. 2023-21306 Filed: 9/28/2023 8:45 am; Publication Date: 9/29/2023]