

## **Explanation of the Revisions to Form FHWA-1273 dated May 1, 2012.**

The following is a section-by-section overview of the revisions made to Form FHWA-1273. Grammatical and minor formatting revisions have been made where appropriate (and to be consistent with 2 CFR 200) throughout the document.

### I. GENERAL

### II. NONDISCRIMINATION:

- Several paragraphs of this section have been revised by replacing “sex” with “sex, sexual orientation, and gender identity” as required by the revisions of 41 CFR 60--1 (See the US Department of Labor, Office of Federal Contract Compliance (OFCCP) 12/9/2014 final rule).
- Section 10. This section title is retitled as “Assurance Required” and the assurance required by 49 CFR 26.13(b) is included verbatim and a reference is provided for the Title VI assurance required by U.S. DOT Order 1050.2A Appendices A and E.

### III. NONSEGREGATED FACILITIES

- The second paragraph of this section is revised by replacing “sex” with “sex, sexual orientation, and gender identity” as noted above.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

- A sentence was added to the initial paragraph to address the “the “treatment of projects” provision in 23 USC 133(i) which requires that all projects (excluding recreational trail set-aside projects) be treated as if on a federal-aid highway.

### V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- No change.

### VI. SUBLETTING OR ASSIGNING THE CONTRACT

- No change.

### VII. SAFETY: ACCIDENT PREVENTION

- No change.

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

- No change.

## IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT:

- The provisions in this section were revised to be consistent with the requirements in Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards in 2 CFR 200. All non-Federal entities with contracts and subgrants in excess of \$150,000 must include provisions to comply with all related standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) as required by 2 CFR 200.326.

## X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION:

- All references to the Excluded Parties List System have been changed to the System for Award Management (SAM) ([www.sam.gov](http://www.sam.gov)), as required by 2 CFR Part 180.
- New first tier and lower tier certifications are included to ensure that awards are not made to companies who have a verified Federal tax delinquency or companies who have been convicted of a Federal felony offense within two years prior to the award. The new certifications implement the Government-wide General Provisions, currently under Division E, Title VII, Financial Services and General Government Appropriations Act, FY 2016 (Sections 745-746 in the FY 2016 Act, [129 STAT. 2485-86](#)).

## XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING:

- No change.

## XII. USE OF UNITED STATES-FLAG VESSELS

- A new section was added to implement Cargo Preference Act requirements on Federal-aid projects. On October 14, 2008, the President signed the "Duncan Hunter National Defense Authorization Act of 2009." Section 3511 of that Act amended the Cargo Preference Act by stating the requirements apply to cargoes financed "in any way with Federal funds for the account of any persons unless otherwise exempted." See the FHWA's December 8, 2015 legal opinion titled: "Cargo Preference Act and Federal-aid Projects" for additional information. This provision requires the use of US-flag vessels whenever an oceanic shipment (or

a shipment across the Great Lakes) is necessary for materials or equipment acquired for a specific Federal-aid construction project.

ATTACHMENT A - EMPLOYMENT PREFERENCE FOR APPALACHIAN CONTRACTS:

- No change.