

REQUIREMENTS AND CONTRACT PROVISIONS FOR THE PROJECT

FUNDED BY COMPREHENSIVE FLOOD MANAGEMENT GRANT PROGRAM

MARYLAND DEPARTMENT OF THE ENVIRONMENT

The project or segment thereof to be constructed in accordance with these contract documents is subject to the following requirements. In the event of conflict with other requirements of the contract documents, the following requirements control unless the requirement is a minimum requirement. Nothing in this document shall be construed to prohibit the owner from requiring additional assurances, guarantees, indemnities, or other contractual requirements from any other party to this agreement.

- I. ASSURANCES FOR COMPLIANCE WITH THE FOLLOWING FEDERAL AND STATE LAWS AND REGULATIONS:**
 - 1. NON-DISCRIMINATION IN EMPLOYMENT**
 - 2. DEBARMENT**
 - 3. ANTI-KICKBACK**
 - 4. CONTRACT WORK HOURS AND SAFETY STANDARDS**
 - 5. PREVAILING WAGE RATES FOR STATE-FUNDED CONSTRUCTION PROJECTS**
 - 6. MARYLAND ANTIDEGRADATION IMPLEMENTATION PROCEDURES**

- II. THE PROJECT SIGN**

I. ASSURANCES FOR COMPLIANCE WITH THE FOLLOWING FEDERAL AND STATE LAWS AND REGULATIONS:

The contractor is required to comply with the Federal laws and regulations in regard to non-discrimination in employment, debarment, anti-kickback, and contract work hours and safety standards as delineated below.

1. Non-discrimination in Employment:

The contractor is required to comply with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967.

The contract for the work under this proposal will obligate the prime contractor and its subcontractors not to discriminate in employment practices.

The contractor shall not maintain or provide for his/her employees the facilities, which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis.

The contractor must, if requested, submit a compliance report concerning their employment practices and policies in order to maintain his/her eligibility to receive the award of the contract.

The contractor must be prepared to comply in all respects with the Contract Provisions regarding non-discrimination, as stipulated under the Labor Standards.

2. Debarment:

Under Executive Order 12549, an individual or organization debarred from participation in Federal assistance or benefit programs may not receive any assistance award under a Federal program, or a sub-agreement thereunder for \$25,000 or more.

Therefore, the bidder as an individual or as an organization, presently debarred, suspended, proposed for debarment, will be declared ineligible to participate in bidding the proposed contract as a prospective recipient of financial assistance from the Maryland Department of the Environment.

The contractor shall not enter into any sub-contract with any individual, firm or organization debarred from Government contracts pursuant to Executive Order 11246.

3. Anti-kickback:

The contractor and/or its sub-contractors shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874). Any evident illicit kickback practice in any shapes or forms will cause termination of the contract.

4. Contract Work Hours and Safety Standards:

The contractor and/or its sub-contractors shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330).

5. Prevailing Wage Rates for State-Funded Construction Projects:

The Prevailing Wage Law regulates the hours of labor, rates of pay, conditions of employment, obligations of employers, and the powers and duties of certain public officials under contracts and subcontracts for public works in Maryland. Coverage extends to any construction contract

for public works with a value of at least \$250,000 that is funded with at least 25% State funds.

Wage Determinations:

A wage determination issued for a project specifies the wage and fringe benefit rates for each classification of worker, determined to prevailing in that locality for that type of construction. Wage Determinations are issued for each locality in the State (23 counties and Baltimore City) and are in effect for one year from the date on which they become final. The law requires employees on a public works contract to be paid overtime for hours in excess of 10 hours in a single day, and for work performed on a Sunday or a legal holiday.

Under Payments:

Contractors found to be paying wages below the prevailing wage rate may be fined \$20 per day for each worker paid less than the established rate. *Note: The maximum allowable ratio is one journeyman to one apprentice. All apprentices must be registered with the Maryland Apprenticeship and Training Program without exception.*

Certified Payroll Statements:

Contractors on State funded construction projects covered by the Prevailing Wage Law are required to submit certified payroll statements indicating proper worker classification and wage for both straight time and overtime work. Certified payrolls must be submitted to the Commissioner of Labor and Industry within 14 days after the end of the payroll period. Penalties for late submission of payrolls total \$10 for each calendar day the records are late.

Additional Information:

Division of Labor and Industry
Prevailing Wage Unit
1100 North Eutaw Street, Room 607
Baltimore, Maryland 21201
(410) 767-2342
Fax: (410) 333-7303
E-Mail Address: prevailingwage@dllr.state.md.us
Website: <http://www.dllr.maryland.gov/labor/prev/>

6. Maryland Antidegradation Implementation Procedures:

The Clean Water Act requires three components to water quality standards that set goals for and protect each States' waters. The three components are: (1) designated uses that set goals for each water body (e.g., recreational use), (2) criteria that set the minimum conditions to support the use (e.g., bacterial concentrations below certain concentrations) and (3) an antidegradation policy that maintains high quality waters so they are not allowed to degrade to meet only the minimum standards. The designated uses and criteria set the minimum standards for Tier I.

Maryland's antidegradation policy has been promulgated in three regulations: COMAR 26.08.02.04 sets out the policy itself, COMAR 26.08.02.04-1, provides for identification and implementation of Tier II (high quality waters) of the antidegradation policy, and COMAR 26.08.02.04-2 that describes Tier III (Outstanding National Resource Waters or ONRW), the highest quality waters. No Tier III waters have been designated at this time. Any capital funding project occurring within Tier II catchment areas, which are areas that drain to Maryland's high quality designated Tier II stream segments, must undergo Antidegradation Review.

To determine if your project is located within Tier II catchment area, please contact Ms. Angel Valdez of MDE Environmental Standards and Assessment Program, at (410) 537-3606, or at angel.valdez@maryland.gov.

Please be aware that projects subject to an Antidegradation or Tier II review must adequately address comments that arise during the review before funding can be granted.

How Tier II Stream Segments are Designated

- Currently high quality stream segments are designated for the characteristic of biology using Maryland Biological Stream Survey (or comparable) data
- Streams are recorded in Table O (COMAR 26.08.02.04-1) and the pending list of streams awaiting promulgation or corrections is maintained on the MDE website.

The Basic Antidegradation Review Process

Many of the projects funded by the Water Quality Financing Administration (WQFA) at MDE result in a net improvement to water quality. As a result, the antidegradation review process for WQFA generally involves making sure that any land disturbance activities associated with the project includes additional controls. Any other antidegradation reviews specific to project discharges (e.g. end-of-pipe) will be addressed separately through the permitting process.

To help expedite the review process the following list of practices has been provided. These practices include “accelerated stabilization, redundant controls, increased riparian buffers, passive or active chemical treatment, or a reduction in the size of the grading unit” as stated in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control to address Tier II issues. All practices implemented should be evident in plans. When using the list below to aide in planning keep in mind that application and site specifics will ultimately determine each recommendation’s applicability. Also realize that this list is not exhaustive and additional practices may be identified as specific plans become available.

- **Initial Considerations:** including limiting vegetative disturbances, phasing and/or sequencing, accelerated stabilization, minimum weekly inspections, and timing of in-stream work to low flow periods or clear weather forecasts
- **Expanded Riparian Buffers (for new structures/expansions only):** from 100 to 230 feet, depending upon slope and soil composition, on all intermittent and perennial streams within project footprint to help further address direct hydrologic impacts to surface waters. See Table 1 for more details.

Table 1

Adjusted Average Optimal Buffer Width Key for HQ Waters (minimum width 100 feet)				
Slopes (%)				
Hydrologic Soil Group	0-5%	5-15%	15-25%	>25%
Ab	100	130	160	190
C	120	150	180	210
D	140	170	200	230

- **Streamside Management Zones (buffer areas for utility projects):** where disturbance and work cannot be avoided, utilize minimally disturbing & selective vegetative clearing methods, restorative planting (not seeding) for major near-stream clearings totaling 1 acre or more, no mulch placement within the streamside management zones, if possible allow small shrub growth
- **Enhanced Buffer Management:** including sheetflow of discharge beyond the minimum 100 foot vegetative buffer or implementing redundant mechanisms in dewatering exercises such as devices in manifold, use of chemical filtration aides, combining two practices such as filter bags with vegetated buffers and silt fencing.

Also incorporation of super silt fencing or an equivalent practice when working near streams.

- **Enhanced Temporary Access Waterways Crossings: including utilizing horizontal directional drilling/jack and bore for all major stream crossings or sensitive crossings, including a frac-out plan; preferential use of partial diversions (where possible); and utilization of temporary access bridges over fords.**
- **Special Concern- pH and Water Quality: For all activities related to in-stream grout placement, either in bags or as fill:**
 1. **To prevent impacts to in-stream pH, such operations should occur “in-the-dry”.**
 2. **An emergency treatment plan should be in place to address accidental material releases.**
 3. **Cure time allotted should reflect chemically stable grout material and should also represent the most conservative time in the expected cure range.**
 4. **The water quality standard numeric criteria for pH must be met in the ‘first flush’ before diversion is removed.**
- **Stormwater Management: follow the current guidelines within the Maryland Stormwater Design Manual (2009 Revised), including ESD to the MEP or other non-structural practices**

Within seven (7) days of the bid opening, the apparent low bidder shall sign the form as given in Attachment I, Assurances for Compliance with Federal and State Laws and Regulations pertaining to non-discrimination in employment, debarment, anti-kickback, contract work hours and safety, prevailing wage rates, and Maryland Antidegradation Implementation Procedures.

ASSURANCES FOR COMPLIANCE WITH FEDERAL AND STATE LAWS AND REGULATIONS

The contractor is required to comply with the following Federal and State laws and regulations:

- 1. Non-discrimination in Employment in accordance with Executive Order 11246 of September 24, 1965 entitled “Equal Employment Opportunity” as amended by Executive Order 11375 of October 13, 1967.**
- 2. Debarment in accordance with the Executive Order 12549 and Executive Order 11246**
- 3. Anti-kickback in accordance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874)**
- 4. Contract Work Hours and Safety Standards in accordance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330)**
- 5. Prevailing Wage Rates for State-Funded Construction Projects.**

Determination Number: _____

Date Issued: _____

Note: Wage rates remain in effect for one year from the date they were issued. If construction does not start within one year of issuance, a new wage rate determination would be required.

- 6. Maryland Antidegradation Implementation Procedures as promulgated in three regulations: COMAR 26.08.02.04 sets out the policy itself, COMAR 26.08.02.04-1, provides for identification and implementation of Tier II (high quality waters) of the antidegradation policy, and COMAR 26.08.02.04-2 that describes Tier III (Outstanding National Resource Waters or ONRW), the highest quality waters. No Tier III waters have been designated at this time.**

I do solemnly declare and affirm that I am obligated to comply with the above Federal and State laws and regulations. It is understood that non-compliance with any one of the above Federal or State laws and regulations will be the sufficient reason to cause termination of the contract.

Signature of Prime Contractor

Date

Print Name and Title

THE CONSTRUCTION SITE SIGN FOR PROJECTS FINANCIALLY SUPPORTED BY STATE GRANT FUND SOURCES

White Background Light Blue Scroll Black Letters

PROJECT TITLE
Project Type (by MDE)

A PROJECT FINANCIALLY SUPPORTED BY THE

STATE OF MARYLAND

**UNDER THE DIRECTION
OF THE**



Maryland
Department of
the Environment

**APPROVED BY THE
MARYLAND BOARD**

**OF
PUBLIC WORKS**

Larry Hogan, Governor
Peter V.R. Franchot, Comptroller
Nancy K. Kopp, Treasurer

Total Project Cost: _____
State Loan: _____
State Grant: _____
Federal Funds: _____
Other Funds: _____
Local Funds: _____

4'

8'

Project Type:

Insert the selected item under the project title:

- Elevation
- Stormwater
- Stream/Shoreline Restoration
- Wetland Creation or Restoration
- Mitigate Damage from Land Subsidence
- Mitigate Damage from Mud/Landslide
- Mitigate Damage from Severe Storm
- Dam/Levee
- Other: _____