OPWC PROPOSAL NOTES – For insertion into Bid Documents (Rev 10/23)

1. **STEEL PRODUCTS MADE IN THE UNITED STATES**
   Domestic steel use requirements as specified in Ohio Rev. Code §153.011, https://codes.ohio.gov/ohio-revised-code/section-153.011, apply to this project.

2. **PREVAILING WAGES ON STATE PROJECTS WITH NO FEDERAL-AID (Should this project contain Federal-aid funds then Federal Prevailing Wages must be paid. Contact the appropriate Federal funding agency for language.)**
   This contract is subject to Ohio Prevailing Wage Laws, Ohio Rev. Code Chapter 4115 and the Prime Contractor and all subcontractors shall comply with all provisions contained therein or as otherwise provided by this note. The Prime Contractor guarantees that the prevailing wage scale to be paid to all laborers and mechanics employed on this contract shall be in accordance with the schedule of the prevailing hourly wage and fringe benefits as determined by the Ohio Department of Commerce for the county in which the work is being performed. The failure to pay prevailing wages to all laborers and mechanics employed on this project shall be considered a breach of contract. Such a failure may result in the revocation of the Prime Contractor's and/or subcontractor's certificate of qualification and debarment. A schedule of the most current prevailing wage rates may be accessed by registering with the Ohio Department of Commerce, Labor and Worker Safety Division, Wage and Hour Bureau at the following web address: https://wagehour.com.ohio.gov/w3/webwh.nsf/wrlogin/?openform.

   The Prime Contractor and all subcontractors shall compensate the employees on this contract at a pay rate not less than the hourly wage and fringe rate listed on the website noted above, for the applicable job classification or as may be modified by the Ohio Department of Commerce, Division of Labor and Worker Safety Wage and Hour Bureau, when new prevailing rates are established.

   Overtime shall be paid at one and one-half times the basic hourly rate for any hours worked beyond forty hours during a pay week. The Prime Contractor and all subcontractors shall pay all compensation by company check to the worker and fringe benefit program.

   The wage and fringe rates determined for this project or as may be later modified, shall be posted by the Prime Contractor in a prominent and accessible place on the project, field office, or equipment yard where they can be easily read by the workers or otherwise made available to the workers. On the first pay date of contract work the Prime Contractor and all subcontractors shall furnish each employee covered by prevailing wage a completed form (WHPW-1512) in accordance with Ohio Rev. Code § 4115.05, showing the classification, hourly pay rate, and fringes, and identifying the public authority's Prevailing Wage Coordinator, if such employees are not covered by a collective bargaining agreement or understanding between employers and bona fide organizations of labor. These forms shall be signed by the Prime Contractor or subcontractor and the employee and kept in the Prime Contractor's or subcontractor's payroll files.

   The Prime Contractor shall submit to the Prevailing Wage Coordinator, certified payrolls for Prime Contractor and all subcontractors on form WHPW-1512 or equivalent, in accordance with Ohio Rev. Code Sections 4115.07 and 4115.071(C), three weeks after the start of work and every subsequent week until the completion of the contract. Additionally, a copy of the "Apprentice Certification" obtained from the Ohio State Apprenticeship Council, must accompany all certified payrolls submitted, for all apprentices working on this project. Upon completion of the contract and before the final payment, the Prime Contractor shall submit to the Prevailing Wage Coordinator a final wage affidavit in accordance with Ohio Rev. Code § 4115.07 stating that wages have been paid in conformance with the minimum rates set forth in the contract. Please be aware that it is ultimately the responsibility of the Prime Contractor to ensure that all laws relating to prevailing wages in Ohio Rev. Code Chapter 4115 are strictly adhered to by all subcontractors.

   The Prime Contractor and all subcontractors shall make all its payroll records available for inspection, copying or transcription by any authorized representative of the contracting agency. Additionally, the Prime Contractor and all subcontractors shall permit such representatives to interview any employees during working hours while the employee is on the job.

3. UNRESOLVED FINDING FOR RECOVERY

The Prime Contractor affirmatively represents to the local contracting authority that it is not subject to a finding for recovery under Ohio Rev. Code § 9.24, or that it has taken the appropriate remedial steps required under §9.24 or otherwise qualifies under that section. The Prime Contractor agrees that if this representation is deemed to be false, the contract shall be void ab initio as between the parties to this contract, and any funds paid by the state hereunder shall be immediately repaid to the local contracting authority, or an action for recovery may be immediately commenced by the local government and/or for recovery of said funds.

4. OHIO WORKERS' COMPENSATION COVERAGE

The Prime Contractor must secure and maintain valid Ohio workers' compensation coverage until the project has been finally accepted by the local contracting authority. A certificate of coverage evidencing valid workers' compensation coverage must be submitted to the local contracting authority before the contract is executed.

The Prime Contractor must immediately notify the local contracting authority, in writing, if it or any subcontractor fails or refuses to renew their workers' compensation coverage. Furthermore, the Prime Contractor must notify the local contracting authority, in writing, if its or any of its subcontractor's workers' compensation policies are canceled, terminated or lapse.

The failure to maintain valid workers' compensation coverage shall be considered a breach of contract which may result in the Prime Contractor or subcontractor being removed from the project, withholding of pay estimates and/or termination of the contract.

5. DRUG-FREE WORKPLACE PROGRAM

In accordance with Ohio Rev. Code §153.03 and during the life of this project, the Prime Contractor and all its Subcontractors that provide labor on the Project site must be enrolled in and remain in good standing in the Ohio Bureau of Worker's Compensation ("OBWC") Drug-Free Workplace Program ("DFWP") or a comparable program approved by the OBWC.

6. OHIO PREFERENCE

In accordance with Ohio Rev. Code §164.05 (A)(6), to the extent practicable, the Prime Contractor and subcontractor shall use Ohio products, materials, services, and labor in connection with this project.

7. BID GUARANTY

In accordance with Ohio Rev. Code §153.54, the Prime Contractor shall file with the bid a bid guaranty in the form of either: 1) a bond for the full amount of the bid, or 2) a certified check, cashier's check, or letter of credit equal to 10% of the bid.

8. OHIO ETHICS LAW

The Prime Contractor agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided Ohio Rev. Code Sections 102.03 and 102.04.

9. STATE OF OHIO EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

NOTICE TO CONTRACTORS:

The provisions of the Ohio Administrative Code (OAC) 123:2-3-02 through 124:2-9 regarding Equal Employment Opportunity on State Construction Contracts and State-assisted Construction Contracts, and OAC 123:2-3-02 through 123:2-9 regarding Equal Employment Opportunity and Female Utilization Goals are applicable to this project, and each contractor will be required to comply in all aspects of these provisions.

CERTIFICATE OF COMPLIANCE FOR EEO PURPOSES:

All prime contractors must secure a valid Certificate of Compliance from the Ohio Department of Development prior to execution of a construction contract.

See https://development.ohio.gov/business/construction-compliance/certificate-of-compliance for steps for Certificate of Compliance submittal.

>>> Does this bidder have a valid Certificate of Compliance? ____Yes ____No

>>> If "No" to the above, will this bidder be able to obtain a valid Certificate of Compliance prior to the execution of a contract? ____Yes ____No

Bidder must provide a "Yes" answer to one or the other of the above questions.

BIDDER'S AFFIRMATIVE ACTION REQUIREMENTS:

Contractors and subcontractors with (a) 50 or more employees and a state contract of $50,000 or more or (b) where a contractor's or subcontractor's state contract exceeds an estimated total cost of $500,000 and the project is in a geographic area, regardless of the number employees, shall establish an affirmative action program. Chapters 123:2-3 through 123:2-11 of the Ohio Administrative Code requires contractors and subcontractors to implement the following: policies and procedures to maintain a working environment free of discrimination, harassment, intimidation, and coercion; state percentage goals for minorities by trade and by geographic area as well as a 6.9% goal for women statewide in the trades during the performance of a state contracts; and good faith efforts to recruit, hire, and maintain minorities and women.

>>> Has the contractor and subcontractor bidder developed an affirmative action program in conformity with Ohio Adm. Code 123:2-3-04 prior to the bid opening ? ____Yes ____No

>>>If "no", with this bid response, the prime contract bidder hereby adopts the minority and female work hour utilization goals and the specific affirmative action steps set forth in 123:2-3 through 123:2-9 of the Ohio Administrative Code.

BIDDER'S EEO COVENANTS:

Throughout its performance of any contract awarded to it on this State-assisted project, the prime contract bidder agrees to the following covenants:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, or sex. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color. Such action shall include, but is not limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the prime contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color.

(3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State Administering Agency advising the said labor union or workers' representatives of the contractor's commitments under this

covenant and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of the Ohio Department of Administrative Services, Equal Opportunity Division and with the implementing rules, regulations, and applicable orders of the Department of Development.

(5) The contractor agrees to fully cooperate with the State Administering Agency, the Department of Development and with any other official or agency, or the State or Federal government which seeks to eliminate unlawful employment discrimination, and with all other State and Federal efforts to assure equal employment practices under its contract and the contractor shall comply promptly with all requests and directions from the State Administering Agency, the Department of Development and any of the State of Ohio officials and agencies in this regard, both before and during construction.

(6) Full cooperation as expressed in clause (5), above, shall include, but not be limited to, being a witness and permitting employees to be witnesses and complainants in any proceeding involving questions of unlawful employment practices, furnishing all information and monthly utilization work hour reports required by the OAC 123: 2-9-01 and by the rules, regulations and orders of the Department of Development pursuant thereto, and permitting access to its books, records, and accounts by the State Administering Agency and the Department of Development for purposes of investigation to ascertain compliance with such rules, regulations and orders. Specifically, contractors will submit workforce utilization reports to the State Contracting Agency by the 10th of each month.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of its contract or with any of the said rules, regulations, or orders, its contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further State Contracts or State-assisted Construction Contracts in accordance with procedures authorized in OAC 123:2-3 through 2-9 and such other sanctions may be instituted and remedies invoked, as provided in OAC 123:2-3 through 2-9 or by regulation, or order of the Department of Development, or as otherwise provided by law.

If its contract is terminated for a material breach of OAC 123:2-3 through 2-9 the contractor shall become liable for all damages which shall accrue to the State Administering Agency and Applicant and the State of Ohio because of said breach.

(8) The contractor will require the inclusion of language reflecting these same eight covenants within every subcontract or purchase order it executes in the performance of its contract unless exempted by rules, regulations or orders of the Department of Development issued pursuant to O.A.C. 123:2-3-02 so that these provisions will be binding upon each subcontractor or vendor. The contractor will take such actions as the Administering Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in any litigation with a subcontractor, vendor, or other party because of such direction by the State Administering Agency, the contractor may be requested to protect the interests of the State.

>>>The prime contract bidder hereby adopts the foregoing covenants? ___Yes ____No

BIDDER'S CERTIFICATION:

The undersigned, being a duly authorized officer of the prime contract bidder, does hereby certify to and agree with the foregoing statements and covenants regarding its subscription to the State's Equal Employment Opportunity Requirements for State-assisted Construction Contracts.

_____ ___/____/___
Signature of Authorized Officer Date

_____
Title

>>> PLEASE NOTE: Only a bidder possessing a valid certificate will be awarded a contract pursuant to Ohio Rev. Code Chapter 153 by an owner referred to in Ohio Rev. Code § 153.01. Application shall be made at least ten working days prior to the date that the bidder expects to receive the certificate. The bidder's failure to elect one of the two Bidder's Affirmative Action Requirements, adopt the Bidder's EEO Covenants, and complete the foregoing certification may cause the bidder's proposal to be rejected as being non-responsive to the State's Equal Employment Opportunity Requirements and in non-compliance with the State Equal Employment Opportunity Bid Conditions. In addition, the bidder must, prior to the execution of a contract, submit to the local subdivision a valid Certificate of Compliance for Equal Employment Opportunity purposes.

"APPENDIX A" OF THE STATE EEO BID CONDITIONS

MINORITY MANPOWER UTILIZATION GOALS AND TIMETABLES

The following minority goals listed are expressed in terms of percentages of work hours for each trade to be used by the contractor in a designated area. Designated areas are defined as Ohio's Standard Metropolitan Statistical Areas (SMSA). They are Akron, Cincinnati, Cleveland, Columbus, Dayton, Toledo and Youngstown-Warren. In cases where the project is not located in a designated area, the contractor may adopt minority utilization goals of the near/nearest designated area.

AKRON	
All Trades	10%

COLUMBUS	
All Trades	10%

DAYTON	
All Trades	11%

TOLEDO	
All Trades	9%

YOUNGSTOWN	
All Trades	9%

CINCINNATI	
Trade	
Asbestos Workers	9%
Boilermakers	9 %
Carpenters	10%
Elevator Constructors	11%
Floor Layers	10%
Glaziers	10%
Lathers	10%
Marble, Tile, Terrazzo	8%
Millwright	10%
Operating Engineers	11%
Painters	11%
Pipefitters	11%
Plasterers	10%
Plumbers	11%
Sheet Metal Workers	11%
Other Trades	11%

CLEVELAND	
Trade	
Asbestos Workers	17%
Boilermakers	10%
Carpenters	16%
Electricians	20%
Elevator Constructors	20%
Floor Layers	11%
Glaziers	17%
Ironworkers	13%
Operating Engineers	17%
Painters	17%
Pipefitters	17%
Plasterers	20%
Plumbers	17%
Roofers	17%
Other Trades	17%

"APPENDIX B" OF THE STATE EEO BID CONDITIONS

SPECIFIC AFFIRMATIVE ACTION STEPS

The following Affirmative Action steps are directed at increasing minority utilization:

(1) The contractor should maintain a file of the names and addresses of each minority and female referred to it by any individual or organization and what action was taken with respect to each such referred individual, and if the individual was not employed by the contractor, and the reasons, therefore. If such an individual was sent to the union hiring hall for referral and not referred by the union or if referred back by the union or if referred, not employed by the contractor, the file should document this and the reason, therefore.

To Demonstrate Compliance: Maintain a file of the names, addresses, telephone numbers, and craft of each minority and female applicant showing (a) the date of contact and whether the person was hired; if not, the reason, (b) if the person was sent to a union for referral, and the results (c) follow-up contacts when the contractor was hiring.

(2) The contractor should promptly notify the State Contracting Agency when the Union or Unions with which the contractor has collective bargaining agreements does not refer to the contractor a minority or female worker referred (to the union) by the contractor, or when the contractor has information that the union referral process has impeded efforts to meet its goals.

To Demonstrate Compliance: Have a copy of letters sent, or do not claim the union is impeding the contractors' efforts to comply.

(3) The contractor should disseminate its Equal Employment Opportunity policy within its organization by including it in any company newsletters and annual reports; by advertising at reasonable intervals in union publications; by posting of the policy; by specific review of the policy with minority and female employees; and by conducting staff meetings to explain and discuss the policy.

To Demonstrate Compliance: Have a written EEO policy which includes the name and how to contact the contractor's EEO Officer and (a) include the policy in any company policy manuals, (b) post a copy of the Policy on all company bulletin boards (in the office and on all job sites), (c) records, such as reports or diaries, etc., that each minority and female employee is aware of the Policy and that it has been discussed with them, (d) that the policy has been discussed regularly at staff meetings, and (e) copies of newsletters and annual reports include the Policy.

(4) The contractor should continually monitor all personnel activities to ensure that its EEO policy is being carried out, including the evaluation of minority and female employees for promotional opportunities on a quarterly basis and the encouragement of such employees to seek those opportunities.

To Demonstrate Compliance: Have records that the company EEO Officer reviews all: (a) monthly workforce reports, (b) hiring and terminations, (c) training provided on-the-job, (d) minority and female employees quarterly for promotion and encourages them to prepare for and seek promotion. The records should be the EEO Officer's job description, reports, memos, personnel files, etc., documenting the activities for possible discriminatory patterns.

(5) The contractor should disseminate its EEO policy externally by informing and discussing it with all recruiting sources; by advertising it in news media, specifically including minority and female news media; and by notifying and discussing it with all subcontractors.

To Demonstrate Compliance: Have copies of (a) letters sent, at least six months or at the start of each new major contract, to all recruiting sources (including labor unions) requiring compliance with the Policy, (b) advertising, which has the EEO "tagline" on the bottom, and (c) purchase order and subcontract agreement forms will include or make reference to the State EEO Covenant, Appendix A or B of the Ohio Administrative Code 123:2-3-02.

(6) The contractor should make specific and reasonably recurrent oral and written recruitment efforts directed at minority and women's organizations, and training organizations with the contractor's recruitment area.

To Demonstrate Compliance: Have a record either in a follow-up file for each organization or on the reverse of the notification letter sent under Item 1, above, of the dates, individuals contacted and the results of the contract from telephone calls or personal meetings with the individuals or groups notified under Item 1.

(7) The contractor, where reasonable, should develop on-the-job training opportunities and participate and assist in all Department of Labor funded and/or approved training programs (including Apprenticeship) Programs relevant to the contractor's employee needs consistent with its obligations in the Bid Conditions.

To Demonstrate Compliance: Have records of contributions in cash, equipment supplied and/or contractor personnel provided as instructors for Bureau of Apprenticeship and Training approved or Department of Labor funded training programs and records of the hiring and training of minorities and females referred to Company by such programs.

(8) The contractor should solicit bids for subcontracts (and joint ventures) from available minority and female subcontractors engaged in the trades covered by the Bid Conditions, including circulation of minority and female contractors associations.

To Demonstrate Compliance: Have copies of letters or other direct solicitation of bids for subcontracts/joint ventures from minority/female contractors with a record of the specific response and any follow-up the contractor has done to obtain a price quotation or to assist a minority/female contractor in preparing or reducing a price quotation; have a list of all minority/female subcontracts awarded or joint ventures participated in with dollar amounts, etc.

EXPLANATION OF AN ACCEPTABLE AFFIRMATIVE ACTION PROGRAM:

An Affirmative Action Program is a set of specific and result-oriented procedures to which a Contractor shall apply every good faith effort. The objective of those procedures and efforts is to ensure equal employment opportunity. An acceptable Affirmative Action Program will include an analysis of all trades employed by the Contractor within the last year with an explanation of whether Minorities are currently being under-utilized in any one or more trades. A prerequisite to the development of a satisfactory Affirmative Action Program is the identification and analysis of problem areas inherent in Minority employment and an evaluation of opportunities for utilization of Minority group personnel.

Part I - Basic Contents of an Affirmative Action Program:

1. Development or reaffirmation of the contractor's EEO policy in all personnel actions.

2. Formal internal and external dissemination of contractor's EEO policy.

3. Establishment of responsibilities for implementation of the contractor's affirmative action program.

4. Identification of problem areas (deficiencies) by organizational units and job classification.

5. Establishment of goals and objectives by organizational units and job classification, including timetables for completion.

6. Development and execution of action-oriented programs designed to eliminate problems and further designed to attain established goals and objectives.

7. Design and implementation of internal audit and reporting systems to measure effectiveness of the total programs.

8. Compliance of personnel policies and practices with Federal sex discrimination guidelines (41 CFR Part 60-20).

9. Active support of local and national community action programs and community service programs, designed to improve the employment opportunities of minorities.

10. Consideration of ethnic minorities and women not currently in the work force having requisite skills who can be recruited through affirmative action measures.

11. Summary data on applicant flow, hires, terminations and promotions, and training for the last twelve months or the last one hundred applicants, hires, etc., whichever is less.

Part II - Analysis of Individual Trades

1. The minority population of the labor area surrounding (contractor's) projects.

2. The size of the minority unemployment force in the labor area surrounding (the contractor's) projects.

3. The percentage of minority work force as compared with the total work force in the immediate labor area.

4. The general availability of minorities having requisite skills in the immediate labor area.

5. The availability of minorities having requisite skills in the area in which the contractor can reasonably recruit.

6. The availability of promotable minority employees within the contractor's organization.

7. The anticipated expansion, contraction, and turnover of an in the workforce.

8. The existence of training institutions capable of training minorities in the requisite skills.

9. The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to minorities.

Goals, timetables, and affirmative action commitments must be designed to correct any identifiable deficiencies. Where deficiencies exist and where numbers or percentages are relevant in developing corrective action, the contractor shall establish and set forth specific goals and timetables. Such goals and timetables, with supporting data and the analysis thereof shall be a part of the contractor's written affirmative action program. Where the contractor has not established a goal, its written affirmative action program must specifically analyze each of the factors listed above and must detail its reason for a lack of a goal. The goals and timetables should be attainable in terms of the contractor's analysis of its deficiencies and its entire action. Thus, in establishing its goals and timetables, the contractor should consider the results which could be reasonably expected from its good faith efforts to make its overall affirmative action program work. If the contractor does not meet its goals and timetables, the contractor's good faith efforts shall be judged as to whether the contractor is following its program and attempting to make the program work toward the attainment of its goals.

Support data for the above analysis and program shall be compiled and maintained as part of the contractor's affirmative action program. This data should include applicant flow data and applicant rejection ratios indicating minority status.

Compliance Status: No State Contractor's compliance status shall be judged alone by whether he reaches his goals and meets his timetables. Rather each Contractor's compliance posture shall be reviewed and determined by reviewing the contents of his program, the extent of his adherence to his program and his good faith efforts to make his program work toward the realization of the program's goals within the timetables set for completion.

"APPENDIX C" OF THE STATE EEO BID CONDITIONS

FEMALE UTILIZATION GOALS

OAC 123:2-3-05 Required utilization analysis and goals

(A) Each state-involved contractor shall include in his/her affirmative action program the information and analysis required pursuant to part IV 401-C of appendix A of rule 123:2-1-01 of the Administrative Code, in addition to female utilization requirements pursuant to the governor's "Executive Order 84-9" and this rule.

(B) As required by the governor's "Executive Order 84-9", the utilization of women shall be, at a minimum, that currently in use by the federal government as of February 15, 1984. This requirement stated at C.F.R. part 60-4 is 6.9 percent utilization of women. This requirement shall remain at 6.9 percent unless further amended by the governor in a subsequent order. This requirement shall be met by a determination of work hours utilized in the same manner as minority utilization hours are calculated.