



Expires – Upon Issuance of LPP

## Physical Incorporation of Form FHWA-1273

### I. BACKGROUND

Per federal policy, Form FHWA-1273 is required to be physically inserted into final contracts for federal-aid highway construction projects. Local Assistance Procedures Manual (LAPM) Chapter 12 specifies that Form FHWA-1273 must be physically inserted into a final contract signed by the Local Public Agency (LPA) and the contractor and subsequent subcontracts. However, the current language can be interpreted as optional rather than a requirement. This Office Bulletin revises the language and provides procedural clarity.

### II. POLICY

Upon the publication of the Office Bulletin, LPAs are required to follow the procedures described herein to physically insert the unmodified Form FHWA-1273 into the final contract signed by the LPA and the Contractor, and any subsequent subcontracts.

### III. PROCEDURE

The current language in LAPM Chapter 12, section 12.8: Federal Contract Requirements, subsection: Form FHWA-1273 is revised as follows:

#### Form FHWA-1273

Form FHWA-1273 is a package of federally-required contract provisions that must be physically included, unmodified, in the executed contract for all federal-aid projects. The provisions apply to all work performed on the contract including work performed by subcontract. The unmodified Form FHWA-1273 is required to be physically incorporated into each executed contract, subcontract, and subsequent lower-tier subcontracts. To be directly incorporated into the contract ~~would include means~~ one of the following:

- ~~Referencing the 1273 and wage rates in the main body of the contract and label, such as “Form FHWA-1273—Required Contract Provisions Federal-Aid Construction Contracts, Appendix B”~~
- ~~Placing headings on the Form FHWA-1273 and wage rates as referenced in the main body of the contract, such as “Appendix B”~~
- ~~Continuous page numbering on all pages including Form FHWA-1273 and wage rates~~
- ~~Contract number on all pages including Form FHWA-1273 and wage rates~~
- Form FHWA-1273 is inserted in the project’s final contract agreement package signed by the LPA and the contractor and continuously numbered on all pages including Form FHWA-1273.



or

- Form FHWA-1273 is referenced and numbered in the table of contents of the contract, and attached as an appendix. The appendix and the project's final contract agreement package signed by the LPA and the contractor must be within the same document.

In the same manner, Form FHWA-1273 must be physically inserted into any subsequent subcontracts.

~~FHWA does not consider placing Form FHWA-1273 in the special provisions or standards specifications to be directly incorporated into the contract. Additionally, while a link to the wage rate determination can be used in the original advertisement, it cannot be used in the final contract.~~

FHWA does not consider simply placing, or stapling Form FHWA-1273 in the special provisions or standards specifications to be directly incorporated into the contract. Even if contract documents such as the contract special provisions or standard specifications are considered by the LPA as part of the contract, the LPA still must insert the Form FHWA-1273 into the contract by one of the two methods mentioned above.

Failure of the LPA to incorporate Form FHWA-1273 in the executed contract makes the construction phase of the project ineligible for federal reimbursement. The prime contractor is responsible for compliance with the requirements by all subcontractors and lower tier subcontractors. Failure of the prime contractor to comply with this requirement is grounds for LPA termination of the contract with the contractor and debarment of the contractor by the FHWA.

#### IV. APPLICABILITY/IMPACTS

This Office Bulletin applies to all federal-aid projects.

Recommended: Approved by email on May 2, 2024

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