

Invitation to Bid
Washington County
Emergency Power Generators – #WC25-120425

The Commissioners' Court of Washington County will accept Sealed Bids until no later than **10:00 AM on December 4, 2025** for the generator projects described in this document. These projects will be purchased using the HMGP/FEMA funding source.

Washington County Emergency Power Generators

Fully and properly completed bids, including bid security, will be received at the office of the Washington County Clerk, located at 100 East Main St, Suite 102, Brenham, Texas, 77833.

Please contact Bobby Branham, Washington County Facility Maintenance Director, at (979)203-9733 or bbranham@washingtoncountytexas.gov to schedule project site visits.

The intent of this Invitation for Bids is to obtain an offer to perform work to complete a Standby generators and weatherproof enclosure located at the Expo Center and EMS Station #3, for a Stipulated Sum contract, in accordance with Contract Documents. The Work of this proposed Contract comprises building construction, including electrical and limited general construction work. The Work locations are listed in this document.

The schedule for this Work is of critical importance due to the areas of concentration currently being served. Construction and schedule coordination are imperative to ensure that the successful bidder has unobstructed access to the areas when necessary.

The following are key milestone events that have been identified in support of this solicitation:

Clarifications Deadline – **Thursday, November 20, 2025 by 5:00 PM**

Bids Due – **Thursday, December 4, 2025 by 10:00 AM**

Respondent Selection – **Tuesday, December 16, 2025 by 9:00 AM**

Contract Execution – **TBD**

Contractor's Construction Schedule for Approval – **TBD**

Your firm is welcome to submit a Sealed Bid to perform general construction for purchase and installation the generator projects listed in this bid. Your response should be completed on the completed Exhibit A - Sealed Bid Form. As the Owner, Washington County reserves the right to reject any or all bids received; and any or all formalities in connection therewith.

Addenda may be issued during the bidding period. All Addenda become part of Contract Documents. Direct questions to Bobby Branham by email at bbranham@washingtoncountytexas.gov. Questions will not be accepted after **5:00 PM on Thursday, November 20, 2025**. Questions/clarifications requested by bidders must be in writing, conveyed by email. Replies will be issued in the form of an Addendum, a copy of which will be posted publicly for review and use by all potential bidders. Verbal answers are not binding on any party. Include resultant costs in the Bid Amount.

To demonstrate qualification for performing the Work of this Contract, bidders are required to be registered with [SAM.gov](https://sam.gov) and have no suspensions or disbarments. If you are not registered in [SAM.gov](https://sam.gov), please do so immediately. The [SAM.gov](https://sam.gov) registration process takes around 30-45 minutes. Please note however, that it can take up to 14 days for a new or renewed registration to appear in the [SAM.gov](https://sam.gov) database. The awarded vendor will need to be searchable in the [SAM.gov](https://sam.gov) database at the time of the award.

Bidders may be requested to submit written evidence of financial position, and of applicable license to perform work in the State. Additionally, Owner reserves the right to reject any proposed contractor, subcontractor or vendor for reasonable cause.

Bidders are solely responsible for ensuring that their bids are delivered in the manner and within the time specified. Each submission shall include one (1) original, two (2) copies, and one (1) PDF copy on a USB thumb drive of the executed Bid Form(s). All materials must be signed and enclosed in a sealed, opaque envelope clearly labeled with the bidder's name, project name, and Owner's name. Failure to properly complete required information or irregularities in the bid bond may result in the bid envelope not being opened and the bid being deemed invalid or non-responsive.

Bids that are unsigned, improperly signed or sealed, conditional, illegible, obscure, contain arithmetical errors, erasures, alterations, or irregularities of any kind, and/or are delivered after bid due date and time may, at the discretion of the Owner, be declared unacceptable.

Bid Forms, Appendices, and enclosures that are improperly prepared may, at the discretion of the Owner, be declared unacceptable. Failure to provide security deposit, bonding or insurance requirements may, at the discretion of the Owner, invalidate the bid.

Bids shall be accompanied by a security deposit in the form of a Bid Bond of a sum no less than five percent (5%) of the Bid Amount. Endorse the Bid Bond in the name of the Owner as obligee, signed and sealed by the principal (Contractor) and surety. The security deposit will be returned after delivery to the Owner of the required Performance and Payment Bond(s) by the accepted bidder. Include the cost of bid security in the Bid Amount. If no contract is awarded, all security deposits will be returned.

Accepted Bidder shall provide Performance and Payment Bond(s) as required by Texas Local Government Code, Sec. 262.032 within 30 days of the award of the contract for the full amount of the contract. Include the cost of performance and payment assurance bonds in the Bid Amount.

Provide an executed Certificate of Insurance on a standard form provided by the insurance company stating their intention to provide insurance to the bidder in accordance with the insurance requirements of Contract Documents.

The bids will be scored by a scoring committee on the following criteria:

- Total cost including the chosen alternates and addenda-maximum of **40 points**
- Contractor's long-term experience with similar project types, scopes of work, and budgets-maximum of **30 points**
- Contractor's proposed personnel/resources-maximum of **15 points**
- Financial Condition-maximum of **5 points**
- Safety Record-maximum of **5 points**
- Other factors as deemed important and relevant by Washington County-maximum of **5 points**

Bids will be opened on **Thursday, December 4, 2025 at 10:00 AM** in the Commissioner's Court Chambers.
The contract will be awarded to the lowest, most responsive, and responsible bidder.

Bid Enclosures/Requirements

- Exhibit A: Sealed Bid Form-Expo Center Event Center Generator
- Exhibit B: Sealed Bid Form-Expo Center Office Building Generator
- Exhibit C: Sealed Bid Form-EMS Station #3 Generator
- Exhibit D: Sample AIA form A105-2017 (Owner/Contractor Agreement)
- Exhibit E: Contract Provisions

Attachment A: Bid Bond Form

Attachment B: Conflict of Interest Questionnaire

Attachment C: Non-Collusion Affidavit of Prime Bidder

Attachment D: Byrd Anti-Lobbying Amendment

Clean Air Act

Contract Work Hours and Safety Standards Act

Attachment D (cont'd): Equal Opportunity Guidelines

Attachment E: Lobbying Certification Form

Attachment F: Lobbying Disclosure Form

Attachment G: Form 1295

Attachment H: W9

Attachment I: Performance Bond Form

Attachment J: Payment Bond Form

Attachment K: Contracting with MWBEs Clause

Domestic Preference for Procurement

Procurement of Recovered Materials

Attachment L: Copeland Anti-Kickback Act

Attachment M: Equal Opportunity Clause

Attachment N: Remedies Clause

Termination Clause

Attachment O: *Not Used*

Attachment P: Rights to Inventions Clause

Attachment Q: Debarment and Suspension Clause

Prohibition on Certain Telecommunications and Video Surveillance Services
or Equipment

Attachment R: Access to Records Clause

Attachment S: Record Retention Clause

Attachment T: Solid Waste Disposal Act

EXHIBIT A: SEALED BID FORM

Project 1 Title: Washington County Expo Emergency Generators
Washington County Expo Event Center
1305 E Blue Bell Road, Brenham, Texas 77833

The undersigned bidder proposes to furnish all labor, equipment, and materials and perform all work necessary for construction of this project for the consideration of the following amount \$_____, the Lump Sum price and BASE BID. The costs per division are as follows:

Division	Totals
1. General Conditions	_____
General Conditions costs include but are not limited to:	
• Contractor's Site Facilities and Personnel • Cost of Builder's Risk Coverage • Cost of Performance & Payment Bonds • Cost of Building Permit	
2. Earthwork, Concrete Slab & Pads	_____
3. 400kW permanent natural gas emergency generator	_____
4. 600-amp service entrance rated ATS (Automatic transfer switch)	_____
5. Gas supply line from appropriate gas supply	_____
6. All required electrical wiring and connections	_____
7. Six-foot security fence	_____
TOTAL (LUMP SUM BID AMOUNT)	_____

Certification of Bid

The undersigned has carefully examined the bid package documents including any addenda issued and agrees to be bound by all requirements in the submission of this bid and in the performance of the contract if awarded to this bidder on this bid. The undersigned also declares that they are fully authorized to sign the bid on behalf of the firm listed and agree to all the conditions and provisions thereof. Additionally, the undersigned accepts and shall be responsible to comply with current Worker's Compensation Requirements as noted below. The firm name given below is the true and complete name of the bidder and the bidder is legally qualified and licensed to perform all the Work included in the scope of the Contract.

Name of Contractor: _____

Title: _____

Signature: _____ **Date:** _____

Indicate one:

- ☐ Sole Proprietorship
☐ Partnership (include signature of each partner)
☐ Corporation

Business Address: _____

Telephone Number: _____

Email Address: _____

EXHIBIT A: SEALED BID FORM

ADDENDA

The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Sum.

1. Addendum # _____ Dated _____.
2. Addendum # _____ Dated _____.

Return the following completed documents with this Bid Form:

Contractor's Certificate of Liability Insurance

Attachment A: Bid Bond Form

Attachment B: Conflict of Interest Questionnaire

Attachment C: Non-Collusion Affidavit of Prime Bidder

Attachment E: Lobbying Certification Form

Attachment F: Lobbying Disclosure Form

Attachment H: Form 1295

Attachment H: Vendor W9

Worker's Compensation Requirements

Texas Labor Code §406.096 requires a governmental entity that enters into a building or construction contract to obtain written certification that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project. Subcontractors must also provide the governmental entity with proof of coverage. Additionally, the governmental entity must include in bid specifications and contracts specific language and provisions found in 28 TAC §110.110(c)(7). Recipients are responsible for compliance with all applicable statutory policies. The Texas Department of Insurance – Division of Workers' Compensation regulates and enforces workers' compensation requirements and may be contacted at 800-372-7713 for more information.

EXHIBIT B: SEALED BID FORM

Project 1 Title: Washington County Expo Emergency Generators
Washington County Expo Office Annex
1305 E Blue Bell Road, Brenham, Texas 77833

The undersigned bidder proposes to furnish all labor, equipment, and materials and perform all work necessary for construction of this project for the consideration of the following amount \$_____, the Lump Sum price and BASE BID. The costs per division are as follows:

Division	Totals
1. General Conditions	_____
General Conditions costs include but are not limited to:	
• Contractor's Site Facilities and Personnel • Cost of Builder's Risk Coverage • Cost of Performance & Payment Bonds • Cost of Building Permit	
2. Earthwork, Concrete Slab & Pads	_____
3. 260kW permanent natural gas emergency generator	_____
4. 400-amp service entrance rated ATS (Automatic transfer switch)	_____
5. Gas supply line from appropriate gas supply	_____
6. All required electrical wiring and connections	_____
7. Six-foot security fence	_____
TOTAL (LUMP SUM BID AMOUNT)	_____

Certification of Bid

The undersigned has carefully examined the bid package documents including any addenda issued and agrees to be bound by all requirements in the submission of this bid and in the performance of the contract if awarded to this bidder on this bid. The undersigned also declares that they are fully authorized to sign the bid on behalf of the firm listed and agree to all the conditions and provisions thereof. Additionally, the undersigned accepts and shall be responsible to comply with current Worker's Compensation Requirements as noted below. The firm name given below is the true and complete name of the bidder and the bidder is legally qualified and licensed to perform all the Work included in the scope of the Contract.

Name of Contractor: _____

Title: _____

Signature: _____ **Date:** _____

Indicate one:

- ☐ Sole Proprietorship
☐ Partnership (include signature of each partner)
☐ Corporation

Business Address: _____

Telephone Number: _____

Email Address: _____

EXHIBIT B: SEALED BID FORM

ADDENDA

The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Sum.

1. Addendum # _____ Dated _____.
2. Addendum # _____ Dated _____.

Return the following completed documents with this Bid Form:

Contractor's Certificate of Liability Insurance

Attachment A: Bid Bond Form

Attachment B: Conflict of Interest Questionnaire

Attachment C: Non-Collusion Affidavit of Prime Bidder

Attachment E: Lobbying Certification Form

Attachment F: Lobbying Disclosure Form

Attachment H: Form 1295

Attachment H: Vendor W9

Worker's Compensation Requirements

Texas Labor Code §406.096 requires a governmental entity that enters into a building or construction contract to obtain written certification that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project. Subcontractors must also provide the governmental entity with proof of coverage. Additionally, the governmental entity must include in bid specifications and contracts specific language and provisions found in 28 TAC §110.110(c)(7). Recipients are responsible for compliance with all applicable statutory policies. The Texas Department of Insurance – Division of Workers' Compensation regulates and enforces workers' compensation requirements and may be contacted at 800-372-7713 for more information.

EXHIBIT C: SEALED BID FORM

Project 2 Title: Washington County EMS Station #3 Emergency Generator
235 N Colorado Street, Burton, Texas 77835

The undersigned bidder proposes to furnish all labor, equipment, and materials and perform all work necessary for construction of this project for the consideration of the following amount \$_____, the Lump Sum price and BASE BID. The costs per division are as follows:

Division	Totals
1. General Conditions	_____
General Conditions costs include but are not limited to:	
• Contractor's Site Facilities and Personnel • Cost of Builder's Risk Coverage • Cost of Performance & Payment Bonds • Cost of Building Permit	
2. Demolition	_____
3. Earthwork, Concrete Slab & Pads	_____
4. 30kW permanent LP gas emergency generator	_____
5. 200-amp service entrance rated ATS (Automatic transfer switch)	_____
6. Underground 1000 gallon LP gas tank	_____
7. All required electrical wiring, connections, gas connections	_____
TOTAL (LUMP SUM BID AMOUNT)	_____

Certification of Bid

The undersigned has carefully examined the bid package documents including any addenda issued and agrees to be bound by all requirements in the submission of this bid and in the performance of the contract if awarded to this bidder on this bid. The undersigned also declares that they are fully authorized to sign the bid on behalf of the firm listed and agree to all the conditions and provisions thereof. Additionally, the undersigned accepts and shall be responsible to comply with current Worker's Compensation Requirements as noted below. The firm name given below is the true and complete name of the bidder and the bidder is legally qualified and licensed to perform all the Work included in the scope of the Contract.

Name of Contractor: _____

Title: _____

Signature: _____ **Date:** _____

Indicate one:

- ☐ Sole Proprietorship
☐ Partnership (include signature of each partner)
☐ Corporation

Business Address: _____

Telephone Number: _____

Email Address: _____

EXHIBIT C: SEALED BID FORM

ADDENDA

The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Sum.

1. Addendum # _____ Dated _____.
2. Addendum # _____ Dated _____.

Return the following completed documents with this Bid Form:

Contractor's Certificate of Liability Insurance

Attachment A: Bid Bond Form

Attachment B: Conflict of Interest Questionnaire

Attachment C: Non-Collusion Affidavit of Prime Bidder

Attachment E: Lobbying Certification Form

Attachment F: Lobbying Disclosure Form

Attachment H: Form 1295

Attachment H: Vendor W9

Worker's Compensation Requirements

Texas Labor Code §406.096 requires a governmental entity that enters into a building or construction contract to obtain written certification that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project. Subcontractors must also provide the governmental entity with proof of coverage. Additionally, the governmental entity must include in bid specifications and contracts specific language and provisions found in 28 TAC §110.110(c)(7). Recipients are responsible for compliance with all applicable statutory policies. The Texas Department of Insurance – Division of Workers' Compensation regulates and enforces workers' compensation requirements and may be contacted at 800-372-7713 for more information.

ATTACHMENT A

BID BOND <i>(See instructions on reverse)</i>	DATE BOND EXECUTED <i>(Must not be later than bid opening date)</i>	OMB Control Number: 9000-0045 Expiration Date: 8/31/2022
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Paperwork Reduction Act Statement - This information collection meets the requirements of 44 USC§ 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0045. We estimate that it will take 1 hour to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

PRINCIPAL <i>(Legal name and business address)</i>	TYPE OF ORGANIZATION <i>("X" one)</i> ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ JOINT VENTURE ☐ OoRPORTATION ☐ OoTHER <i>(Specify)</i> STATE OF INCORPORATION
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SURETY(IES) *(Name and business address)*

PENAL SUM OF BOND					BID IDENTIFICATION	
PERCENT OF BID PRICE	AMOUNT NOT TO EXCEED				BID DATE	INVITATION NUMBER
	MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS	FOR <i>(Construction, Supplies or Services)</i>	

OBLIGATION:

We, the Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The Principal has submitted the bid identified above.

THEREFORE:

The above obligation is void if the Principal - (a) upon acceptance by the Government of the bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), executes the further contractual documents and gives the bond(s) required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by the principal; or (b) in the event of failure to execute such further contractual documents and give such bonds, pays the Government for any cost of procuring the work which exceeds the amount of the bid.

Each Surety executing this instrument agrees that its obligation is not impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the Government. Notice to the surety(ies) of extension(s) is waived. However, waiver of the notice applies only to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.

WITNESS:

The Principal and Surety(ies) executed this bid bond and affixed their seals on the above date.

PRINCIPAL					
SIGNATURE(S)	1.	2.	3.	Corporate Seal	
	(Seal)	(Seal)	(Seal)		
NAME(S)& TITLE(S) <i>(Typed)</i>	1.	2.	3.		
INDIVIDUAL SURETY(IES)					
SIGNATURE(S)	1.		2.		Corporate Seal
	(Seal)		(Seal)		
NAME(S) <i>(Typed)</i>	1.		2.		
CORPORATE SURETY(IES)					
	NAME& ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT(\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(\$) <i>(Typed)</i>	1.	2.		

III W C 1	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT(\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
0 W C 1	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT(\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
C W C 1	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT(\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
W C 1	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT(\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
II. W C 1	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT(\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		
(I) W C 1	NAME & ADDRESS		STATE OF INCORPORATION	LIABILITY LIMIT(\$)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) (Typed)	1.	2.		

INSTRUCTIONS

1. This form is authorized for use when a bid guaranty is required. Any deviation from this form will require the written approval of the Administrator of General Services.
2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.
3. The bond may express penal sum as a percentage of the bid price. In these cases, the bond may state a maximum dollar limitation (e.g., 20% of the bid price but the amount not to exceed _____dollars).
4. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitations listed therein. The value put into the LIABILITY LIMIT block is the penal sum (i.e., the face value) of the bond, unless a co-surety arrangement is proposed.

(b) When multiple corporate sureties are involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY(IES)" on the face of the form, insert only the letter identifier corresponding to each of the sureties. Moreover, when co-surety arrangements exist, the parties may allocate their respective limitations of liability under the bond, provided that the sum total of their liability equals 100% of the bond penal sum.

(c) When individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28) for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning its financial capability.
5. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Corporate Seal"; and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.
6. Type the name and title of each person signing this bond in the space provided.
7. In its application to negotiated contracts, the terms "bid" and "bidder" shall include "bid" and "offeror."

CONFLICT OF INTEREST QUESTIONNAIRE**FORM CIQ****For vendor doing business with local governmental entity****This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes

☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes

☐ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

- (2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;
or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

- (1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a invitation for bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

- (2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

ATTACHMENT C

NON-COLLUSIVE AFFIDAVIT

State of _____

County of _____

_____ being first duly sworn,
deposes and says:

That he/she is _____ (a partner or officer of the firm of, etc.) the
party making the foregoing bid, and attests to the following:

- (1) That Affiant employed no person, corporation, firm, association, or other organization, either directly or indirectly, to secure the public contract under which he/she received payment, other than persons regularly employed by the Affiant whose services in connection with the construction of public building or project, or in securing the public contract were in the regular course of their duties for Affiant; and
- (2) That no part of the contract price received by Affiant was paid to any person, corporation, firm, association or other organization for soliciting the contract, other than the payment of their normal compensation to persons regularly employed by the Affiant whose services in connection with the construction of the public building or project were in the regular course of their duties for Affiant; and
- (3) That such bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any Bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of Affiant or of any other Bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other Bidder, or to secure any advantage against the Housing Authority of any person interested in the proposed contract; and that all statements in said bid are true.

(Name of Organization)

(Title of Person Signing)

(Signature)

*Bidder if the bidder is an individual; all partners if Bidder is a partnership; officer if Bidder is a corporation.

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public

My Commission expires: _____

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

*** APPLICANT'S ORGANIZATION***** PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE**Prefix: * First Name: Middle Name: * Last Name: Suffix: * Title: *** SIGNATURE:***** DATE:**

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

1. * Type of Federal Action: ☐ a. contract ☒ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance		2. * Status of Federal Action: ☐ a. bid/offer/application ☒ b. initial award ☐ c. post-award		3. * Report Type: ☒ a. initial filing ☐ b. material change	
4. Name and Address of Reporting Entity: ☒ Prime ☐ SubAwardee * Name * Street 1 Street 2 * City State Zip Congressional District, if known:					
5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime: 					
6. * Federal Department/Agency: 			7. * Federal Program Name/Description: CFDA Number, if applicable:		
8. Federal Action Number, if known: 			9. Award Amount, if known: \$		
10. a. Name and Address of Lobbying Registrant: Prefix * First Name Middle Name * Last Name Suffix * Street 1 Street 2 * City State Zip					
b. Individual Performing Services (including address if different from No. 10a) Prefix * First Name Middle Name * Last Name Suffix * Street 1 Street 2 * City State Zip					
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. * Signature: Completed on submission to Grants.gov *Name: Prefix * First Name Middle Name * Last Name Suffix Title: Telephone No.: Date: Completed on submission to Grants.gov					
Federal Use Only:					Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3	Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
---	---

[illegible]

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.

(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)

ADD ADDITIONAL PAGES AS NECESSARY

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the
requester. Do not
send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ►

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ►

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code *Qf* any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

Requester's name and address (optional)

Washington County Auditor
105 E. Main, Ste 104
Brenham, TX 77833

6 City, state, and ZIP code

7 List account number(s) here (optional)

●●

Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid

Social security number

backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

[ID -DJ -11111]
or
Employer identification number

Part II Certification

Under penalties of perjury, I certify that

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part I, later.

Sign
Here

Signature of
U.S. person ►

Date ►

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding.

ATTACHMENT H

later.

Cat. No. 10231X

Form **W-9** (Rev. 10-2018)

AIA[®] Document A105[™] – 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the « » day of « » in the year « »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

« »
« »
« »
« »

and the Contractor:
(Name, legal status, address and other information)

« »
« »
« »
« »

for the following Project:
(Name, location and detailed description)

« »
« »
« »

The Architect:
(Name, legal status, address and other information)

« »
« »
« »
« »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared by the Architect, dated « », and enumerated as follows:

Drawings:

Number	Title	Date

Specifications:

Section	Title	Pages

- .3 addenda prepared by the Architect as follows:

Number	Date	Pages

- .4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and

.5 other documents, if any, identified as follows:

« »

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

Unless otherwise set forth below, the date of commencement shall be the date of this Agreement.
(Insert the date of commencement if other than the date of this Agreement.)

« »

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:
(Check the appropriate box and complete the necessary information.)

[« »] Not later than « » (« ») calendar days from the date of commencement.

[« »] By the following date: « »

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

« » (\$ « »)

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:
(Itemize the Contract Sum among the major portions of the Work.)

Portion of the Work

Value

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:

(Identify the accepted alternates. If the bidding or bid documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

« »

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:
(Identify each allowance.)

Item

Price

§ 3.5 Unit prices, if any, are as follows:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item

Units and Limitations

Price per Unit (\$0.00)

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor's Applications for Payment certified by the Architect, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

(Insert below timing for payments and provisions for withholding retainage, if any.)

« »

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.

(Insert rate of interest agreed upon, if any.)

« » % « »

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than « » (\$ « ») each occurrence, « » (\$ « ») general aggregate, and « » (\$ « ») aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than « » (\$ « ») per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

§ 5.1.5 Employers' Liability with policy limits not less than « » (\$ « ») each accident, « » (\$ « ») each employee, and « » (\$ « ») policy limit.

§ 5.1.6 The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

§ 5.1.7 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits
----------	--------

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Architect, Architect's consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

§ 6.3 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§ 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect.

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.
(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

« »

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

§ 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Architect may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.

§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts

§ 7.4.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Architect.

§ 8.2 Contractor's Construction Schedule

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work.

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 8.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 8.5 Warranty

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5.

§ 8.6 Taxes

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

§ 8.7 Permits, Fees and Notices

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

§ 8.10 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 8.11 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials.

§ 8.12 Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

ARTICLE 9 ARCHITECT

§ 9.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from the Contract Documents, and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit.

§ 10.2 The Architect may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

§ 10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment.

§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 12.2 Applications for Payment

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

§ 12.3 Certificates for Payment

The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within such seven day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 12.4 Progress Payments

§ 12.4.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 12.5 Substantial Completion

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Architect and the Architect will make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work is substantially complete, the Architect shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the Architect as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Architect requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.3 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

§ 16.2 Termination by the Owner for Cause

§ 16.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 16.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

« »

This Agreement entered into as of the day and year first written above.

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

« »

OWNER *(Signature)*

« »« »

(Printed name and title)

CONTRACTOR *(Signature)*

« »« »

(Printed name and title)

LICENSE NO.:

JURISDICTION:

EXHIBIT E – Contract Provisions

2 CFR 200.327 Contract provisions. The non-Federal entity's contracts should contain applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards. The non-Federal entity's contracts must contain the provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards, as applicable. ***Language as of May 1, 2022.**

All Contracts

THRESHOLD	PROVISION	CITATION
>\$250,000 (Simplified Acquisition Threshold)	Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908 , must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.	2 CFR 200 APPENDIX II (A)
>\$10,000	All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.	2 CFR 200 APPENDIX II (B)
None	Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” 41 CFR 60-1.4 Equal opportunity clause. (b) Federally assisted construction contracts. (1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause: The [recipient] hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause: During the performance of this contract, the contractor agrees as follows: (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:	2 CFR 200 APPENDIX II I and 41 CFR §60-1.4(b)

	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 contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin. (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information. (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment. (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor. (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders. (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law. (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:	
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	Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. The [recipient] further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the [recipient] so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The recipient] agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the recipienting agency in the discharge of the agency's primary responsibility for securing compliance. The recipient further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the [recipient] agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the [recipient] under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such [recipient]; and refer the case to the Department of Justice for appropriate legal proceedings.	
>\$10,000,000 for ARPA but State Provision Applies at any amount.	Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$10,000,00 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.	2 CFR 200 APPENDIX II (D)

>\$100,000	Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704 , as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.	2 CFR 200 APPENDIX II I
None	Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401 , “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.	2 CFR 200 APPENDIX II (F)
>\$150,000	Clean Air Act (42 U.S.C. 7401-7671q .) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended – Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable 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). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).	2 CFR 200 APPENDIX II (G)
>\$25,000	Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.	2 CFR 200 APPENDIX II (H)
>\$100,000	Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352 . Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.	2 CFR 200 APPENDIX II (I) and 24 CFR §570.303

	See 2 CFR §200.323.	2 CFR 200 APPENDIX II (J)
	See 2 CFR §200.216.	2 CFR 200 APPENDIX II (K)
	See 2 CFR §200.322.	2 CFR 200 APPENDIX II (L)
>\$10,000	An NFE (non-Federal Entity) that is a state agency or an agency of a political subdivision of a state, and the NFE's contractors must comply with Section 6002 of the Solid Waste Disposal Act. ⁵⁶ Applicable NFEs must include a contract provision requiring compliance with this requirement. ⁵⁷ This includes contracts awarded by a state agency or political subdivision of a state and its contractors for certain items, as designated by the EPA, with a purchase price greater than \$10,000. ⁵⁸ Indian Tribal Governments and nonprofit organizations are not required to comply with this provision. Additional requirements are listed below.	2 CFR 200.323
None	Section 889(b)(1) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY2019 NDAA) and 2 C.F.R. § 200.216, as implemented by FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), prohibit the obligation or expending of federal award funds on certain telecommunication products or from certain entities for national security reasons. Effective August 13, 2020, FEMA recipients and subrecipients, as well as their contractors and subcontractors, may not obligate or expend any FEMA award funds to: a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; or c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.	2 CFR 200.216
None	As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section: (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.	2 CFR 200.322(a)(b)(1)(2)

None	The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.	2 CFR 200.112
None	The Federal awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine-readable formats rather than in closed formats or on paper in accordance with applicable legislative requirements. A machine-readable format is a format in a standard computer language (not English text) that can be read automatically by a web browser or computer system. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award-related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.	2 CFR 200.336
None	Contracting with HUB, small and minority businesses, women's business enterprises, and labor surplus area firms. (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. (b) Affirmative steps must include: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.	2 CFR 200.321

None	Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. All records related to ARPA shall be maintained for 5 years per the ARPA terms, conditions, and regulations. The only exceptions are the following: (a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. All records related to ARPA shall be maintained for 5 years per the ARPA terms, conditions and regulations. (b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period. (c) Records for real property and equipment acquired with Federal funds must be retained for three years after final disposition. All records related to ARPA shall be maintained for 5 years per the ARPA terms and conditions and regulations. (d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity All records related to ARPA shall be maintained for 5 years per the ARPA terms and conditions and regulations. All records related to ARPA shall be maintained for 5 years per the ARPA terms, conditions, and regulations. (e) Records for program income transactions after the period of performance. In some cases, recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned. (f) Indirect cost rate bids and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: Indirect cost rate computations or bids, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates). (1) <i>If submitted for negotiation.</i> If the bid, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission. All records related to ARPA shall be maintained for 5 years per the ARPA terms, conditions, and regulations. (2) <i>If not submitted for negotiation.</i> If the bid, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the bid, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the bid, plan, or other computation. All records related to ARPA shall be maintained for 5 years per the ARPA terms, conditions, and regulations.	2 CFR 200.334
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None	CONTRACTS WITH COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION PROHIBITED. A governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Section 806.051, 807.051, or 2252.153 . The term "foreign terrorist organization" in this paragraph has the meaning assigned to such a term in Section 2252.151(2) of the Texas Government Code.	Texas Government Code 2252.152
>\$100,000	PROVISION REQUIRED IN CONTRACT. (a) This section applies only to a contract that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. (b) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.	Texas Government Code 2271
Option Contract Language for contracts awarded prior to Grant Award	The contract award is contingent upon the receipt of ARPA funds. If no such funds are awarded, the contract shall terminate.	Optional
	Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.	42 U.S.C. 6201
	The Firm agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.	Section 504 of the Rehabilitation Act of 1973, as amended.
ARPA Terms, Conditions, & Records	Any parties whether the recipient, vendor, contractor, subcontractor etc. agrees to all terms and conditions for ARPA funding with regards to the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund. This includes and not limited to the use of funds, maintenance of and access to records, pre award costs, administrative cost, cost sharing, conflict of interest, compliance with applicable law and regulations, remedial actions, Hatch Act, false statements, publications, debts owned to the federal government, and applicable disclaimers. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later. Protections for Whistleblowers. a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or	Section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2; Section 602(b), 603(b) and/or 603 (c) as applicable

	safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant. b. The list of persons and entities referenced in the paragraph above includes the following: i. A member of Congress or a representative of a committee of Congress; ii. An Inspector General; iii. The Government Accountability Office; iv. A Treasury employee responsible for contract or grant oversight or management; v. An authorized official of the Department of Justice or other law enforcement agency; vi. A court or grand jury; or vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct. c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers	
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Attachment D: Byrd Anti-Lobbying Amendment Clean Air Act Contract Work Hours and Safety Standards Act Equal Opportunity Guidelines

OMB Guidance

pt_ 200, App. II

H. OTHER INFORMATION-OPTIONAL

This section may include any additional information that will assist a potential applicant. For example, the section might:

- i. Indicate whether this is a new program or a one-time initiative.
- ii. Mention related programs or other upcoming or ongoing Federal awarding agency funding opportunities for similar activities.
- iii. Include current Internet addresses for Federal awarding agency Web sites that may be useful to an applicant in understanding the program.
- iv. Alert applicants to the need to identify proprietary information and inform them about the way the Federal awarding agency will handle it.
- v. Include certain routine notices to applicants (e.g., that the Federal Government is not obligated to make any Federal award as a result of the announcement or that only grants officers can bind the Federal Government to the expenditure of funds).

[78 FR 78608, Dec. 26, 2013, as amended at 80 FR 43310, July 22, 2015; 85 FR 49575, Aug. 13, 2020]

APPENDIX II TO PART 200-CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract

Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from including, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary,

hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "[un]clning agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable 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). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)---A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.323.

(K) See §200.216.

(L) See §200.322.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]

APPENDIX III TO PART 200--INDIRECT (F&A) COSTS IDENTIFICATION AND ASSIGNMENT, AND RATE DETERMINATION FOR INSTITUTIONS OF HIGHER EDUCATION (IHES)

A. GENERAL

This appendix provides criteria for identifying and computing indirect (or indirect (F&A)) rates at IHES (institutions). Indirect (F&A) costs are those that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. See subsection B.1 for a discussion of the components of indirect (F&A) costs.

1. Major Functions of an Institution

Refers to instruction, organized research, other sponsored activities and other institutional activities as defined in this section:

a. *Instruction* means the teaching and training activities of an institution. Except for research training as provided in subsection b, this term includes all teaching and training activities, whether they are offered for credits toward a degree or certificate or on a non-credit basis, and whether they are offered through regular academic departments or separate divisions, such as a summer school division or an extension division. Also considered part of this major function are departmental research, and, where agreed to, university research.

(1) *Sponsored instruction and training* means specific instructional or training activity established by grant, contract, or cooperative agreement. For purposes of the cost principles, this activity may be considered a major function even though an institution's accounting treatment may include it in the instruction function.

(2) *Departmental research* means research, development and scholarly activities that are not organized research and, consequently, are not separately budgeted and accounted for. Departmental research, for purposes of this document, is not considered as a major function, but as a part of the instruction function of the institution.

(3) Only mandatory cost sharing or cost sharing specifically committed in the project budget must be included in the organized research base for computing the indirect (F&A)

Attachment K: Contracting with MWBEs Clause

Domestic Preference for Procurement

Procurement of Recovered Materials

OMB Guidance

§200.323

(iv) The non-Federal entity may use sealed bid procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort.

(c) *Noncompetitive procurement.* There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

(1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);

(2) The item is available only from a single source;

(3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;

(4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or

(5) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller

tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

§ 200.322 Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

§ 200.323 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the

ATTACHMENT L: COPELAND ANTI-KICKBACK ACT

22.403-2

States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works within the United States, shall contain a clause (see 52.222-6) that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor.

[79 FR 24203, Apr. 29, 2014]

22.403-2 Copeland Act.

The Copeland (Anti-Kickback) Act (18 U.S.C. 874 and 40 U.S.C. 3145) makes it unlawful to induce, by force, intimidation, threat of procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment. The Copeland Act also requires each contractor and subcontractor to furnish weekly a statement of compliance with respect to the wages paid each employee during the preceding week. Contracts subject to the Copeland Act shall contain a clause (see 52.222-10) requiring contractors and subcontractors to comply with the regulations issued by the Secretary of Labor under the Copeland Act.

[53 FR 4935, Feb. 18, 1988, as amended at 70 FR 57454, Sept. 30, 2005]

22.403-3 Contract Work Hours and Safety Standards.

40 U.S.C. chapter 37, Contract Work Hours and Safety Standards, requires that certain contracts (see 22.305) contain a clause (see 52.222-4) specifying that no laborer or mechanic doing any part of the work contemplated by the contract shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1 1/2 times the basic rate of pay (see 22.301).

[79 FR 24203, Apr. 29, 2014]

22.403-4 Executive Order 13658.

Executive Order 13658 establishes minimum wages for certain workers. The wage rate is subject to annual increases by an amount determined by

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the Secretary of Labor. See subpart 22.19. The clause at 52.222-55, Minimum Wages under Executive Order 13658, requires the Executive Order 13658 minimum wage rate to be paid if it is higher than other minimum wage rates, such as the subpart 22.4 statutory wage determination amount.

[79 FR 74549, Dec. 15, 2014. Reclesignatecl at 81 FR 91630, Dec. 16, 2016]

22.403-5 Executive Order 13706.

Executive Order 13706 establishes paid sick leave for employees of certain Federal contractors. See subpart 22.21 and the clause at 52.222-62, Paid Sick Leave under Executive Order 13706.

[81 FR 91630, Dec. 16, 2016]

22.403-6 Department of Labor regulations involving construction.

(a) Under the statutes and Executive orders referred to in 22.403 and Reorganization Plan No. 14 of 1950 (3 CFR 1949-53 Comp., p. 1007), the Secretary of Labor has issued regulations in title 29, subtitle A, Code of Federal Regulations, prescribing standards and procedures to be observed by the Department of Labor and the Federal contracting agencies. Those standards and procedures applicable to contracts involving construction are implemented in this subpart.

(b) The Department of Labor regulations include-

(1) Part 1, relating to Construction Wage Rate Requirements statute minimum wage rates;

(2) Part 3, relating to the Copeland (Anti-Kickback) Act and requirements for submission of weekly statements of compliance and the preservation and inspection of weekly payroll records;

(3) Part 5, relating to enforcement of the-

(i) Construction Wage Rate Requirements statute;

(ii) Contract Work Hours and Safety Standards statute; and

(iii) Copeland (Anti-Kickback) Act;

(4) Part 6, relating to rules of practice for appealing the findings of the Administrator, Wage and Hour Division, in enforcement cases under the various labor statutes, and by which Administrative Law Judge hearings are held;

ATTACHMENT M: EQUAL OPPORTUNITY CLAUSE

§60-1.4

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the order. The term "first-tier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

United States as used herein shall include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, and the possessions of the United States.

United States, as used herein, shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Wake Island.

[43 FR 49240, Oct. 20, 1978, as amended at 61 FR 19988, May 3, 1996; 62 FR 44188, Aug. 19, 1997; 62 FR 66971, Dec. 22, 1997; 70 FR 58961, Oct. 7, 2005; 80 FR 54974, Sept. 11, 2015]

§ 60-1.4 Equal opportunity clause.

(a) *Government contracts.* Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract):

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be 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 by the contracting officer 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 contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) 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 the contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the

Federal Contract Compliance Programs, Labor

§60-1.4

Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) *Federally assisted construction contracts.* (1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be 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 non-discrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or

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order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take

any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(2) [Reserved]

(c) *Subcontracts*. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) *Inclusion of the equal opportunity clause by reference*. The equal opportunity clause may be included by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Director of OFCCP may designate.

(e) *Incorporation by operation of the order*. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(f) *Adaptation of language*. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

[80 FR 54975, Sept. 11, 2015]

§ 60-1.5 Exemptions.

(a) *General-(1) Transactions of \$10,000 or under*. Contracts and subcontracts not exceeding \$10,000, other than Government bills of lading, and other than contracts and subcontracts with depositories of Federal funds in any amount and with financial institutions which are issuing and paying agents for U.S. savings bonds and savings notes, are exempt from the requirements of

Attachment N: Remedies Clause Termination Clause

§200.339

Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under §200.315. Unless required by Federal, state, local, and tribal statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

REMEDIES FOR NONCOMPLIANCE

§ 200.339 Remedies for noncompliance.

If a non-Federal entity fails to comply with the U.S. Constitution, Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in §200.208. If the Federal awarding agency or pass-through entity determines that non-compliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

(a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.

(b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(c) Wholly or partly suspend or terminate the Federal award.

(d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).

(e) Withhold further Federal awards for the project or program.

(f) Take other remedies that may be legally available.

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§ 200.340 Termination.

(a) The Federal award may be terminated in whole or in part as follows:

(1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;

(2) By the Federal awarding agency or pass-through entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

(3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;

(4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety; or

(5) By the Federal awarding agency or pass-through entity pursuant to termination provisions included in the Federal award.

(b) A Federal awarding agency should clearly and unambiguously specify termination provisions applicable to each Federal award, in applicable regulations or in the award, consistent with this section.

(c) When a Federal awarding agency terminates a Federal award prior to the end of the period of performance due to the non-Federal entity's material failure to comply with the Federal award terms and conditions, the Federal awarding agency must report the termination to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS).

§6.6

interest in and to the invention in the government employee, subject to law.

(4) In any case wherein the Government neither (i) obtains the entire domestic right, title, and interest in and to an invention pursuant to the provisions of paragraph (b)(1) of this section, nor (ii) reserves a nonexclusive, irrevocable, royalty-free license in the invention, with power to grant sub-licenses for all governmental purposes, pursuant to the provisions of paragraph (b)(2) of this section, the Solicitor, subject to the approval of the Commissioner, shall leave the entire right, title, and interest in and to the invention in the employee, subject to law.

(c) In the event that the Solicitor determines, pursuant to paragraph (b) (2) or (4) of this section, that title to an invention will be left with an employee, the Solicitor shall notify the employee of this determination and promptly prepare, and preserve in appropriate files, accessible to the Commissioner, a written signed, and dated statement concerning the invention including the following:

(1) A description of the invention in sufficient detail to identify the invention and show the relationship to the employee's duties and work assignment;

(2) The name of the employee and his employment status, including a detailed statement of his official duties and responsibilities at the time the invention was made; and

(3) A statement of the Solicitor's determination and reasons therefor. The Solicitor shall, subject to considerations of national security, or public health, safety, or welfare, submit to the Commissioner a copy of this written statement. This submittal in a case falling within the provisions of paragraph (b) (2) of this section shall be made after the expiration of the period prescribed in §6.6 for the taking of an appeal, or it may be made prior to the expiration of such period if the employee acquiesces in the Solicitor's determination. The Commissioner thereupon shall review the determination of the Solicitor and the Commissioner's decision respecting the matter shall be final, subject to the right of the employee or the Solicitor to submit to the

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Commissioner within 30 days (or such longer period as the Commissioner may, for good cause, shown in writing, fix in any case) after receiving notice of such decision, a petition for the reconsideration of the decision. A copy of such petition must also be filed by the inventor with the Solicitor within the prescribed period.

§ 6.6 Appeals by employees.

(a) Any employee who is aggrieved by a determination of the Solicitor pursuant to §6.5(b) (1) or (2) may obtain a review of the determination by filing, within 30 days (or such longer period as the Commissioner may for good cause shown in writing, fix in any case) after receiving notice of such determination, two copies of an appeal with the Commissioner. The Commissioner then shall forward one copy of the appeal to the Solicitor.

(b) On receipt of a copy of an appeal filed pursuant to paragraph (a) of this section, the Solicitor shall, subject to considerations of national security, or public health, safety, or welfare, promptly furnish both the Commissioner and the inventor with a copy of a report containing the following information about the invention involved in the appeal:

(1) A copy of a statement containing the information specified in §6.5(c), and

(2) A detailed statement of the points of dispute or controversy, together with copies of any statements or written arguments that may have been filed, and of any other relevant evidence that the Solicitor considered in making his determination of Government interest. Within 25 days (or such longer period as the Commissioner may, for good cause shown, fix in any case) after the transmission of a copy of the Solicitor's report to the employee, the employee may file a reply thereto with the Commissioner and file one copy thereof with the Solicitor.

(c) After the time for the employee's reply to the Solicitor's report has expired and if the employee has so requested in his appeal, a date will be set for the hearing of oral arguments by the employee (or by an attorney whom he designates by written power of attorney filed before, or at the hearing) and the Solicitor. Unless it shall be

ATTACHMENT P: RIGHTS TO INVENTIONS CLAUSE

Office of the Secretary, Interior

§6.5

(c) If the employee inventor requests that the Solicitor determine his rights in the invention, the head of the bureau or office shall state his conclusions with respect to such rights.

(d) The head of the bureau or office shall indicate whether, in his judgment, the invention is liable to be used in the public interest, and he shall set out the facts supporting his conclusion whenever the employee's invention report does not contain sufficient information on this point.

§ 6.4 Action by Solicitor.

(a) If an employee inventor requests pursuant to §6.2(e), that such determination be made, the Solicitor shall determine the respective rights of the employee and of the Government in and to the invention. His determination shall be subject to review by the Commissioner in proper cases under Executive Orders 10096 and 10930 and the rules and regulations issued by the Commissioner with the approval of the President.

(b) If the Government is entitled to obtain the entire domestic right, title and interest in and to an invention made by an employee of the Department, the Solicitor, subject to review by the Commissioner in proper cases, may take such action respecting the invention as he deems necessary or advisable to protect the interests of the United States.

§ 6.5 Rights in inventions.

(a) The rules prescribed in this section shall be applied in determining the respective rights of the Government and of an employee of the Department in and to any invention made by the employee.

(b)(1) Except as indicated in the succeeding paragraphs, (b) (1) through (4), of this section, the Government shall obtain the entire domestic right, title, and interest in and to any invention made by an employee of the Department

(i) During working hours, or

(ii) With a contribution by the Government of facilities, equipment, materials, funds, or information, or of time or services of other government employees on official duty, or

(iii) Which bears a direct relation to or is made in consequence of the official duties of the inventor.

(2) In any case where the contribution of the Government, as measured by any one or more of the criteria set forth in paragraph (b)(1) of this section, to the invention is insufficient equitably to justify a requirement of assignment to the Government of the entire domestic right, title, and interest in and to such invention, or in any case where the Government has insufficient interest in an invention to obtain the entire domestic right, title, and interest therein (although the Government could obtain same under paragraph (b)(1) of this section), the Solicitor, subject to the approval of the Commissioner, shall leave title to such invention in the employee, subject, however, to the reservation to the Government of a nonexclusive, irrevocable, royalty-free license in the invention with power to grant sublicenses for all governmental purposes, such reservation, in the terms thereof, to appear, where practicable, in any patent, domestic or foreign, which may issue on such invention.

(3) In applying the provisions of paragraphs (b) (1) and (2) of this section to the facts and circumstances relating to the making of any particular invention, it shall be presumed that any invention made by an employee who is employed or assigned (i) to invent or improve or perfect any art, machine, manufacture, or composition of matter, or (ii) to conduct or perform research, development work, or both, or

(iii) to supervise, direct, coordinate, or review Government financed or conducted research, development work, or both, or (iv) to act in a liaison capacity among governmental or nongovernmental agencies or individuals engaged in such work, falls within the provisions of paragraph (b)(1) of this section, and it shall be presumed that any invention made by any other employee falls within the provisions of paragraph (b)(2) of this section. Either presumption may be rebutted by a showing of the facts and circumstances in the case and shall not preclude a determination that these facts and circumstances justify leaving the entire right, title and

Attachment Q: Debarment and Suspension Clause Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

§180.115

subject to the discretion of a Federal agency official, may have a different scope than exclusions, or have special conditions that apply to the disqualification; and

(c) *Ineligibility or ineligible*, which generally refers to a person who is either excluded or disqualified.

§ 180.115 What do Subparts A through I of this part do?

Subparts A through I of this part provide for reciprocal exclusion of persons who have been excluded under the Federal Acquisition Regulation, and provide for the consolidated listing of all persons who are excluded, or disqualified by statute, executive order or other legal authority.

§ 180.120 Do subparts A through I of this part apply to me?

Portions of subparts A through I of this part (see table at §180.100(b)) apply to you if you are a-

(a) Person who has been, is, or may reasonably be expected to be, a participant or principal in a covered transaction;

(b) Respondent (a person against whom a Federal agency has initiated a debarment or suspension action);

(c) Federal agency debarring or suspending official; or

(d) Federal agency official who is authorized to enter into covered transactions with non-Federal parties.

§ 180.125 What is the purpose of the nonprocurement debarment and suspension system?

(a) To protect the public interest, the Federal Government ensures the integrity of Federal programs by conducting business only with responsible persons.

(b) A Federal agency uses the nonprocurement debarment and suspension system to exclude from Federal programs persons who are not presently responsible.

(c) An exclusion is a serious action that a Federal agency may take only to protect the public interest. A Federal agency may not exclude a person or commodity for the purposes of punishment.

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§ 180.130 How does an exclusion restrict a person's involvement in covered transactions?

With the exceptions stated in §§180.135, 315, and 420, a person who is excluded by any Federal agency may not:

(a) Be a participant in a Federal agency transaction that is a covered transaction; or

(b) Act as a principal of a person participating in one of those covered transactions.

§ 180.135 May a Federal agency grant an exception to let an excluded person participate in a covered transaction?

(a) A Federal agency head or designee may grant an exception permitting an excluded person to participate in a particular covered transaction. If the agency head or designee grants an exception, the exception must be in writing and state the reason(s) for deviating from the governmentwide policy in Executive Order 12549.

(b) An exception granted by one Federal agency for an excluded person does not extend to the covered transactions of another Federal agency.

§ 180.140 Does an exclusion under the nonprocurement system affect a person's eligibility for Federal procurement contracts?

If any Federal agency excludes a person under Executive Order 12549 or Executive Order 12689, on or after August 25, 1995, the excluded person is also ineligible for Federal procurement transactions under the FAR. Therefore, an exclusion under this part has reciprocal effect in Federal procurement transactions.

§ 180.145 Does an exclusion under the Federal procurement system affect a person's eligibility to participate in nonprocurement transactions?

If any Federal agency excludes a person under the FAR on or after August 25, 1995, the excluded person is also ineligible to participate in Federal agencies' nonprocurement covered transactions. Therefore, an exclusion under the FAR has reciprocal effect in Federal nonprocurement transactions.

Attachment R: Access to Records Clause

OMB Guidance

§200.338

purposes, then the 3-year retention period for the bid, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the bid, plan, or other computation.

§ 200.335 Requests for transfer of records.

The Federal awarding agency must request transfer of certain records to its custody from the non-Federal entity when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the non-Federal entity to retain any records that are continuously needed for joint use.

§ 200.336 Methods for collection, transmission, and storage of information.

The Federal awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine-readable formats rather than in closed formats or on paper in accordance with applicable legislative requirements. A machine-readable format is a format in a standard computer language (not English text) that can be read automatically by a web browser or computer system. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award-related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

§ 200.337 Access to records.

(a) *Records of non-Federal entities.* The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

(b) *Extraordinary and rare circumstances.* Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

(c) *Expiration of right of access.* The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

§ 200.338 Restrictions on public access to records.

No Federal awarding agency may place restrictions on the non-Federal entity that limit public access to the records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of

Attachment S: Record Retention Clause

§200.333

2 CFR Ch. II (1-1-21 Edition)

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;

(3) Arranging for agreed-upon-procedures engagements as described in §200.425.

(f) Verify that every subrecipient is audited as required by Subpart F of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients as described in §200.339 of this part and in program regulations.

§ 200.333 Fixed amount subawards.

With prior written approval from the Federal awarding agency, a pass-through entity may provide subawards based on fixed amounts up to the Simplified Acquisition Threshold, provided that the subawards meet the requirements for fixed amount awards in §200.201.

RECORD RETENTION AND ACCESS

§ 200.334 Retention requirements for records.

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

(c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

(d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.

(e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

(f) Indirect cost rate bids and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the bid, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) *If not submitted for negotiation.* If the bid, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation

after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

"(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 {46 U.S.C. App. 802}).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act {50 U.S.C. 1701 et seq.}, or the National Emergencies Act {50 U.S.C. 1601 et seq.} to prohibit exportation of the oil."

..(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

"(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce may recommend to the President appropriate action against such person, which may include modification of the authorization to export crude oil.

"(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

"SEC. 203. ANNUAL REPORT.

"Section 103(f) of the Energy Policy and Conservation Act {42 U.S.C. 6212(f)} is amended by adding at the end thereof the following:

"In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate."

"SEC. 204. GAO REPORT.

"The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

"SEC. 205. EFFECTIVE DATE.

"This title and the amendments made by it shall take effect on the date of enactment."

AMENDMENT NO. 1082

"TITLE II

"SEC. 201. SHORT TITLE.

"This title may be cited as 'Trans-Alaska Pipeline Amendment Act of 1995'.

"SEC. 202. TAPS ACT AMENDMENTS.

"Section 203 of the Act entitled the 'Trans-Alaska Pipeline Authorization Act,' as amended {43 U.S.C. 1652}, is amended by inserting the following new subsection (f):

"(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.

"(I) Subject to paragraphs (2) through (6), of this subsection and notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over right-of-way granted pursuant to this section may be exported after October 31, 1995 unless the President finds that exportation of this oil is not in the national interest. In evaluating whether the proposed exportation is in the national interest, the President

"(A) shall determine whether the proposed exportation would diminish the total quantity or quality of petroleum available to the United States; and

"(B) shall conduct and complete an appropriate environmental review of the proposed exportation, including consideration of appropriate measures to mitigate any potential adverse effect on the environment, within six months after the date of enactment of this subsection.

The President shall make his national interest determination within five months after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

"(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 {46 U.S.C. App. 802}).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act {50 U.S.C. 1701 et seq.}, or the National Emergencies Act {50 U.S.C. 1601 et seq.} to prohibit exportation of the oil."

"(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

"(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce

may recommend to the President appropriate action against such person, which may include modification of the authorization to export crude oil.

"(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

"SEC. 203. ANNUAL REPORT.

"Section 103(f) of the Energy Policy and Conservation Act {42 U.S.C. 6212(f)} is amended by adding at the end thereof the following:

"In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate."

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"The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, ad shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

"SEC. 205. EFFECTIVE DATE.

"This title and the amendments made by it shall take effect on the date of enactment."

THE SOLID WASTE DISPOSAL ACT OF 1995

KEMPTHORNE AMENDMENT NO. 1083

Mr. CHAFEE (for Mr. KEMPTHORNE) proposed an amendment to the bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes; as follows:

On page 35, line 5, after the word, "agreements", insert the words, "or permits authorizing receipt of out-of-State municipal solid waste".

On page 45, lines 15 and 16, after the word, "tax", strike the words, "assessed against or voluntarily"; on lines 16 and 17, after the word, "subdivision", insert the following: ", or to the extent that the amount of the surcharge is offset by voluntarily agreed payments to a State or its political subdivision

THE ALASKA POWER ADMINISTRATION SALE ACT TRANS-ALASKA PIPELINE AMENDMENT ACT OF 1995

MURRAY AMENDMENTS NOS. 1084± 1091

(Ordered to lie on the table.)