

## FEDERAL GRANTS TERMS AND CONDITIONS

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**(1) Unauthorized Alien Labor.** The Contractor must comply with all federal and state laws prohibiting the hiring and continued employment of aliens not authorized to work in the United States. The Contractor must not knowingly employ unauthorized aliens and should such violation occur shall be cause for cancellation of the contract. The Contractor and its subcontractors will utilize the E-Verify system established by the U.S. Department of Homeland Security to verify the employment eligibility of its employees.

**(2) Domestic Preferences for Procurements (2 CFR §200.322).** As appropriate and to the extent consistent with the law, 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) shall apply.

**(3) Recovered Materials (2 CFR §200.323).** Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**(4) Federal Drug-Free Workplace.** The Contractor must comply with the drug free workplace requirements for federal contractors under 41 U.S.C.A § 8102.

**(5) Simplified Acquisition Threshold.** Contracts for more than the simplified acquisition threshold currently set at \$250,000, 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.

When the School Board expends federal funds, School Board reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

**(6) Termination for Cause and Convenience.** The performance of work under any Bid or Contract may be terminated in whole, or in part, whenever the School Board representative shall determine that such termination is in the best interest of the School Board of St. Johns County. Any such termination shall be affected by the delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of work under the Bid or any Contract is terminated, and the date upon which such termination becomes effective. Upon such termination for convenience, the Contractor shall only be entitled to payment, in accordance with the Contract's payment provisions, for services rendered up through and including the termination date and the School Board shall have no other obligations to the Contractor. For sake of clarity, in the event of any termination for convenience, the Contractor waives any claim for any damages or additional compensation, including, without limitation, any lost profits on work not performed, and any other damages, direct, indirect, special, or consequential on account of any such termination for convenience. If it is determined that any termination for cause or default, in whole or in part, was without sufficient cause, then Contractor agrees that such termination shall be deemed for convenience and the Contractor's damages shall be limited as set forth herein.

The School Board shall notify, in writing, the Contractor of deficiencies or defaults in the performance of its duties under the awarded Contract. Three separate documented instances of deficiency or failure to perform in accordance with the specifications contained herein shall constitute cause for termination for default unless specifically specified to the contrary elsewhere within the Bid or Contract. It shall be at the School Board's discretion whether to exercise the right to terminate. The Contractor shall not be in default for events arising due to acts of God.

**(7) 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." The Contractor agrees as follows:

## **FEDERAL GRANTS TERMS AND CONDITIONS (continued)**

- A. 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 nondiscrimination clause.
- B. 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.
- C. 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.
- D. 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.
- E. 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.
- F. 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.
- G. 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.
- H. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (A) through (H) 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 Contractor. 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: *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.

**(8) Davis-Bacon Act and Copeland Anti-Kickback Act.** When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by the School Board 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 law, Contractors are 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 are required to pay wages not less than once a week. The School Board 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

## **FEDERAL GRANTS TERMS AND CONDITIONS (continued)**

upon the acceptance of the wage determination. The School Board must report all suspected or reported violations to the Federal awarding agency.

The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

The Contractor or subcontractor shall insert in any subcontracts the clause above and other such clauses as FEMA may by appropriate instructions require, and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

A violation of any of the foregoing shall be grounds for termination of the Contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR § 5.12.

**(9) 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.

- A. Overtime Requirements. No Contractor or subcontractor contracting for any part of the contract work that may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (A) of this section the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.
- C. Withholding for unpaid wages and liquidated damages. The School Board shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any money payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.
- D. Subcontractors. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

**(10) 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.

## **FEDERAL GRANTS TERMS AND CONDITIONS (continued)**

**(11) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended applies to contracts and subgrants of amounts in excess of \$150,000.** The Contractor agrees 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). The Contractor shall report any and all violations to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA) and notify the School Board concurrently within thirty (30) days' notice of the violation.

**(12) Energy Policy and Conservation Act (42 U.S.C. 6201).** Contractor agrees to comply with the mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**(13) Debarment and Suspension:** The Contractor certifies that it complies fully with the Federal Debarment Certification regarding debarment suspension, ineligibility, and voluntary exclusion. Furthermore, the Contractor certifies that neither it nor its Affiliates (defined at 2 C.F.R. § 180.905), Principals (defined at 2 C.F.R. § 180.995), members, or officers are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

- A. This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its Principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. The Contractor must comply with 2 C.F.R. pt. 180, subpart C, and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by the School Board. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the School Board, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C, and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower-tier covered transactions.

**(14) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding \$100,000 shall 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 shall 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 recipient.

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## **RECORDS RETENTION**

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Records Retention (2 C.F.R. § 200.334 ): 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 (3) 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 passthrough entity in the case of a subrecipient.

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## **CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS**

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Contractor agrees that all contracts it awards pursuant to this procurement shall be bound by the foregoing terms and conditions.