



**REQUEST FOR PROPOSALS FOR  
GRANT APPLICATION AND ADMINISTRATION  
SERVICES (FEMA/BRIC)**

**RFP-2021-07-FEMA-BRIC**

Issued: August 25, 2021

**Due Date:  
Tuesday, September 7, 2021, at 12:00 pm**



## **ORANGE COUNTY DRAINAGE DISTRICT**

*8081 Old Highway 90, Orange, Texas 77630  
(409) 745-3225 Telephone (409) 745-3004 Facsimile*

August 25, 2021

### **To Whom It May Concern:**

**Re: REQUEST FOR PROPOSALS FOR GRANT APPLICATION AND  
ADMINISTRATION SERVICES; RFP 2021-07-FEMA-BRIC**

Dear Administrative Service Providers:

Attached is a copy of the Orange County Drainage District's Request for Proposals (RFP) for grant application and administration services. The Orange County Drainage District ("District") is soliciting these services to assist the District in its application and administration of a contract, if awarded, from the Building Resilient Infrastructure and Communities ("BRIC") funding opportunity administered by the Federal Emergency Management Agency ("FEMA"). The District is considering applying for such funding to support flood control and flooding mitigation, infrastructure protection, and/or mitigation reconstruction projects in Orange County, Texas.

Respondents may submit proposals for any or all activities. The District may award multiple contracts because of this solicitation. The District will, in its sole discretion, determine the number of contracts awarded, and may decide not to award any contracts.

The submission requirements for this proposal are included in the attached RFP as well as Attachments A through I. Respondents should have experience with federal and state funded programs. Respondents shall submit a sealed proposal of services and statement of qualifications to:

Joe Escobedo  
District Purchaser  
Orange County Drainage District  
8081 Old Highway 90  
Orange, Texas 77630

**The deadline for submission of sealed proposals is at 12:00 pm on Tuesday, September 7, 2021.** It is the responsibility of the Respondent to ensure that the proposal is received in a timely manner. Proposals received after the deadline will not be considered for award, regardless of whether the delay was outside of the control of the Respondent. The District reserves the right to negotiate with all persons or firms submitting proposals in accordance with the Texas Professional Services Procurement Act Chapter 2254, TEX. GOV'T CODE (“the Act”) and the Uniform Grant and Contract Management Standards.

These services are being funded by the Federal Emergency Management Agency (“FEMA”).

The District is an affirmative action/equal opportunity employer. The District does not discriminate based upon race, color, national origin, sex, sexual orientation, gender identity, religion, age or handicapped status in employment or the provision of services. Section 3 residents, minority business enterprises, small business enterprises, women business enterprises, and labor surplus area firms are encouraged to submit proposals.

Sincerely,

Joe Escobedo  
District Purchaser

JE/dem

Enclosures:

Request for Proposals

Attachments

- A. Scope of Grant Management and Administration Services
- B. Grant Administrator Rating Sheet
- C. System for Award Management Registration Information
- D. Anti-Collusion Affidavit
- E. Form CIQ - Conflict of Interest Questionnaire
- F. Certification Regarding Lobbying
- G. Disclosure of Lobbying Activities
- H. Form 1295 - Certificate of Interested Parties
- I. FEMA Mandated Contract Clauses



**REQUEST FOR PROPOSALS FOR  
GRANT APPLICATION AND ADMINISTRATION SERVICES**  
*RFP 2021-07-FEMA-BRIC*

The Orange County Drainage District (“District”) is seeking to execute a grant application and administration services contract with a competent administration/management firm/professional service provider (“Respondent” “Grant Administrator”) to assist the District in preparing an application for and in the overall management of projects funded through the Building Resilient Infrastructure and Communities (“BRIC”) program, if funded, by the Federal Emergency Management Agency (“FEMA”). The following solicitation outlines the Request for Proposals (“RFP”).

**I.  
SCOPE OF WORK**

**A. Scope of Work/Nature of Services.** A proposed detailed scope of services is attached (**Attachment “A”**). The non-exclusive grant application and administration services contract will encompass all grant application and administration services to the District under the BRIC program administered by FEMA, including but not limited to the following services:

- 1. Pre-Award Services<sup>1</sup>.** The selected grant administrator(s) will develop project scope and complete the BRIC application. The selected grant administrator(s) will work with the District and its Engineer(s), if applicable, to provide the concise information needed for submission of complete funding application and related documents. The required information shall be submitted in a format to be determined by FEMA.
- 2. Post-Award Services.** Grant administrator(s) will provide services necessary to complete infrastructure, utilities, and eligible projects approved for infrastructure improvement funding. The selected grant administrator(s) must follow all requirements of the BRIC program along with any, and all, applicable FEMA

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1. Pre-Award costs to be reimbursed under the BRIC program must have been incurred before the date of the grant award. Pre-Award management costs count towards the limit for subrecipient management costs. Pre-Award costs must be identified as separate line items in the cost estimate of the application. Costs associated with implementation of the activity but incurred prior to Federal award or final approval are not eligible. If an award is not made, pre-award costs will not be reimbursed by FEMA. Pre-Award costs are reimbursed when the project is approved and funded. To be eligible for BRIC funding, pre-award costs must be identified and labeled pre-award as an individual line item in the cost estimate of the sub-application.

policies, rules, and regulations. Each Respondent is to specify actual services to be performed under each of these categories.

- a. Administrative Duties,
- b. Contract/Program Management,
- c. Acquisition Duties, and
- d. Environmental Services.

**B. Use of Subcontractors.** Where a Respondent intends to outsource any part of its services to a subcontractor, the Respondent shall identify the subcontractor as well as its key employees. The Respondent shall provide information sufficient to demonstrate the subcontractor's ability and competency to perform the outsourced services. In addition, the Respondent shall provide information sufficient to demonstrate that the subcontractor is covered by the Respondent's insurance policies or that the subcontractor possesses the insurance coverage as required under this RFP. Lastly, each contemplated subcontractor must complete and return all attachments to this RFP.

## **II.** **PROPOSAL FOR SERVICES**

**A. Intent.** The District is seeking to contract with competent professional administration/management grant administrators (sometimes referred to as a "Respondent" or "Grant Administrator") experienced in grant application and administration. Specifically, the District is seeking services from those Respondents with the following qualifications:

1. Related experience in applying for and managing grants sponsored by state and federal agencies to fund projects related to flood control, utility and infrastructure protection, mitigation reconstruction, stabilization and restoration and acquisition. The District will place its emphasis on those Respondents with specific and recent experience applying for, and administering, grants awarded for the same or similar purposes, and
2. Related experience/background with similar programs and projects.
3. Consultant/Firm is not debarred or suspended from the Excluded Parties List System (EPLS) in the System for Award Management (SAM).
4. As such, please provide within your proposal a list of referrals from past local government clients, as well as the resumes of all employees who will or may be assigned to provide technical assistance to the District on this project if your firm is awarded this management services contract.

**B. Cost Proposal.** In its proposal, each Respondent shall provide a cost proposal to accomplish the scope of work outlined in this solicitation and for any additional services required. The final grant funding amount is yet to be determined and any grant

administrator’s contract award is contingent upon funding of the BRIC grant by and through FEMA. Respondent’s proposal must include all costs that are necessary to successfully complete these activities. Respondents may submit proposals for any or all contemplated activities. Please note that the lowest/best bid will not be used as the sole basis for awarding a contract.

**III.**  
**EVALUATION CRITERIA**

- A. Scoring.** The proposal received will be evaluated and ranked according to criteria and using a scoring system as reflected in the attached rating sheet (**Attachment “B”**):

<b><u>Criteria</u></b>	<b><u>Max. Pts.</u></b>
Experience	30
Work Performance	40
Capacity to Perform	20
Proposed Cost	10
<b>Total</b>	<b>100</b>

- B. Factors.** The District will review and evaluate each Respondent’s proposal, including qualifications and capacity to perform. The District shall then select the most qualified Respondent(s).

**IV.**  
**SUBMISSION REQUIREMENTS**

- A. Proposal.** Each Respondent shall submit a proposal demonstrating competence and expertise in the areas outlined in this solicitation. The proposal shall include a detailed cost of services. Proposals shall be limited to not more than twenty (20) pages, exclusive of required attachments. The proposal must include a menu of the cost of proposed services to be rendered.
- B. Insurance.** Each Respondent must include a copy of Respondent’s current certificate of insurance for professional liability.
- C. System for Award Management.** Respondent must include a certification that the Respondent is not debarred or suspended from the Excluded Parties List System (“EPLS”) in the System for Award Management (“SAM”) (**Attachment “C”**). Respondent must include verification that the Respondent, as well as the Respondent’s key employees, are not listed (are not debarred) through the SAM as indicated on the website <https://sam.gov/SAM/>. Each Respondent must enclose a printed copy of the search results (including the record date).
- D. Affidavit of Non-Collusion.** Respondent must complete and include the Affidavit of Non-Collusion (**Attachment “D”**).

- E. **Form CIQ.** Each Respondent (and/or any key employee of Respondent) seeking to contract with a local government entity must disclose the Respondent's (and/or any key employee of Respondent) employment, affiliation, business relationship, family relationship or provision of gifts that might cause a conflict of interest with a local government entity. *See*, Chapter 176, TEX. GOV'T CODE. Accordingly, each Respondent (and/or any key employee of Respondent) must complete and attach Form CIQ, a copy of which is included in this RFP (**Attachment "E"**).
- F. **Certification Regarding Lobbying.** A Certification for Contracts, Grants, Loans, and Cooperative Agreements (**Attachment "F"**) is included in the RFP and must be included in each Respondent's submittal.
- G. **Disclosure of Lobbying Activities.** Each Respondent must complete a Disclosure of Lobbying Activities (**Attachment "G"**) of the Respondent, and its key employees.
- H. **Form 1295.** Effective January 1, 2016, all contracts and contract amendments, extensions, or renewals executed by the District's Board of Directors will require the completion of Form 1295 "Certificate of Interested Parties." *See*, TEX. GOV'T CODE §2252.908. Each Respondent that is awarded a contract must complete and submit Form 1295 at the same time as the Respondent submits a signed contract. A copy of Form 1295 is included in this RFP for the convenience of each Respondent (**Attachment "H"**).
- I. **FEMA Mandated Contract Provisions.** All contracts between the District and a Respondent must include the federally mandated FEMA contract clauses (**Attachment "I"**).

**V.**  
**DISADVANTAGED BUSINESSES**

- A. **Disadvantaged Businesses Encouraged to Participate.** The District is committed to contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
- B. **Affirmative Steps Required.** Where a Respondent that is awarded a contract and intends to use subcontractors, the Respondent must take the following affirmative steps:
  1. Place qualified small and minority businesses and women's business enterprises on solicitation lists.
  2. Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
  3. Divide 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. Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
5. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce as well as other state and local resources for sourcing disadvantaged enterprises.

**C. Disadvantaged Enterprises.** The District encourages Section 3 residents, minority business enterprises, small business enterprises, women business enterprises, and labor surplus area firms are encouraged to submit statements of qualification in response to this RFP.

## **VI. DEADLINE FOR SUBMISSION**

**A. Deadline/Number of Copies.** Proposals must be **received** in the District's office no later than **Tuesday, September 7, 2021, by 12:00 p.m.** It is the responsibility of the Respondent to ensure that the proposal is received in a timely manner. Proposals received after the deadline will not be considered for award, regardless of whether the delay was outside the control of the Respondent. Please submit one (1) original and four (4) hard copies to the following address:

Joe Escobedo  
District Purchaser  
Orange County Drainage District  
8081 Old Highway 90  
Orange, Texas 77630

**(If original is in color, please submit the copies in color and mark "Copy")**

**B. Method of Delivery.** The submittal must be delivered in a sealed 9 x 12 or larger envelope clearly marked on the outside: "RFP-2021-07-FEMA-BRIC"

**C. Project Contact Person.** Any and all questions or requests for additional information shall be directed to Mr. Joe Escobedo by email at [jescobedo@orangecountydrainage.com](mailto:jescobedo@orangecountydrainage.com), and such email must include "RFP-2021-07-FEMA-BRIC" in the subject heading thereof. Alternatively, questions may also be submitted online through CIVCAST at [www.civcastusa.com](http://www.civcastusa.com), which shall be the equivalent of contacting the District directly. All questions or requests must be submitted **no later than Thursday, September 2, 2021 by 12:00 pm**. The District will attempt to provide a response to such inquiry within three (3) business days.

**END OF SECTION**



**Attachment “A”**

**SCOPE OF GRANT APPLICATION AND ADMINISTRATION SERVICES**

*RFP-2021-07-FEMA-BRIC*

- A. Description of Services and Special Conditions.** Respondent must be able to perform the tasks listed herein to be considered eligible for an award under this solicitation. Respondents should provide a detailed narrative of their experience as it relates to each of the items below. Respondents should clearly indicate if they intend to provide services in-house with existing staff or through subcontracting or partnership arrangements. Grant administration services will be provided in conformance with the guidance documents and use forms provided to the District regarding the BRIC as specified by FEMA. Respondents shall furnish pre-funding and post-funding grant application and administration services to complete the flood control, utility and infrastructure protection, mitigation reconstruction, stabilization and restoration and acquisition, including, but not limited to the following:
1. **Pre-Award Services.** Grant administrators will develop project scope and complete the BRIC application, if applicable. The provider will work with the District and its Engineer(s), if applicable, to provide the concise information needed for submission of complete application and supporting documents. The required information shall be submitted in a format to be described by FEMA; and,
  2. **Post-Award Services.** Grant administrators will manage, and complete infrastructure, utilities, and eligible projects approved for disaster recovery funding. The selected administrative firm must follow all requirements of the BRIC program.
- B. Grant Administration Services – General.**
1. **Administrative Duties.** Coordinate, as necessary, between District and any other appropriate service providers (i.e. Engineer, Environmental, etc.), contractors, subcontractors and FEMA to effectuate the services requested.
  2. May assist in public hearings.
  3. Will work with FEMA's system of record.
  4. Provide monthly project status updates.
  5. Funding release will be based on deliverables identified in the contract.
  6. Labor and procurement duties:
    - a. Provide all labor standards officer (LSO) services,
    - b. Ensure compliance with all relevant labor standards regulations,
    - c. Ensure compliance with procurement regulations and policies, and
    - d. Maintain document files to support compliance.
  7. Financial duties:
    - a. Prepare and submit all required reports (section 3, financial interest, etc.).
    - b. Assist District with the procurement of audit services.
    - c. Assist District in establishing and maintaining a bank account for disaster recovery funds.
    - d. Implementation and coordination of Section 504 requirements.

- e. Program compliance.
  - f. Ensure that fraud prevention and abuse practices are in place and being implemented.
  - g. Prepare and submit all closeout documents.
  - h. Submit all invoices no later than sixty (60) days after the expiration of the contract. All outstanding funds may be swept after sixty (60) days. The provider may request an extension of this requirement in writing.
  - i. Assist in preparation of contract revisions and supporting documents including but not limited to amendments/modifications and change orders.
8. Construction Management:
- a. The provider will assist the District in submitting/setting up project applications in FEMA's system of record.
  - b. The provider may compile and collate complete contract/procurement packages that meet BRIC/FEMA program requirements. The packages will contain supporting documentation that meets or exceeds the BRIC program requirements. If applications do not have the necessary forms, the provider may assist the District by acquiring the necessary documentation.
  - c. The provider may monitor, report, and evaluate contractor's performance; notify the District if the contractor(s) fails to meet established scheduled milestones. Receive, review, recommend, and process any change orders as appropriate to the individual projects.
  - d. The provider will assist the District with project activity draws/close out.
  - e. The provider may assist the District by submitting all the necessary documentation for draws and to close a project activity in FEMA's system of record. The provider will compile, review for completeness, and collate complete contract/closeout packages that meet BRIC requirements for draw requests. If applications do not have the necessary forms, the provider may assist the District by acquiring any necessary documentation.
  - f. The provider may assist the District in developing architectural and engineering plans with guidance from FEMA.
  - g. The Provider shall be prepared to assist in any realignment of scope throughout the project, as necessary.

**C. Grant Administration Services – Infrastructure.**

1. Administrative Duties:
- a. Ensure program compliance including all BRIC requirements and all parts therein, current Federal Register, etc.,
  - b. Assist the District in establishing and maintaining financial processes,
  - c. Obtain and maintain copies of the District's most current contract including all related change orders, revisions, and attachments,
  - d. Establish and maintain record keeping systems,
  - e. Assist the District with resolving monitoring and audit findings,
  - f. Serve as monitoring liaison,
  - g. Assist the District with resolving third party claims,
  - h. Report suspected fraud to FEMA,

- i. Submit timely responses to FEMA requests for additional information,
  - j. Complete draw request forms and supporting documents,
  - k. Facilitate outreach efforts, application intake, and eligibility review,
  - l. Perform any other administrative duty required to complete the underlying project,
  - m. Utilize and assist with FEMA's system of record to complete milestones, submit documentation, reports, draws, change requests, etc., and
  - n. Submit change orders and all required documentation related to any change orders.
2. Acquisition Duties:
- a. Submit acquisition reports and related documents,
  - b. Establish acquisition files (if necessary), and
  - c. Complete acquisition activities (if necessary).
3. Environmental Services:
- a. Assist in development of a detailed scope of services,
  - b. Review each project description to ascertain and/or verify the level of environmental review required (ie. Exempt, Categorical Exclusion not Subject to 58.5, Categorical Exclusion Subject to 58.5, Environmental Assessment, and Environmental Impact Statements),
  - c. Prepare, complete, and submit BRIC required forms, if any, for environmental review and provide all documentation to support environmental findings,
  - d. Consult and coordinate with oversight/regulatory agencies to facilitate environmental clearance,
  - e. Be able to perform or obtain special studies, additional assessments, or permitting necessary to secure environmental clearance. These may include, but are not limited to biological assessments, wetland delineations, asbestos surveys, lead based paint assessments, archeology studies, architectural reviews, Phase I & II ESAs, USACE permits, etc.,
  - f. Prepare all responses to comments received during comment phase of the environmental review, including State/Federal Agency mandating or ordering further studies and/or comments from public or private entities during public comment period,
  - g. Maintain close coordination with local officials, project engineer and other members of the project team to assure appropriate level of environmental review is performed and no work is conducted without authorization,
  - h. Complete and submit the environmental review into FEMA's system of record,
  - i. Make one, or more, site visits to project locations and complete field observation reports necessary to support the success of the underlying projects,
  - j. Prepare, and submit for publication, all public notices including, but not limited to, the Notice of Finding of No Significant Impact (FONSI), Request for Release of Funds, and floodplain/wetland early and final notices in required order and sequence,

- k. Provide documentation of clearance for Parties Known to be Interested as required by 24 CFR 58.43,
- l. Process environmental review and clearance in accordance with NEPA,
- m. Advise and complete environmental re-evaluations per 24 CFR 58.47 when evidence of further clearance or assessment is required,
- n. Prepare and submit monthly status reports, and
- o. Participate in regularly scheduled progress meetings and public hearings.

**Attachment “B”**

**GRANT ADMINISTRATOR RATING SHEET**

<b>Grant Recipient:</b> Orange County Drainage District	<b>FEMA (BRIC)</b>	<b>DR-4572</b> <b>Laura</b>
<b>Respondent:</b>		
<b>Evaluator:</b>	<b>Date:</b> /     / 2021	

**EXPERIENCE:** Rate the Respondent for experience in the following areas:

<b>Factor</b>	<b>Max Pts.</b>	<b>Score</b>
Related Experience/Background with federally funded projects	10	
Related Experience/Background with specific project type (flood mitigation project, acquisition of property, coordination with regulatory agency, etc.)	10	
References from current/past clients	5	
Familiarity with Region and Demographics	5	
<b>Total Score:</b>	<b>30</b>	

**WORK PERFORMANCE:**

<b>Factor</b>	<b>Max Pts.</b>	<b>Score</b>
Submits requests to client/FEMA in a timely manner	5	
Responds to client/FEMA requests in a timely manner	5	
Past client/FEMA projects completed on schedule	10	
Work product is consistently of high quality with low level of errors	5	
Past client/FEMA projects have low level of monitoring findings/concerns	10	
Manages projects within budgetary constraints	5	
<b>Total Score:</b>	<b>40</b>	

**CAPACITY TO PERFORM:**

<b>Factor</b>	<b>Max Pts.</b>	<b>Score</b>
Qualifications of Professional Administrators/Experience of Staff	5	
Present and Projected Workloads	5	
Quality of Proposal/Work Plan	5	
Demonstrated understanding of scope of the BRIC Project	5	
<b>Total Score:</b>	<b>20</b>	

**PROPOSED COST:**


<b>Factor</b>	<b>Max Pts.</b>	<b>Score</b>
Proposed cost within BRIC project delivery and administration fee caps.	10	
<b>Total Score:</b>	<b>10</b>	

**TOTAL SCORE:**

<b>Factor</b>	<b>Max Pts.</b>	<b>Score</b>
Experience	30	
Work Performance	40	
Capacity to Perform	20	
Proposed Cost	10	
<b>Total Score:</b>	<b>100</b>	

Attachment "C"

**SYSTEM FOR AWARD MANAGEMENT INFORMATION**



**FAMR** Federal Award Management Registration

CALL NOW TO SPEAK TO A REGISTRATION SPECIALIST  
**(844) 513-9067**

## SYSTEM FOR AWARD MANAGEMENT REGISTRATION SUPPORT

Complete Your SAM.gov Registration Or Renewal Online. Registration Advisors Are Standing By To Provide Immediate Assistance And Expedited Registration Service.

**START YOUR SAM REGISTRATION HERE!**

First Name  Last Name  Business Name

Phone  Email  What type of registration is this?  
 New  SAM Renewal  CCR Renewal

**Get Registered Now!**  
Step 1 of 3 contact details

**System For Award Management Registration (SAM)**

**SAM Registration Is Required To Win Contracts and Receive Grants**

A SAM registration is required for any business, organization, or agency that is eligible to, or plans to, receive payments from the federal government. In order to qualify for federal contracts or grants, a fully accurate, and compliant System For Award Management registration is required. More importantly if you have already completed a government contract or have been awarded a grant, an up-to-date SAM registration is required in order for you to receive payment.



Registration Specialists Are Standing By To Assist  
SAM | CCR | ORCA | CAGE  
Get Your SAM Registration Expedited  
**(844) 513-9067**

**Attachment "D"**

STATE OF TEXAS

§

COUNTY OF \_\_\_\_\_

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**ANTI-COLLUSION AFFIDAVIT**

**BEFORE ME**, the undersigned authority, on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the following, who, upon oath says:

"I am the Manager, Secretary, or other Agent or Officer or the Principal of the Proposer in the matter of the proposal to which this affidavit is attached, and I have full knowledge of the relations of the Proposer with the other firms in this same line of business, and the Proposer is not a member of any trust, pool or combination to control the price of the services in this proposal, or to influence any person to submit a proposal or not to submit a proposal thereon.

I further affirm that the Proposer has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal."

**AFFIANT FURTHER SAYETH NAUGHT**

\_\_\_\_\_  
**AFFIANT**

**SWORN TO AND SUBSCRIBED BEFORE ME** by the above Affiant, who, on oath, states that the facts contained in the above are true and correct, this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
**NOTARY PUBLIC – STATE OF TEXAS**

Proposer: \_\_\_\_\_

Signed By: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**NOTE: PROPOSALS NOT ACCOMPANIED BY THIS AFFIDAVIT WILL NOT BE CONSIDERED**

The Orange County Drainage District is an affirmative action/equal opportunity employer. The District does not discriminate based on race, color, national origin, sex, sexual orientation, gender identity, religion, age or handicapped status in employment or the provision of services. section 3 residents, minority business enterprises, small business enterprises, women business enterprises, and labor surplus area firms are encouraged to submit proposals.

**Attachment “E”**

<p><b>CONFLICT OF INTEREST QUESTIONNAIRE</b></p> <p><b>For vendor doing business with local governmental entity</b></p>	<p><b>FORM CIQ</b></p>
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>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).</p> <p>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.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<p><b>OFFICE USE ONLY</b></p>
<p><b>1 Name of vendor who has a business relationship with local governmental entity.</b></p>	<p>Date Received</p>
<p><b>2</b> <input type="checkbox"/> <b>Check this box if you are filing an update to a previously filed questionnaire.</b> (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.)</p>	
<p><b>3 Name of local government officer about whom the information is being disclosed.</b></p> <p align="center">_____</p> <p align="center">Name of Officer</p>	
<p><b>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.</b></p> <p align="center">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?</p> <p align="center"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p align="center">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?</p> <p align="center"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>	
<p><b>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.</b></p>	
<p><b>6</b> <input type="checkbox"/> <b>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).</b></p>	
<p><b>7</b></p> <p align="center">_____ Signature of vendor doing business with the governmental entity</p> <p align="right">_____ Date</p>	



**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 request for proposals or 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 “F”**

**CERTIFICATION REGARDING LOBBYING**

*44 C.F.R. PART 18*

**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 Form to Report Lobbying,” 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 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.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C.Chap.38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

\_\_\_\_\_  
*Signature of Contractor’s Authorized Official*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Name and Title of Contractor’s Authorized Official*

## Attachment “G”

### DISCLOSURE OF LOBBYING ACTIVITIES

#### INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks “Subawardee,” then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10.
  - (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
  - (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

**Attachment "G" (con't)**

Approved by OMB

0348-0046

**Disclosure of Lobbying Activities**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

(See reverse for public burden disclosure)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change
<b>1. Name and Address of Reporting Entity:</b>  <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee      Tier _____, if Known:   <p align="center"><b>Congressional District, if known:</b></p>	<b>2. If Reporting Entity in No. 4 is Subawardee,</b>  Enter Name and Address of Prime:     <p align="center"><b>Congressional District, if known:</b></p>	
<b>3. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>  \$	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(if individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	

<p>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 this 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.</p>	<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p>
<p style="text-align: center;"><b>Federal Use Only</b></p>	<p style="text-align: center;"><b>Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)</b></p>

## Attachment "H"

(To be completed by awarded vendor)

<b>CERTIFICATE OF INTERESTED PARTIES</b>		<b>FORM 1295</b>	
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.		<b>OFFICE USE ONLY</b>	
<b>1</b> Name of business entity filing form, and the city, state and country of the business entity's place of business.			
<b>2</b> Name of governmental entity or state agency that is a party to the contract for which the form is being filed.			
<b>3</b> 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.			
<b>4</b>			
<b>Name of Interested Party</b>	<b>City, State, Country (place of business)</b>	<b>Nature of Interest (check applicable)</b>	
		<b>Controlling</b>	<b>Intermediary</b>
<b>5</b> Check only if there is NO Interested Party. <input type="checkbox"/>			
<b>6 AFFIDAVIT</b> <span style="float: right;">I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.</span>			
_____ Signature of authorized agent of contracting business entity			
AFFIX NOTARY STAMP / SEAL ABOVE			
Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.			
_____ Signature of officer administering oath      Printed name of officer administering oath      Title of officer administering oath			
<b>ADD ADDITIONAL PAGES AS NECESSARY</b>			



# **CONTRACT PROVISIONS TEMPLATE**

**FEMA Office of Chief Counsel**

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Procurement Disaster Assistance Team





## INTRODUCTION

If a non-Federal entity (state or non-state) wants to use federal funds to pay or reimburse their expenses for equipment or services under a contract, that contract **must** contain the applicable clauses described in [Appendix II to the Uniform Rules](#) (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards) under 2 C.F.R. § 200.326. In addition, there are certain contract clauses which are recommended by FEMA.

**This document outlines the federally required contract provisions in addition to FEMA-recommended provisions.**

- For some of the required clauses, sample language or references to find sample language are provided.
- Sample language for certain required clauses (remedies, termination for cause and convenience, changes) is not provided since these must be drafted in accordance with the non-Federal entity's applicable local laws and procedures.
- For the clauses which require that exact language be included, the required language is provided. Those clauses are specifically identified below.

**Please note that the non-Federal entity alone is responsible for ensuring that all language included in their contracts meets the requirements of 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II.**





**FEMA**

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## Required Contract Provisions: Quick Reference Guide

KEY	
Required/Recommended Provision	<input type="checkbox"/>
Required/Recommended Provision and Required Exact Language	<input type="checkbox"/>
Not Required for PA Awards (Grants)	<input type="checkbox"/>

	Required Provision	Contract Criteria	Sample Language?
1.	Legal/contractual/administrative remedies for breach of contract	> Simplified Acquisition Threshold (\$250k)	No. It is based on applicant's procedures.
2.	Termination for cause or convenience	> \$10k	No. It is based on applicant's procedures.
3.	Equal Employment Opportunity	Construction work	Yes. 41 CFR Part 60-1.4(b)
4.	Davis Bacon Act	Construction work	<b>Not applicable to PA grants</b>
5.	Copeland Anti-Kickback Act	Construction work > \$2k	<b>Not applicable to PA grants</b>
6.	Contract Work Hours and Safety Standards Act	> \$100k + mechanics or laborers	Yes. 29 CFR 5.5(b)
7.	Rights to inventions made under a contract or agreement	Funding agreement	<b>Not applicable to PA grants</b>
8.	Clean Air Act and Federal Water Pollution Control Act	>\$150k	Yes
9.	Debarment and Suspension	All	Yes
10.	Byrd Anti-Lobbying Amendment	All (>\$100k: Certification)	Yes. Clause and certification
11.	Procurement of Recovered Materials	Applicant is a state or political subdivision of a state. Work involves the use of materials.	Yes





## Recommended Contract Provisions: Quick Reference Guide

	<b>Recommended Provision</b>	<b>Contract Criteria</b>	<b>Sample Language?</b>
<b>1.</b>	Access to Records	All	Yes
<b>2.</b>	Contract Changes or Modifications	All	No. It depends on nature of contract and end-item procured.
<b>3.</b>	DHS Seal, Logo, and Flags	All	Yes
<b>4.</b>	Compliance with Federal Law, Regulations and Executive Orders	All	Yes
<b>5.</b>	No Obligation by Federal Government	All	Yes
<b>6.</b>	Program Fraud and False or Fraudulent Statements or Related Acts	All	Yes





## REQUIRED CONTRACT PROVISIONS

### 1. REMEDIES

- a. Standard. Contracts for more than the simplified acquisition threshold, currently set at \$250,000, 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. See 2 C.F.R. Part 200, Appendix II(A).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

### 2. TERMINATION FOR CAUSE AND CONVENIENCE

- a. Standard. 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. See 2 C.F.R. Part 200, Appendix II(B).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

### 3. EQUAL EMPLOYMENT OPPORTUNITY

**If applicable, exact language below in subsection 3.d is required.**

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. 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 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II(C).





**b. Key Definitions.**

- i. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- ii. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

**c. Applicability.** This requirement applies to all FEMA grant and cooperative agreement programs.

**d. Required Language.** The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract 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 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:

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.

#### 4. DAVIS-BACON ACT

- a. **Standard.** 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 at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction). See 2 C.F.R. Part 200, Appendix II(D). 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.
- b. **Applicability.** The Davis-Bacon Act only applies to the Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It DOES NOT apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.**
- c. **Requirements.** If applicable, the non-federal entity must do the following:
  - i. 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.
  - ii. Additionally, pursuant 2 C.F.R. Part 200, Appendix II(D), contracts subject to the Davis-Bacon Act, 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 at 29 C.F.R. 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 Copeland Anti-Kickback 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 FEMA.

- iii. 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”).

Suggested Language. The following provides a sample contract clause:

Compliance with the Davis-Bacon Act.

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- b. 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.
- c. Additionally, contractors are required to pay wages not less than once a week.

## 5. COPELAND ANTI-KICKBACK ACT

- a. Standard. Recipient and subrecipient contracts must 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”).





- b. Applicability. This requirement applies to all contracts for construction or repair work above \$2,000 in situations where the Davis-Bacon Act also applies. **It DOES NOT apply to the FEMA Public Assistance Program.**
  
- c. Requirements. If applicable, the non-federal entity must include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. 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). 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 FEMA. Additionally, in accordance with the regulation, each contractor and subcontractor must furnish each week a statement with respect to the wages paid each of its employees engaged in work covered by the Copeland Anti-Kickback Act and the Davis Bacon Act during the preceding weekly payroll period. The report shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work.

Sample Language. The following provides a sample contract clause:

Compliance with the Copeland “Anti-Kickback” Act.

- a. Contractor. 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.
  
- b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the 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.
  
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment





as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

## 6. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. **Standard.** Where applicable (see 40 U.S.C. §§ 3701-3708), 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 at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II(E). Under 40 U.S.C. § 3702, 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. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.
- b. **Applicability.** This requirement applies to all FEMA contracts awarded by the non-federal entity in excess of \$100,000 under grant and cooperative agreement programs that involve the employment of mechanics or laborers. It is applicable to construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- c. **Suggested Language.** The regulation at 29 C.F.R. § 5.5(b) provides contract clause language concerning compliance with the Contract Work Hours and Safety Standards Act. FEMA suggests including the following contract clause:

### Compliance with the Contract Work Hours and Safety Standards Act.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which 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 hours in such workweek.





**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor 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 a 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 (b)(1) of this section, in the sum of \$27 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 (b)(1) of this section.

**(3) Withholding for unpaid wages and liquidated damages.** The **(write in the name of the Federal agency or the loan or grant recipient)** 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 moneys 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)(2) of this section.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) 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 (b)(1) through (4) of this section.

## **7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

- a. Standard.** If the FEMA award meets the definition of “funding agreement” under 37C.F.R. § 401.2(a) and the non-Federal entity 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 non-Federal entity must comply with the requirements of 37 C.F.R. 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 FEMA. See 2 C.F.R. Part 200, Appendix II(F).

- b. **Applicability.** This requirement applies to “*funding agreements*,” but it **DOES NOT apply to the Public Assistance**, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”
- c. **Funding Agreements Definition.** The regulation at 37 C.F.R. § 401.2(a) defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

## 8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

- a. **Standard.** If applicable, contracts must contain a provision that requires the contractor 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 FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II(G).
- b. **Applicability.** This requirement applies to contracts awarded by a non-federal entity of amounts in excess of \$150,000 under a federal grant.
- c. **Suggested Language.** The following provides a sample contract clause.

### Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as





amended, 42 U.S.C. § 7401 et seq.

2. The contractor agrees to report each violation to the (**name of applicant entering into the contract**) and understands and agrees that the (**name of the applicant entering into the contract**) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

#### Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the (**name of the applicant entering into the contract**) and understands and agrees that the (**name of the applicant entering into the contract**) will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

## **9. DEBARMENT AND SUSPENSION**

- a. Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).
- b. Applicability. This requirement applies to all FEMA grant and cooperative







agreement programs.

**c. Requirements.**

- i. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II(H); and 2 C.F.R. § 200.213. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that 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. SAM exclusions can be accessed at [www.sam.gov](http://www.sam.gov). See 2 C.F.R. § 180.530.
- ii. In general, an “excluded” party cannot receive a Federal grant award or a contract within the meaning of a “covered transaction,” to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a “covered transaction,” which is any nonprocurement transaction (unless excepted) at either a “primary” or “secondary” tier. Although “covered transactions” do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS’s implementing regulations, it does include some contracts awarded by recipients and subrecipients.
- iii. Specifically, a covered transaction includes the following contracts for goods or services:
  1. The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
  2. The contract requires the approval of FEMA, regardless of amount.
  3. The contract is for federally-required audit services.
  4. A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.

**d. Suggested Language.** The following provides a debarment and suspension







clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified.

#### Suspension and Debarment

- (1) 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's 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).
- (2) 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.
- (3) This certification is a material representation of fact relied upon by (**insert name of recipient/subrecipient/applicant**). 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 (**insert name of recipient/subrecipient/applicant**), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) 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.

## **10. BYRD ANTI-LOBBYING AMENDMENT**

- a. **Standard.** 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. FEMA's regulation at 44 C.F.R. Part 18 implements the requirements of 31 U.S.C. § 1352 and provides, in Appendix A to Part 18, a copy of the certification that is required to be completed by each entity as described in 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 Federal awarding agency.

- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs. Contractors that apply or bid for a contract of \$100,000 or more under a federal grant must file the required certification. See 2 C.F.R. Part 200, Appendix II(I); 31 U.S.C. § 1352; and 44 C.F.R. Part 18.
- c. Suggested Language.

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more 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 who in turn will forward the certification(s) to the awarding agency.

- d. Required Certification. If applicable, contractors must sign and submit to the non-federal entity the following certification.

APPENDIX A, 44 C.F.R. PART 18 – 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





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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 Form to Report Lobbying," 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.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date





## 11. PROCUREMENT OF RECOVERED MATERIALS

- a. Standard. 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 Resource Conservation and Recovery Act. See 2 C.F.R. Part 200, Appendix II(J); and 2 C.F.R. § 200.322.
- b. Applicability. This requirement applies to all contracts awarded by a non-federal entity under FEMA grant and cooperative agreement programs.
- c. Requirements. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. 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 by 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.
- d. Suggested Language.
  - i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
    1. Competitively within a timeframe providing for compliance with the contract performance schedule;
    2. Meeting contract performance requirements; or
    3. At a reasonable price.
  - ii. Information about this requirement, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
  - iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”





## RECOMMENDED CONTRACT PROVISIONS

The Uniform Rules authorize FEMA to require additional provisions for non-Federal entity contracts. Although FEMA does not currently require additional provisions, **FEMA recommends** the following:

### 1. ACCESS TO RECORDS

- a. Standard. All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. Recipients must give DHS/FEMA access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations *and* other applicable laws or program guidance. See DHS Standard Terms and Conditions: Version 8.1 (2018). Additionally, Section 1225 of the Disaster Recovery Reform Act of 2018 prohibits FEMA from providing reimbursement to any state, local, tribal, or territorial government, or private non-profit for activities made pursuant to a contract that purports to prohibit audits or internal reviews by the FEMA administrator or Comptroller General.
- b. Suggested Language.

Access to Records. The following access to records requirements apply to this contract:

- (1) The Contractor agrees to provide (**insert name of state agency or local or Indian tribal government**), (**insert name of recipient**), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Contractor agrees to provide the FEMA Administrator or





his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(4) In compliance with the Disaster Recovery Act of 2018, the (**write in name of the non-federal entity**) and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

## 2. CHANGES

- a. Standard. To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.
- b. Applicability. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

## 3. DHS SEAL, LOGO, AND FLAGS

- a. Standard. Recipients must obtain permission prior to using the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials. See DHS Standard Terms and Conditions: Version 8.1 (2018).
- b. Applicability. FEMA recommends that all non-Federal entities place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- c. Suggested Language.

“The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.”





#### 4. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

- a. Standard. The recipient and its contractors are required to comply with all Federal laws, regulations, and executive orders.
- b. Applicability. FEMA recommends that all non-Federal entities place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable Federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- c. Suggested Language.

“This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.”

#### 5. NO OBLIGATION BY FEDERAL GOVERNMENT

- a. Standard. FEMA is not a party to any transaction between the recipient and its contractor. FEMA is not subject to any obligations or liable to any party for any matter relating to the contract.
- b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- c. Suggested Language.

“The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.”

#### 6. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

- a. Standard. Recipients must comply with the requirements of The False Claims Act (31 U.S.C. §§ 3729-3733) which prohibits the submission of false or





fraudulent claims for payment to the federal government. See DHS Standard Terms and Conditions: Version 8.1 (2018); and 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

- b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

- c. Suggested Language.

“The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor’s actions pertaining to this contract.”

