

REQUIREMENTS FOR FEMA PUBLIC ASSISTANCE PROGRAM PROCUREMENT

The terms of this section are considered part of this solicitation and are applicable for projects and any scopes of work that may be reimbursed through the Federal Emergency Management Agency (FEMA) Public Assistance Program. In the event of a conflict in terms, the terms of this section will control.

1. Termination.

- a. Termination for Convenience. The Agreement may be terminated by UWF without cause upon no less than thirty (30) days written notice.
- b. Termination for Cause. Each term and condition of the Agreement is material and any breach or default by either party in the performance of each such term and condition will be a material breach or default of the Agreement. Either party may terminate the Agreement in the event the other party materially breaches or defaults in the performance of any of its obligations hereunder, and such default continues for thirty (30) days after written notice thereof is provided to the breaching party by the non-breaching party. Any termination will become effective at the end of such thirty (30) day period unless the breaching party cures any such breach or default prior to the expiration of such period.
- c. Administration of Termination. All written notices must be delivered by certified mail, return receipt requested, or in person with proof of delivery. In case of termination under the Agreement, only fees for Services rendered by the Vendor through the date of termination if any, will be due and payable, and all work in progress will become property of UWF and will be turned over promptly by the Vendor. Upon receipt of written notice of termination, up until the date of termination, the Vendor will make reasonable efforts to limit the incursion of additional fees and perform only those Services necessary for the timely delivery of work in progress to UWF and/or to correct a material breach or default, as applicable. The Parties will not be relieved of the duty to perform their obligations up to and including the date of termination. A termination penalty may not be charged against UWF.

2. Equal Opportunity. During the performance of this contract, the Vendor agrees as follows:

- a. The Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Vendor 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 natural 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 Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The Vendor will, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The Vendor 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 Vendor's legal duty to furnish information.
- d. The Vendor 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 Vendor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- e. The Vendor will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Vendor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Vendor'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 Vendor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Vendor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Vendor 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 Vendor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Vendor 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.

- 3. Davis-Bacon Act. If the Agreement NOT TO EXCEED amount is in excess of two thousand dollars (\$2,000.00) and Services include construction, then the Vendor must comply with the Davis-Bacon Act (40 USC §§3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 CFR Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction).
- 4. Compliance with Copeland "Anti-Kickback" Act. If the Agreement NOT TO EXCEED amount is in excess of two thousand dollars (\$2,000.00) and Services include construction, then the Vendor agrees as follows:

- a. Vendor. The Vendor shall comply with 18 USC §874, 40 USC §3145, and the requirements of 29 CFR Part 3 as may be applicable, which are incorporated by reference into the Agreement.
 - b. Subcontracts. The Vendor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may require by appropriate instructions and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Vendor 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 Agreement, and for debarment of Vendor and/or subcontractor(s), if any, as a contractor and subcontractor as provided in 29 CFR §5.12.
5. Compliance with the Contract Work Hours and Safety Standards Act. If the Agreement NOT TO EXCEED amount is in excess of one hundred thousand dollars (\$100,000.00), Services include construction, and Vendor employs mechanics or laborers, then Vendor agrees as follows:
- a. 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.
 - b. 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 Vendor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Vendor and subcontractor shall be liable for the unpaid wages. In addition, such Vendor 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.
 - c. Withholding for unpaid wages and liquidated damages. UWF 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 monies payable on account of work performed by the Vendor 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.
 - d. Subcontracts. The Vendor 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.
6. Clean Air Act and Federal Water Pollution Control Act. If the Agreement NOT TO EXCEED amount is in excess of one hundred fifty thousand dollars (\$150,000.00), then the Vendor agrees as follows:
- a. Clean Air Act. The Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §7401 *et seq.* The Vendor agrees to report each violation to UWF and understands and agrees that UWF will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office. The Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.

- b. Federal Water Pollution Control Act. The Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 USC §1251 *et seq.* The Vendor agrees to report each violation to UWF and understands and agrees that UWF will, in turn, report each violation as required to assure notification to any applicable pass-through entity, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office. The Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.
7. Energy Policy and Conservation. Vendor will comply with the Energy Policy and Conservation Act (P.L. 94-163; 42 USC §6201-6422), and Florida's State Energy Management Plan adopted pursuant to Section 255.257, *Florida Statutes*.
8. Suspension and Debarment. If the Agreement is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part 3000, then:
 - a. The Vendor hereby certifies that neither the Vendor, its principals (defined at 2 CFR §180.995), nor its affiliates (defined at 2 CFR §180.905) are excluded (defined at 2 CFR §180.940) or disqualified (defined at 2 CFR §180.935).
 - b. The Vendor must comply with 2 CFR Part 180, subpart C, and 2 CFR Part 3000, Subpart C, and must include a requirement to comply with these regulations in any lower tier covered transactions with subcontractors and/or suppliers.
 - c. This certification is a material representation of fact relied upon by UWF. If it is later determined that the Vendor did not comply with 2 CFR Part 180, subpart C, and 2 CFR Part 3000, subpart C, in addition to remedies available to the State of Florida and UWF, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.
 - d. The Vendor agrees to comply with the requirements of 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C throughout the period of the Agreement. The Vendor further agrees to include a provision requiring such compliance in its lower tier covered transactions with subcontractor and/or suppliers.
9. Byrd Anti-Lobbying Amendment. If the Agreement NOT TO EXCEED amount is one hundred thousand dollars (\$100,000.00) or more, then Vendor shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally 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 USC §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 federal awarding agency.
 - a. Required Certification Language. If applicable, the Vendor must sign and submit the following certification to UWF with each bid or offer exceeding one hundred thousand dollars (\$100,000.00):

APPENDIX A, 44 CFR 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:

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.

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.

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, USC. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

b. Recommended Signature Line.

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

Signature of Vendor's Authorized Official: _____

Name and Title of Vendor's Authorized Official: _____

Date: _____

10. Procurement of Recovered/Recycled Materials.

- a. In the performance of the Agreement, Vendor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines website, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>. The Vendor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

11. Prohibition on Contracting for Covered Telecommunications Equipment or Services

- a. Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause –

b. Prohibitions.

- i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 CFR §200.216 prohibit the head of an executive agency on or after August 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- ii. Unless an exception in paragraph (c) of this clause applies, the Vendor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - A. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - B. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

- C. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - D. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
- c. Exceptions.
- i. This clause does not prohibit contractors from providing –
 - A. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - B. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
 - ii. By necessary implication and regulation, the prohibitions also do not apply to:
 - A. Covered telecommunications equipment or services that:
 - I. Are *not used* as a substantial or essential component of any system; and
 - II. Are *not used* as critical technology of any system.
 - B. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.
- d. Reporting requirement.
- i. In the event the Vendor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Vendor is notified of such by a subcontractor at any tier or by any other source, the Vendor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
 - ii. The Vendor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - A. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - B. Within ten (10) business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Vendor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
- e. Subcontracts. The Vendor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.