

REQUIRED CONTRACT PROVISIONS FOR CONTRACTS FUNDED BY FEDERAL AWARDS (2 C.F.R. Part 200, Appendix II)

(A) Contracts for more than the simplified acquisition threshold must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

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

(C) Procurement Standards. Pursuant to 2 C.F.R. § 200.321, the non-Federal entity and each contractor awarding subcontracts must take all necessary *affirmative steps* to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(D) Equal Employment Opportunity. 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. Part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. Part 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 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."

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

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

or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(G) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 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 the awarding agency.

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

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

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

(K) Procurement of Recovered Materials (2 C.F.R. § 200.323). 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. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (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 during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(L) Prohibition on Covered Telecommunications Equipment/Services (2 C.F.R. § 200.216). Pursuant to Section 889, Public Law No.: 115-232 and 2 C.F.R. § 200.216, a non-Federal entity, its contractors and

subcontractors shall not use loan or grant funds from the Federal awarding agency to: (1) procure or obtain covered telecommunications equipment or services; (2) extend or renew a contract to procure or obtain covered telecommunications equipment or services; or (3) enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services. This provision shall not be construed to: (a) prohibit providing a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (b) cover 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.

As described in Section 889, Public Law No.: 115-232, “covered telecommunications equipment or services” means any of the following: (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (2) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (3) Telecommunications or video surveillance services provided by such entities or using such equipment; (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. For the purposes of this section, “covered telecommunications equipment or services” also include systems 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.

(M) Domestic Preferences for Procurements (2 C.F.R. § 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section: 1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; and 2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(N) Buy America Preference for Procurements (2 C.F.R. Part 184). The Buy America Preference applies to Federal awards where funds are appropriated or otherwise made available for infrastructure projects in the United States, regardless of whether infrastructure is the primary purpose of the Federal award. Contractors and their subcontractors who bid on a public infrastructure project subject to the domestic preference requirement of the Build America, Buy America Act (BABAA) shall file the required certification unless a domestic preference requirement has been waived by the awarding federal agency. Contractors and their subcontractors shall ensure that all construction materials used in the infrastructure project are “produced in the United States” in accordance with the requirements of the BABAA. Contractors and their subcontractors shall also disclose any use of federal financial assistance for infrastructure projects that is not in compliance with the BABAA domestic preference requirements.

OTHER REQUIRED CONTRACT PROVISIONS:

(A) Compliance with Federal Law, Regulations, and Executive Orders. All or a portion of this Agreement may be funded by federal financial assistance. Contractor shall comply with all applicable Federal laws, regulations, executive orders, policies, procedures and directives.

(B) No Obligation by Federal Government. The Federal Government is not a party to this Agreement and is not subject to any obligation or liability of any party to this Agreement or any other party pertaining to any matter related to this Agreement.

(C) Program Fraud and False or Fraudulent Statements or Related Acts. As applicable, the requirements of 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) shall apply to a Contractor's actions pertaining to the performance of this Agreement.

(D) E-Verify. Contractor shall register with and utilize the E-Verify System to verify the employment eligibility of individuals to work in the United States and 48 C.F.R. 52.222-54 is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the Contractor must: (1) enroll in the E-Verify Program; (2) use E-Verify to verify the employment eligibility of all new hires working in the United States; (3) use E-Verify to verify the employment eligibility of all employees assigned to perform work pursuant to the Agreement; and (4) include these requirements in any related subcontracts. Information on the E-Verify Program: <http://www.dhs.gov/E-Verify>.

(E) Rights in Copyright and Data. Contractor shall:

- a. Grant the Federal Government a royalty-free, nonexclusive and irrevocable right to:
 - i. Reproduce, publish, or otherwise use for Federal purposes any work that is subject to copyright and that the contractor develops, or acquires ownership of, under this award;
 - ii. Authorize others to reproduce, publish, or otherwise use such work for Federal purposes; and
- b. Grant the Federal Government the right to:
 - i. Obtain, reproduce, publish, or otherwise use data produced under this award; and
 - ii. Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes; and
- c. Include the Federal Government rights described above in any subcontracts.

(F) Access to Records. For any contract in excess of the simplified acquisition threshold, Contractor shall provide access to any books, documents, papers, and records that are directly pertinent to the Agreement to enable and support audits, examinations, excerpts, and transcriptions. Contractor shall provide access to those records for all of the following:

- i. The non-Federal award recipient;
- ii. The Federal awarding agency, including its Inspector General; and
- iii. The Comptroller General of the United States.

(G) Records Retention.

For contracts in excess of the simplified acquisition threshold, Contractor shall provide for retention of all records related to the Agreement for 6 years after receiving final payment and all pending matters are closed.

Signature of Contractor's Authorized Official

Name/Title

Date