

CITY
OF
LAKE CHARLES
LOUISIANA



DISASTER and
EMERGENCY GRANT
MANAGEMENT

CONTRACTS
AND
PROCUREMENT
POLICY
AND
PROCEDURES
MANUAL

April
2024

CITY
OF
LAKE CHARLES
LOUISIANA



FEDERAL
CONTRACTS
PROCUREMENT
POLICY
AND
PROCEDURES
MANUAL

April 2024

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COMMUNITY DEVELOPMENT
PROCUREMENT PROCESS



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April 2024

FOREWORD:

The purpose of the City of Lake Charles Federal Contracts Procurement Policy and Procedures Manual is to provide guidance and instruction of the Federal, State and City procurement policies and procedures.

These policies and procedures have been designed to standardize guidelines for federally funded projects, services, and purchases for the City of Lake Charles. These purchasing procedures are an integral part of the City's computerized accounting system. Therefore, it is essential to have the cooperation of all parties involved in strict adherence to these guidelines so that expeditious handling of all orders can be facilitated. The degree of cooperation of all of us will determine the success or failure of the system and also help provide budgetary control.

Through proper application of this cost effective system we will all aid in the evolution of more accurate, detailed, and complete records necessary for compliance with Federal and State laws and City of Lake Charles ordinances.

Thank you for your cooperation.

Alecia Comeaux
Purchasing Manager

United for Progress and Prosperity

CITY OF LAKE CHARLES
DEPARTMENT OF FINANCE
CENTRAL
PURCHASING DIVISION
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CHAPTER 1 – INTRODUCTION

1.1 COMPLIANCE

This *City of Lake Charles Federal Contracts Procurement Policy and Procedures Manual* establishes guidelines and minimum standards that the City of Lake Charles (hereinafter referred to as CoLC), will use to process third party contracts. This manual is intended to help comply with Federal standards to ensure competitive bidding through full and open competition and equitable treatment of all potential sources for all purchases made with funding derived from the Federal, State, and Local governments. Competitive proposals and sealed bid transactions will be conducted in a manner to provide maximum open and free competition consistent with Code of Federal Regulations, Part 200, (Sections 318 through 327) "Procurement Standards" (see section in manual titled "Miscellaneous").

<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.318>

The policies and procedures contained herein establish standard business practices to ensure the timely, efficient, and economical delivery of services and materials. The following contracts are outside the scope of third party contracting and will not be governed by these policies and procedures:

- 1) Employment Contracts,
- 2) Real Estate Contracts, and
- 3) Intergovernmental Agreements.

The goal of procurement practices is to provide an atmosphere conducive to "Full and Open Competition," in which all procurement transactions will be conducted in a manner providing full and open competition. CoLC will avoid the following situations considered to be restrictive of competition (2 CFR §200.319):

- 1) Unreasonable requirements placed on firms in order for them to qualify to do business;
- 2) Unnecessary experience and excessive bonding requirements
- 3) Noncompetitive pricing practices between firms or between affiliated companies;
- 4) Noncompetitive awards to any person or firm on retainer contracts;
- 5) Organizational conflicts of interest, which means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the grantee; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;
- 6) The specification of only a "brand name" product without listing its salient characteristics and not allowing "an equal" product to be offered; and
- 7) Any arbitrary action in the procurement process.

CoLC shall conduct procurements in a manner that does not give in-state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws. Geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services if an appropriate number of qualified firms, given the nature and size of the project, are able to compete for the contract.

Additional procurement guidance may be found in the CoLC Purchasing Manual.

1.2 DOCUMENTATION

In order to meet established Federal standards, and to be prepared for procurement reviews, it is critical to accurately document procurement procedures. This manual outlines the steps to take and provides the standardized forms to complete for each type of procurement. Addresses, telephone numbers, and website addresses have been included to help the buyer expedite each step. Appendix B contains the standardized forms to be used to document practices.

It is important to work closely with the Purchasing Manager to make sure the forms and documentation are completed on schedule and placed in the procurement file. The steps to perform each type of procurement are intended to serve as a checklist.

1.3 GRANT MANAGEMENT POLICY

The City of Lake Charles operates primarily on a reimbursement basis for all capital project grants. All expenses are reviewed and approved by the appropriate project manager before being processed by Accounting. Invoice are then reviewed and approved by Accounting before any checks are issued. Reimbursement requests are prepared by Accounting and approved by the Director of Finance. The Accounting/Finance Department works closely with project managers to insure all grant requirements are met.

The City of Lake Charles operates primarily on a reimbursement basis for all general grants. Expenses are posted and paid prior to any submission of reimbursement request. Grant budgets are tracked by specific account codes in CoLC's computerized accounting system. Detailed budget reports are reviewed monthly to compare actual expenses and current encumbrances against budgets. Grant expenses are reviewed and approved by appropriate grant manager to insure that only eligible expenses are charged to those grants. All grant balances are reconciled monthly with the issuing agencies financial system. Any discrepancies are investigated to determine corrective action. Reimbursement requests are prepared by Accounting personnel and approved by Accounting/Finance management prior to submission. All required financial reports are prepared by Accounting personnel and approved by the Director of Finance prior to submission. Most grant funds are received on reimbursement basis. Should grant revenue be received prior to disbursement of funds, that amount would be placed in the City's Operating account at the fiscal agent bank. The receipt of those funds would be recorded in the appropriate non-interest bearing special revenue fund in the City's accounting system and disbursed within the timeframe allowed by the grant.

CHAPTER 2 – CITY OF LAKE CHARLES CODE OF ETHICS AND CONFLICT OF INTEREST POLICY

2.1 WRITTEN STANDARDS OF CONDUCT

In order to conduct procurement activities in an ethical manner, a Code of Ethics and Conflict of Interest Policy is established for the CoLC, stated as follows.

2.1.1 Personal Conflict of Interest

No CoLC employee, officer, agent, or immediate family member shall participate in the selection of, award, or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a *personal conflict of interest* would arise when any of the following has a financial interest or other interest in the firm selected for the award:

- 1) The employee, officer, or agent
- 2) Any member of his/her immediate family,
- 3) His or her partner, or
- 4) An organization that employs, or is about to employ, any of the above.

CoLC officers, employees, and agents, shall neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from actual contractors, potential contractors, or parties to sub agreements, including but not limited to monies, credits, discounts, seasonal or special occasion presents, edibles, drinks, household appliances and furnishings, clothing, vacations, travel or hotel expenses, various forms of entertainment if:

- 1) It tends to influence the employee, officer, or agent in the discharge of employee's official duties; or
- 2) The employee, officer, or agent recently has been, or is now, or in the near future may be, involved in any official act or action directly affecting the donor or lender; or
- 3) The employee, officer, or agent has or appears to have influence over CoLC actions affecting the donor or lender in the employee's official capacity.

Notwithstanding the above, this section shall not apply to unsolicited advertising and promotional material such as pens, pencils, note pads, calendars, or other business-related items of nominal intrinsic value.

Purchasing employees must recognize that their purchasing activities are of public interest and a matter of public record; therefore, their actions must be conducted in a manner so as to be fully substantiated and legally defended in accordance with the authority of the City of Lake Charles. At all times, CoLC employees must endeavor to keep from involvements that could result in a possible position of "conflict of interest."

When an actual or potential violation of any of these standards is discovered, the person involved shall promptly file a written statement concerning the matter with an appropriate supervisor. The person may also request written instructions and disposition of the matter. If an actual violation occurs or is not disclosed and remedied, the employee involved may be either reprimanded, suspended, or dismissed. The vendor or potential vendor may be barred from receiving future contracts and/or have an existing contract canceled.

2.1.2 Organizational Conflicts of Interest

The Purchasing Manager and staff are encouraged to work closely with the CoLC Legal Department (hereinafter referred to as Legal) to review all situations that appear to have the potential for an organizational conflict of interest. (See Appendix C for the name, telephone number, and e-mail address of the person to contact.) Legal can help in the preparation of restrictive contracting clauses suitable for the particular situation

Organizational conflicts of interest can cause two distinct problems. One concerns the issue of bias; the other involves the issue of unfair competitive advantage.

An organizational conflict of interest occurs due to the type of work to be performed under a third party contract, or because of other activities or relationships such as:

- 1) A contractor is unable, or potentially unable, to render impartial assistance or advice to CoLC;
- 2) A contractor's objectivity in performing contract work is or might otherwise be impaired; or
- 3) A contractor has an unfair competitive advantage.

Bias arises when a contractor is placed in a situation where there may be an incentive to distort advice or decisions. Whenever a contract is awarded that involves the rendering of advice, the question must always be asked as to whether the potential for a conflict of interest exists for the contractor rendering the advice. In fact, CoLC should always consider using a "Conflict of Interest Disclosure Statement," such as follows, in its solicitation when contracting for services of this nature.

- 1) The offeror shall provide a statement in its proposal which describes in a concise manner all past, present or planned organizational, financial, contractual or other interest(s) affected by any CoLC employee, officer, or agent; any member of these entities' immediate family, partner, or organization that employs, or is about to employ, any of the above, and which is related to the work under this solicitation. The interest(s) described shall include those of the proposer, its affiliates, proposed consultants, proposed

subcontractors, and key personnel of any of the above. Past interest shall be limited to within one year of the date of the offeror's technical proposal. Key personnel shall include any person owning more than 20% interest in the offeror, and the offeror's corporate officers, its senior managers and any employee who is responsible for making a decision or taking an action on this contract, where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

- 2) The offeror shall describe in detail why it believes, in light of the interest(s) identified in (a) above, that performance of the proposed contract can be accomplished in an impartial and objective manner.
- 3) In the absence of any relevant interest identified in 1) above, the offeror shall submit in its proposal a statement certifying that to its best knowledge and belief no affiliation exists relevant to possible conflicts of interest. The offeror must obtain the same information from potential subcontractors prior to award of a subcontract.
- 4) CoLC and the Purchasing Manager will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to CoLC, will be used to determine whether an award to the offeror may create a conflict of interest. If any such conflict of interest is found to exist, the Purchasing Manager may (a) disqualify the offeror, or (b) determine that it is otherwise in the best interest of CoLC to contract with the offeror and include appropriate provisions to mitigate or avoid such conflict in the contract awarded.
- 5) The refusal to provide the disclosure or representation, or any additional information required, may result in disqualification of the offeror for award. If nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. If after award the Contractor discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which could not reasonably have been known prior to award, an immediate and full disclosure shall be made in writing to the Purchasing Manager. The disclosure shall include a full description of the conflict, a description of the action the contractor has taken, or proposes to take, to avoid or mitigate such conflict. The Purchasing Manager may, however, terminate the contract for convenience if he or she deems that termination is in the best interest of CoLC by sending the Contractor a Notice of Termination specifying the nature of default.

The problem of unfair competitive advantage occurs most often when a contractor is developing specifications or statements of work that will be used in a future competitive solicitation. The problem most often causing unfair advantage occurs when the contractor writes specifications or statements of work around its own corporate competitive strengths or products, and then bids on those specifications or statements of work. CoLC can overcome the unfair advantage by placing reasonable restrictions on the contractor's involvement in the procurement that will utilize the specifications.

Some form of advance restriction (limitation on future contracting) must be agreed to with the contractor as a provision within its consulting contract. Another typical problem scenario is that a contractor developing specifications or work statements may have access to information that CoLC has paid the contractor to develop, or which CoLC has furnished to the contractor for its work and which has not been made public. When this information enhances the contractor's competitive position in the bidding, it represents an unfair competitive advantage. The potential solution to this problem is to fully disclose all information to the bidders for a reasonable time prior to receipt of proposals.

The situation of "unfair competitive advantage" is to be distinguished from a "fairly won competitive advantage" which naturally accrues to any contractor that can do work more efficiently because it has more experience (i.e., won more contracts) for its products or services. It is a fact that competitors are frequently discouraged from bidding on a particular procurement because they perceive an incumbent contractor to have an insurmountable competitive advantage by virtue of its previous work.

Obtaining Access to Proprietary Information – When a consulting contractor requires proprietary information from others to perform a CoLC contract, the contractor may gain an unfair competitive advantage. Imposed restrictions protect the information and encourage companies to provide it when necessary for contract performance. A contractor doing work for CoLC and requiring such information is required to enter into agreements with the other companies to protect their information from unauthorized use or disclosure for as long as it remains proprietary and also to refrain from using it for any purpose other than that for which it was furnished. The Purchasing Manager will obtain copies of these agreements.

CHAPTER 3 – PROCUREMENT PROCESS, PLANNING AND ORGANIZATION

The following sections are written as a step-by-step guide for the procurement process to assist Purchasers in making Micro-Purchases, Small Purchases, Large Purchases, Sole Source Purchases, in procuring through Invitation to Bid, and Request for Proposals. Follow these steps for purchases funded by the Federal, State, and Local governments.

3.1 MICRO-PURCHASES

- Micro-Purchases do not exceed \$10,000, including delivery charges.
- Splitting procurements to avoid the \$10,000 competition requirement is not allowed.
- To justify Sole Source Procurements, complete Form B-7 and attach it to the Purchase Order documentation.

3.1.1 Steps Involved in Making Micro-Purchases

When making a micro-purchase, complete each of the following steps.

- ___ Step 1 Obtain budget approval and enter requisition.
- ___ Step 2 Determine "fair and reasonable" price for the product or service to be purchased. Complete the *Fair and Reasonable Price Documentation* (Form B-1).
 - a. On the form, indicate the method used to determine that the price is "fair and reasonable."
 - b. If telephone quotes are used, write the name of the company and the dollar amount of the quotes in the spaces provided.
 - c. If catalogues or newspaper advertisements are used, photocopy the catalogue page or advertisement and attach it to the form.
 - d. If found reasonable based upon a recent purchase, explain in the space provided.
 - e. If found reasonable based upon personal knowledge, explain in the space provided
 - f. If any other method is used, place the name of the vendor and dollar amount of quote and comments in the space provided.
 - g. Sign and date the form.
 - h. Attach this form to the requisition along with any other attachments (photocopies of catalogue pages, advertisements, etc.) to be filed.

- ___ Step 3 Select the source that provides the product or service for the lowest price and meets the required specifications, as opposed to desired specifications.
- ___ Step 4 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.
- ___ Step 5 ****PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT****
Review System for Award Management (www.sam.gov) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- ___ Step 6 Attach all required Federal provisions and send to vendor with purchase order.
- ___ Step 7 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.
- ___ Step 8 Make the purchase.

3.2 SMALL PURCHASES

- Small Purchases are purchases of materials that cost a minimum of \$10,000 and do not exceed the \$250,000 simplified threshold. Use this procurement method for:
 - 1) Goods and services that are clearly defined,
 - 2) Construction projects, and
 - 3) When the award can be made primarily based upon the price of the bid.
- This method of procurement allows for free and open competition.
- Complete the *Price Quotes Documentation for Small Purchases* (Form B-2) prior to requesting bids or proposals.
- The Lake Charles City Council is required to approve purchases of materials that exceed \$60,000.
- Advertise Invitation for Bid if the cost exceeds \$60,000.
- After the bids are received, the City Council is required to award contracts over \$60,000 through an agenda item.
- Splitting procurements to avoid the \$60,000 (\$250,000 simplified threshold) competition requirement is not allowed.
- Price or rate quotations shall be obtained from at least three (3) qualified sources if the purchase does not exceed \$60,000.
- To justify Sole Source Procurements, complete Form B-7 and attach it to the Purchase Order documentation.

- CoLC may not restrict competition by:
 - 1) Placing unreasonable requirements on firms in order for them to qualify to do business,
 - 2) Having an organizational conflict of interest,
 - 3) Requiring vendors to have unnecessary experience or unnecessary bonding,
 - 4) Giving preference in the evaluation of bids to in-state or local businesses, except in those cases where Federal statutes expressly mandate or encourage geographic preference. (This does not preempt State licensing law.)

3.2.1 Small Purchases Not Exceeding \$60,000

When making a small purchase that costs between \$10,001 and \$60,000, complete each of the following steps.

- ___ Step 1 Obtain budget approval and enter requisition.
- ___ Step 2 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.
- ___ Step 3 Obtain at least **three** verbal or written price quotations (faxed quotes are acceptable) and complete the *CoLC Price Quotes Documentation for Small Purchases* (Form B-2). If telephone quotes are obtained, write the name of the company and the dollar amount of the quotes in the spaces provided. Sign and date the form.
- ___ Step 4 Select the source that provides the product or service for the lowest price and meets the required specifications (as opposed to desired specifications).
- ___ Step 5 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.
- ___ Step 6 Complete *Determination of Best Value* (Form B-8).
- ___ Step 7 ****PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT****
Review System for Award Management (www.sam.gov) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- ___ Step 8 Attach all required Federal provisions and send to vendor with purchase order.
- ___ Step 9 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.
- ___ Step 10 Make the purchase.

3.2.2 Small Purchases Exceeding \$60,000

- Plan for minimum of sixty (60) business days to place the order.
- The Lake Charles City Council is required to approve purchases of materials that exceed \$60,000.
- Advertise Invitation for Bid or Request for Proposals if the independent estimate exceeds \$60,000.
- After the bids are received, the City Council is required to award contracts over \$60,000 through an agenda item.

When making a small purchase that exceeds \$60,000, complete each of the following steps. Place the date of completion for each step on the line provided.

- ___ Step 1 Obtain budget approval and enter requisition.
- ___ Step 2 Via e-mail, notify the Purchasing Manager about the purchase and include a description. Work closely with the Purchasing Manager to complete and file forms in the procurement file throughout the project.
- ___ Step 3 Determine whether or not the purchase, service or construction project exceeds \$60,000 by completing the *Independent Cost/Price Estimate* (Form B-3).
- ___ Step 4 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.
- ___ Step 5 If the independent estimate for a purchase exceeds \$60,000, the purchase must be approved by the City of Lake Charles City Council. Prepare an agenda item for the Agenda Meeting.
- ___ Step 6 Prepare the Specifications and Bid Package. The buyer must still identify the minimum needs and clearly describe the essential physical and functional characteristics of the brand name product. If you must use a brand name in your specification, you may allow bidders to substitute an equal product with a different brand name. You may reserve the right to determine whether a particular brand or model is equal to the one you specified. If you use a brand name and allow equal brands, you must also specify the salient characteristics of the specified brand that will be among the criteria used in determining whether a suggested substitute is equal to the specified brand or not.

- ___ Step 7 The advertisement for the small purchase competitive sealed bid must be published in the City's official journal at least twice, (once a week for two consecutive weeks) indicating the deadline date, time, and place by which bids will be received, and the date, time, and place where bids will be opened. **Place the legal notice(s) in the file.** The advertisement must contain the following:

 - ~The description of the work, goods, or services to be procured;
 - ~The location at which the bidding documents, plans, specifications, or other documents may be examined by all bidders and time and place of the pre-bid conference (set the pre-bid conference a minimum of ten days after the first notice publication.
 - ~The date, time, and place for submitting bids and the date, time (including time zone), and place for the opening of competitive sealed bids.
 - ~DBE program requirements or goals (2 C.F.R. § 200.321) (attach form B-12).
 - ~Late bids will be returned unopened to the sender.
- ___ Step 8 Send the advertisement to third parties on the CoLC Bidder List (list of businesses interested in competing for various types of contracts and/or purchases) and the vendors on the CoLC DBE Vendor Listing.
- ___ Step 9 Send bid packages to third parties requesting bid packages. List the vendors requesting bid packages on the Bid Summary.
- ___ Step 10 Date and time stamp the sealed bids as received.
- ___ Step 11 Keep a list of the responding vendors on the Bid Summary. Keep sealed bids in a secure place until the bid opening.
- ___ Step 12 At the designated time and place, formally open and read aloud the sealed bids.
- ___ Step 13 Record the bids on the Bid Tabulation.
- ___ Step 14 Any sealed bids that reach City of Lake Charles after the bid opening time and date must be mailed back to the source without opening.
- ___ Step 14 Complete the *Price Analysis Documentation for Small and Large Purchases* (Form B-5). This form certifies that adequate price competition was obtained by comparison of quotations and the low price is fair and reasonable.
- ___ Step 15 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.

- ___ Step 16 Select the lowest, most responsive bid that meets the specifications as stated in the Invitation to Bid. Complete *Determination of Best Value* (Form B-8). In determining which products or services are in CoLC's best interest, the agency may consider the following factors (if stated in the Invitation for Bids): installation costs and hardware costs; the overall life cycle cost of the requested equipment; the estimated cost of employee training and estimated increase in employee productivity; estimated software and maintenance costs; and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. These factors are not the only ones you may use. Attach information to the agency file for future clarification of the award.
- ___ Step 17 If the lowest bid is not selected, document the reasons for the selection on the *Determination of Best Value* (Form B-8). If none of the bids are selected, document the reasons and start the bidding process over. The specifications may need to be amended. If a single bid or single responsive bid is received, determine fair and reasonableness of the bid and whether or not to accept the bid or reject the bid and begin the process again or abandon the project. If a single bid is received, an option is to return the bid unopened to the vendor and reject all bids and begin again. Do not negotiate bids as in a sole source procurement.
- ___ Step 18 ****PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT****
Review System for Award Management (www.sam.gov) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- ___ Step 19 Attach all required Federal provisions and send to vendor with purchase order.
- ___ Step 20 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.
- ___ Step 21 Make the purchase.

3.3 LARGE PURCHASES (EXCEEDING \$250,000) SEALED BIDS (INVITATION FOR BIDS)

- Federal threshold (Simplified Acquisition Threshold) for Large Purchases is \$250,000. However, State of Louisiana R.S. 38 (Title 38 Public Bid Law) requires that all purchases exceeding \$60,000 be advertised and publicly bid.
- Plan for sixty (60) business days to place the order.
- Primary Goal: To obtain the best quality products and service at minimum cost.
- Secondary Goal: To guard against favoritism and profiteering at public expense.
- Tertiary Goal: To provide equal opportunities for potential parties to participate in public business.
- This method of procurement allows for free and open competition.
- Use this procurement method for:
 - 1) Goods and Services that are clearly defined;
 - 2) Construction Projects (follow R.S. 38 threshold); and
 - 3) Awards that can be made primarily based upon the price of the bid.
- Contracts that exceed \$250,000 shall be awarded by sealed bid unless there is an explicit exception.
- An independent estimate is required for purchases exceeding \$250,000.
- The Lake Charles City Council is required to approve purchases of materials that exceed \$60,000.
- Advertise Invitation for Bid or Request for Proposals if the independent estimate exceeds \$60,000.
- After the bids are received, the City Council is required to award contracts over \$60,000 through an agenda item.
- In order for sealed bidding to be feasible, the following conditions must be present:
 - 1) A complete, adequate, and realistic specification or purchase description is available;
 - 2) Two or more responsible bidders are willing and able to compete effectively for the business;
 - 3) The procurement lends itself to a firm fixed price contract, and the successful bidder can be selected principally on the basis of price;
 - 4) No discussion with the bidders is needed.
- Large Purchases require the following:
 - 1) Publicly advertise the Invitation for Bids, and solicit bids from an adequate number of known suppliers, and provide them sufficient time to prepare bids prior to the date set for opening the bids;
 - 2) The Invitation for Bids shall include specifications and pertinent attachments, and shall define the items or services sought so the bidder can properly respond;

- 3) Award a firm fixed-price contract (lump sum or unit price) in writing to the lowest responsive and responsible bidder whose bid conforms with all the material terms and conditions of the Invitation For Bids. Factors such as discounts, transportation costs, and life cycle costs shall be considered in determining the lowest bid;
 - 4) Any or all bids may be rejected based upon a sound documented business decision.
- CoLC may not restrict competition by:
 - 1) Placing unreasonable requirements on firms in order for them to qualify to do business;
 - 2) Having an organizational conflict of interest;
 - 3) Requiring vendors to have unnecessary experience or unnecessary bonding; or
 - 4) Giving preference in the evaluation of bids to in-state or local businesses, except in those cases where Federal statutes expressly mandate or encourage geographic preference. (This does not preempt State licensing law.)

3.3.1 Steps Involved in Making Large Purchases

When making a large purchase that exceeds \$250,000, complete each of the steps in "Small Purchases Exceeding \$60,000.

3.4 COMPETITIVE PROPOSALS (REQUEST FOR PROPOSALS)

- Plan for sixty (60) business days to place the order.
- Requests for Proposals are used to procure revenue contracts, architectural and engineering services, technology, legal services, accounting services, insurance and in cases where the quality of the service outweighs price.
- The competitive proposal method is normally conducted with more than one source submitting an offer (proposal).
- Request for Proposals must meet the following four requirements:
 - 1) Requests for Proposals must be publicized. Include all evaluation factors in the published notification and their relative importance.
 - 2) Proposals will be solicited from an adequate number of qualified sources.
 - 3) Develop a method to evaluate the proposals in order to select a vendor.
 - Cost shall be evaluated separately.
 - Proposer shall submit cost in separate envelope which will be evaluated and scored by Finance.
 - Scoring shall be based on the following:
 - Put cost in order from lowest to highest
 - Lowest cost receives full percentage score
 - Score each of the remaining costs based on the percentage difference between the cost and the lowest cost (for example: 10% higher than the lowest, percentage score is 10% lower than full percentage available)

4) Make contract awards to responsible firms whose proposals are the most advantageous to the grantee's program considering price and other factors.

- A cost analysis is required.
- Proposers may be required to submit corporate financial data and labor rates which proposers usually regard as privileged information. Therefore, treat all documentation received in response to Requests for Proposals as confidential. Should the need arise to share the contents of the proposal with another company or firm, first acquire permission in writing from a responsible official of the proposing firm. Dissemination of proposals within City of Lake Charles will be done in a manner so that only staff with a demonstrable "need to know" have access to the proposals.
- An independent estimate is required for purchases exceeding \$250,000.
- The Lake Charles City Council is required to approve purchases of materials that exceed \$60,000.
- Advertise all Request for Proposals
- After the proposals are received, the City Council is required to award contracts over \$60,000 through an agenda item.

3.4.1 Steps Involved in Procuring Through Request for Proposals

Complete each of the following steps when soliciting proposals.

- ___ Step 1 Obtain budget approval and enter requisition.
- ___ Step 2 Via e-mail, notify the Purchasing Manager about the purchase and include a description. Work closely with the Purchasing Manager to complete and file forms in the Master Project File throughout the project. Contact Engineering Department for a construction project and follow steps in Section 3.6.
- ___ Step 3 Determine whether or not the purchase, service or construction project exceeds \$60,000 by completing the *Independent Cost/Price Estimate* (Form B-3).
- ___ Step 4 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.
- ___ Step 5 If the independent estimate for a purchase exceeds \$60,000, the purchase must be approved by the City of Lake Charles City Council. Prepare an agenda item for the Agenda Meeting.

- ___ Step 6 Prepare the Specifications and Request for Proposal Package. The buyer must still identify the minimum needs and clearly describe the essential physical and functional characteristics of the brand name product. If you must use a brand name in your specification, you may allow proposers to substitute an equal product with a different brand name. You may reserve the right to determine whether a particular brand or model is equal to the one you specified. If you use a brand name and allow equal brands, you must also specify the salient characteristics of the specified brand that will be among the criteria used in determining whether a suggested substitute is equal to the specified brand or not. The buyer may directly contact manufacturers to get assistance with identifying specifications. Document these transactions via a memorandum for the file.
- ___ Step 7 Prepare the Request for Proposal (RFP) and specify the required and desired elements. Specify the weights that will be used to evaluate the proposals, (e.g., technical 40%, cost 20%, customer service 15%, training 15%, experience 10%). Include the evaluation process in detail, the scoring methodology, and procedures to weigh price into selection. The RFP may also contain the statement, "The award of this contract may be made on the basis of initial proposals submitted without any negotiations or discussions." If necessary in order to obtain firm commitments from proposers, you may wish to require that the offerors provide a proposal guaranty in the form of a letter of credit, cashier's check, or approved performance bond.
- ___ Step 8 The **advertisement** for the request for proposal must be published in the City's official journal at least twice, (once a week for two consecutive weeks) indicating the deadline date, time, and place by which bids will be received, and the date, time, and place where bids will be opened. **Place the legal notice(s) in the file.** The advertisement must contain the following:
- ~The description of the work, goods, or services to be procured;
 - ~The location at which the bidding documents, plans, specifications, or other documents may be examined by all bidders and time and place of the pre-bid conference (set the pre-bid conference a minimum of ten days after the first notice publication.
 - ~The date, time, and place for submitting bids and the date, time (including time zone), and place for the opening of competitive sealed bids.
 - ~Evaluation criteria
 - ~DBE program requirements or goals (2 C.F.R. § 200.321) (attach form B-12).
 - ~Late proposals will be returned unopened to the sender.

- ___ Step 9 Send the advertisement to third parties on the CoLC Proposer List (list of businesses interested in competing for various types of contracts and/or purchases) and the vendors on the DBE CoLC Vendor Listing.
- ___ Step 10 Send proposal packages to third parties requesting bid packages. List the vendors requesting packages on the Proposal Summary.
- ___ Step 11 Date and time stamp the sealed proposals as received.
- ___ Step 12 Keep a list of the responding vendors on the Proposal Summary. Keep sealed proposals in a secure place until the opening.
- ___ Step 13 At the designated time and place, formally open and read aloud the sealed proposals.
- ___ Step 14 Record the proposals on the Proposal Tabulation.
- ___ Step 15 Any sealed proposals that reach CoLC after the opening time and date must be mailed back to the source without opening.
- ___ Step 16 Complete the *Cost Analysis Documentation* (Form B-6). This form certifies that adequate price competition was obtained by comparison of quotations and the low price is fair and reasonable.
- ___ Step 17 Select the lowest, most responsive proposal that meets the specifications as stated in the Request for Proposals. Complete *Determination of Best Value* (Form B-8) and/or *Memorandum of Negotiations* (Form B-13). In determining which products or services are in CoLC's best interest, the agency may consider the following factors (if stated in the Request for Proposals): installation costs and hardware costs; the overall life cycle cost of the requested equipment; the estimated cost of employee training and estimated increase in employee productivity; estimated software and maintenance costs; and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. These factors are not the only ones you may use. Attach information to the agency file for future clarification of the award.
- ___ Step 18 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.
- ___ Step 19 If none of the proposals are selected, document the reasons and start the process over. The specifications may need to be amended. If a single proposal or single responsive proposal is received, determine fair and reasonableness of the proposal and whether or not to accept the proposal or reject the proposal and begin the process again or abandon the project. Do not negotiate bids as in a sole source procurement.

- ___ Step 20 ****PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT****
Review System for Award Management (www.sam.gov) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- ___ Step 21 Attach all required Federal provisions and send to vendor with purchase order.
- ___ Step 22 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed
- ___ Step 23 Make the purchase

3.4.2 Procurement of Architectural and Engineering Services (A&E)

To procure Architectural and Engineering Services, follow the procurement steps outlined above for Competitive Proposals (Request for Proposals) in Section 3.4.

- When Contracting for Architectural, Professional Engineering Services, and Land Surveying, use the competitive proposal procedures.
 - 1) An offeror's qualifications be evaluated and selection is based upon qualifications not price;
 - 2) Price be excluded as an evaluation factor although the price must be fair and reasonable;
 - 3) Negotiations be conducted with only the most qualified offeror; and
 - 4) Failing agreement on price, negotiations with the next most qualified offeror are conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee.
- Initial selection shall be based only on the demonstrated competence and qualifications of the person, including any firm, who is to provide the services. **Price and/or number of staff-hours must not be asked for or discussed during the initial selection phase**
- This "qualifications based procurement method" can only be used for the procurement of A&E services. This method of procurement cannot be used to obtain other types of services even though a firm that provides A&E services is also a potential source to perform other types of services. These requirements apply except to the extent any state adopts or has adopted by statute a formal procedure for the procurement of architectural and engineering services.
- Other types of services considered A&E services include program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, and services which require performance by a registered or licensed architect or engineer.
- Develop Scope of Work.

- Choose the contract type most appropriate for the project such as fixed price or labor hour contract.
- Requests for Qualifications must be publicized. Include all evaluation factors in the published notification.
- Select the most qualified firm from this pool of firms based upon criteria established and published.

To procure Architectural and Engineering Services, follow the procurement steps outlined above for Competitive Proposals (Request for Proposals) in Section 3.4.

3.5 SOLE SOURCE PROCUREMENTS

- Sole Source procurements are accomplished through solicitation or acceptance of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement that must comply with the following:
 - 1) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:
 - a) The item is available only from a single source (e.g. utilities, when only one entity owns the patent on the process or product required);
 - b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - c) After solicitation of a number of sources, competition is determined inadequate; or
 - d) The item is an associated capital maintenance item that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify in writing that such manufacturer or supplier is the only source for such item; and that the price of such item is no higher than the price paid for such item by like customers.
 - 2) the data, and the evaluation of the specific elements of costs and profit, is required.
 - 3) Avoid Sole Source procurements except in circumstances where it is both necessary and in CoLC's best interest.
 - 4) Make sure the item or service is needed to meet a requirement and is not merely desired as something "nice to have."

3.5.1 Steps Involved in Sole Source Procurements

Complete the following steps when making a Sole Source Procurement. You may have already performed Steps 1 through 6 if (d) above "After solicitation of a number of sources, competition is determined inadequate," is the reason for the sole source method of procurement.

- ___ Step 1 Obtain budget approval and enter requisition.
- ___ Step 2 Via e-mail, notify the Purchasing Manager about the purchase and include a description. Work closely with the Purchasing Manager to complete and file forms in the Master Project File throughout the project.
- ___ Step 3 Determine whether or not the purchase, service, or construction project exceeds \$60,000 by completing the *Independent Cost/Price Estimate* (Form B-3).
- ___ Step 4 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.
- ___ Step 5 If the independent estimate for a purchase exceeds \$60,000, the purchase must be approved by the City of Lake Charles City Council. Prepare an agenda item for the Agenda Meeting.
- ___ Step 6 Prepare the Specifications and Bid Package. The buyer must still identify the minimum needs and clearly describe the essential physical and functional characteristics of the brand name product. If you must use a brand name in your specification, you may allow bidders to substitute an equal product with a different brand name. You may reserve the right to determine whether a particular brand or model is equal to the one you specified. If you use a brand name and allow equal brands, you must also specify the salient characteristics of the specified brand that will be among the criteria used in determining whether a suggested substitute is equal to the specified brand or not. The buyer may directly contact manufacturers to get assistance with identifying specifications. Document these transactions via a memorandum for the file.

- ___ Step 7 The advertisement for the small purchase competitive sealed bid must be published in the City’s official journal at least twice, (once a week for two consecutive weeks) indicating the deadline date, time, and place by which bids will be received, and the date, time, and place where bids will be opened. Place the legal notice(s) in the file. The advertisement must contain the following:

 - ~The description of the work, goods, or services to be procured;
 - ~The location at which the bidding documents, plans, specifications, or other documents may be examined by all bidders and time and place of the pre-bid conference (set the pre-bid conference a minimum of ten days after the first notice publication.
 - ~The date, time, and place for submitting bids and the date, time (including time zone), and place for the opening of competitive sealed bids.
 - ~DBE program requirements or goals (2 C.F.R. § 200.321) (attach form B-12).
 - ~Late bids will be returned unopened to the sender.
- ___ Step 8 Send the advertisement to third parties on the CoLC Bidder List (list of businesses interested in competing for various types of contracts and/or purchases) and the vendors on the CoLC DBE Vendor Listing
- ___ Step 9 Send bid packages to third parties requesting bid packages. List the vendors requesting bid packages on the Bid Summary.
- ___ Step 10 Date and time stamp the sealed bids as received.
- ___ Step 11 Keep a list of the responding vendors on the Bid Summary. Keep sealed bids in a secure place until the bid opening.
- ___ Step 12 At the designated time and place, formally open and read aloud the sealed bids.
- ___ Step 13 Record the bids on the Bid Tabulation.
- ___ Step 14 Any sealed bids that reach City of Lake Charles after the bid opening time and date must be mailed back to the source without opening.
- ___ Step 15 Complete the *Price Analysis Documentation for Small and Large Purchases* (Form B-5). This form certifies that adequate price competition was obtained by comparison of quotations and the low price is fair and reasonable.

- ___ Step 16 Select the lowest, most responsive bid that meets the specifications as stated in the Invitation to Bid. Complete *Determination of Best Value* (Form B-8). In determining which products or services are in CoLC's best interest, the agency may consider the following factors (if stated in the Invitation for Bids): installation costs and hardware costs; the overall life cycle cost of the requested equipment; the estimated cost of employee training and estimated increase in employee productivity; estimated software and maintenance costs; and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. These factors are not the only ones you may use. Attach information to the agency file for future clarification of the award.
- ___ Step 17 If the lowest bid is not selected, document the reasons for the selection on the *Determination of Best Value* (Form B-8). If none of the bids are selected, document the reasons and start the bidding process over. The specifications may need to be amended. If a single bid or single responsive bid is received, determine fair and reasonableness of the bid and whether or not to accept the bid or reject the bid and begin the process again or abandon the project. Do not negotiate bids as in a sole source procurement.
- ___ Step 18 Complete *Sole Source Procurement Justification* (Form B-7).
- ___ Step 19 ****PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT****
Review System for Award Management (www.sam.gov) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- ___ Step 20 Attach all required Federal provisions and send to vendor with purchase order.
- ___ Step 21 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.
- ___ Step 22 Make the purchase.

CHAPTER 4 – BID PACKAGE AND REQUEST FOR PROPOSAL PROCEDURES

This chapter identifies recommended elements to be included in Invitation to Bid (ITB) Packages and Requests for Proposals (RFP). Much of this chapter includes information found in the City of Lake Charles' Purchasing Manual.

4.1 INVITATION TO BID PACKAGE

Bid Packages will contain all or some of the following sections:

- 1) Cover Page including the following items:
 - _____ Invitation to Bid Number and the item to be procured
 - _____ CoLC mailing address and physical address
 - _____ Date that the Invitation to Bid is issued
 - _____ Bid Closing Date
 - _____ Bid Closing Time (indicate the prevailing local time)
 - _____ Pre-Bid Meeting Date
 - _____ Pre-Bid Meeting Time (indicate the prevailing local time)
 - _____ CoLC contact's name and telephone number
 - _____ A space for the bidder's name and address
 - _____ Description of Invitation to Bid
 - _____ Section for the Bidder's signature

- 2) Purchasing Rules and Regulations, Rolling Stock Specifications (if applicable) Specifications, Bid Proposal Page, Insurance Requirements, Federal provisions, and any additional required documentation.

Introduction and General Information – Purpose and the history or background of the service. A general statement of the minimum experience and qualifications required of the contractor are also usually included in the introduction. For commodities, state the intended use of the item and the name of the using department.

- _____ Scope – Explain what CoLC expects to accomplish from the contract. Give a brief overview of the work required and define the extent of the service to be provided and the contract term.
- _____ Contract Documents
- _____ Notice, Waiver, and Applicable Law
- _____ Compliance with Federal Requirements
 - _____ General Compliance
 - _____ Wage Price Regulations
 - _____ Federal Provisions

Instructions to Bidders

- _____ Pre-Bid Conference (if applicable)
 - _____ Pre-Bid Conference Date, Time, and Location
 - _____ Attendance: Bidder's Responsibility, Non Mandatory
 - _____ Accommodations for Persons with Disabilities
 - _____ Pre-Bid Conference Agenda
- _____ Bid Submittal
 - _____ Delivery procedures, Time, and Date
 - _____ Bid Requirements and Format (number of copies, sealed, etc.)
 - _____ Pre-Award Investigation
 - _____ Bid Preparation Costs
 - _____ Bid Acceptance Period
 - _____ Modification of Bid
 - _____ Withdrawal of Bid
 - _____ Samples
- _____ Clarification of Requirements
- _____ Addenda and Modifications
- _____ Protest Procedures
 - _____ General Protest Procedures
 - _____ Pre-Bid or Solicitation Phase Protest
 - _____ Pre-Award Protest
 - _____ Post-Award Protest
 - _____ Appeals
- _____ Service and Parts
 - _____ Location of nearest technical service representative to CoLC
 - _____ Location of nearest parts distribution center to CoLC
 - _____ Policy for delivery of parts and components to be purchased for service and maintenance
- _____ Payment – The ITB may not include a ceiling budget or price, however, it may specify options that effectively limit the amount of funds CoLC will spend
 - _____ Payment schedule
 - _____ Sales Tax Exemption
- _____ Contractor qualifications including description of experience
- _____ Licenses, Permits, Taxes
- _____ Information and Reports
- _____ Alternative Bid – Permission, if any, to submit alternative bids, including alternative material or design. The alternative bid must be in addition to the basis bid.
- _____ Equal Employment Opportunity
- _____ Disadvantaged Business Enterprise (DBE) Requirements
 - _____ Equal Opportunity to Submit Bid
 - _____ DBE Definition

- ___ Conflict of Interest
 - ___ Prohibited Interest
 - ___ Disclosure of Conflicts of Interest
 - ___ Interest of Members of or Delegates to Congress
 - ___ Covenant Against Contingent Fees
 - ___ Covenant Against Gratuities
- ___ Authorization to Bind Submitter of Bid
 - ___ Bidder Name, Address, Office Signature
 - ___ Integral Part of the Contract
- ___ Factors and Requirements to be considered in the evaluation of bids
(including shipping costs and how each factor will be evaluated)
- ___ Notice of Award
- ___ Notice of Acceptance of Award
- ___ Changes by Contractor
- ___ Time Extension
- ___ Liquidated Damages
 - ___ Liquidated Damages Compensation
 - ___ Delays Beyond the Contractor's Control
- ___ Contractor's Liability
- ___ Approval by the Purchasing Manager
- ___ Defective or Damaged Work
- ___ Damages
- ___ Penalty for Failure to Complete Contract
- ___ Infringements of Patents
- ___ Assignment
- ___ Warranty of Title
- ___ Compliance with Laws and Regulations
 - ___ Specifications (Omission and Priority)
 - ___ Modifications to Contract: Price Adjustment for Regulatory Changes
 - ___ Interchangeability
 - ___ Materials/Accessories Responsibility
 - ___ Service and Parts (Instructors, Engineers, Documents, and Spare Parts)
 - ___ Deliveries (Assumption of risk of loss, acceptance)
 - ___ Repairs after non-acceptance
 - ___ Patents
 - ___ Brand Names
 - ___ Past Performance
 - ___ Financial Stability
 - ___ Safety Certification
 - ___ Performance Data
 - ___ Specified Parts

- ___ Specifications and Brand Names
 - ___ Descriptive Not Restrictive
 - ___ Certify Equivalency
 - ___ Minor Deviations
 - ___ Approved Brand List
 - ___ Samples
- ___ Federal Provisions. The clauses can be found at in Appendix II to 2 CFR Part 200 at <https://www.ecfr.gov/>.
- ___ Bid Opening
 - ___ Bid Opening Date, Time, and Location
 - ___ Bid Opening Postponement, Amendment and Addenda
 - ___ Public Opening of Bids
 - ___ Rejection of Bids
 - ___ Single Bid
- ___ Examination of Documents and Requirements
 - ___ Examination of ITB Documents
 - ___ Bidder responsibility to examine conditions and requirements
 - ___ Evidence of responsibility
 - ___ Verify submission of required certifications (Lobbying, etc.)
- ___ Award Procedure
- ___ Review SAM and print screen with results for master file
- ___ Execution of Contract and Bonds
 - ___ Time Period for Execution of Contract and Filing Bonds
 - ___ Performance Bond (for contracts exceeding \$25,000), and Payment Bond (for contracts utilizing subcontractors and exceeding \$25,000) Requirements, if any
 - ___ Bond Issued by Corporate Surety
 - ___ Contract Commencement Date
 - ___ Acceptance
 - ___ Contract Termination for Convenience
 - ___ Contract Termination for Default
 - ___ Effect of Extensions of Time
 - ___ Waiver
 - ___ Delivery of Goods and Service
 - ___ Delivery Procedures
 - ___ Delivery Schedule

3) Sufficient detail to permit open, full and free competition and should include methods and timing of testing and inspecting. (See Section 4.4 for more detail).

Technical Specifications – Include the following requirements as needed:

- _____ Design Features and Requirements: List all design requirements, including materials, manufacturing standards and directions, dimensions, physical characteristics of all kinds, and workmanship standards.
 - _____ Performance Requirements and Characteristics: List all functional needs and performance requirements and include work-related needs which the item must achieve.
 - _____ Other Requirements: List any requirements not covered in the first two sections.
- 4) Specifications: a description of the supplies or services to be furnished in *Applicable Documents* – List all documents, plans, drawings, specifications, etc., that have been referenced in the specification, including title, edition or issue number, year of publication and publisher or originating organization. If necessary, state where the document(s) are located.

Definitions – Define technical and critical terms where necessary.

- 5) Addenda as issued.
- 6) Legal Documents and Other Documents.

4.2 REQUEST FOR PROPOSALS PACKAGE

Request for Proposals packages will contain all or some of the following sections.

- 1) Cover Page including the following items:
 - _____ RFP Number (assigned by the Purchasing Manager) and the item or service to be procured
 - _____ CoLC mailing address and physical address
 - _____ Date that the RFP is issued
 - _____ RFP Closing Date
 - _____ RFP Closing Time (indicate the prevailing local time)
 - _____ Pre-Proposal Meeting Date
 - _____ Pre-Proposal Meeting Time (indicate the prevailing local time)
 - _____ CoLC Contact's name and telephone number
 - _____ A space for the proposer's name and address
 - _____ Description of RFP/Project Title
 - _____ Section for proposer's authorized signature

Instructions to Offerors

- 2) Purchasing Rules and Regulations, Rolling Stock Specifications (if applicable), Specifications, Bid Proposal Page, Insurance Requirements, Any Additional Required Documentation.

- _____ Proposal Delivery, Time & Date
- _____ Pre-Proposal Conference
- _____ Clarification of Requirements
- _____ Addenda & Modifications
- _____ Examination of Documents and Requirements
- _____ Proposal Copies
- _____ Proposal Preparation Costs
- _____ Disadvantaged Business Enterprise (DBE) Requirements
- _____ Conflict of Interest
- _____ Anti-Lobbying Provision
- _____ Authorization to Bind Submitted of Proposal
- _____ Evaluation Process
- _____ Selection
- _____ Award Procedure and Contract
- _____ Equal Employment Opportunity
- _____ Competitive RFP Procedures for Architectural and Professional Engineering Services Contract Costing more than \$15,000 (Use only if needed)
- _____ Architecture and Professional Engineering Services Contracts for Services Costing less than \$25,000 (Use only if needed.)
- _____ Intent
- _____ Project Description – History or background of the item or service to be procured. Describe the project in detail, using department, etc.
- _____ Purpose of the Project – Describe how CoLC will use the product or service.
- _____ Scope of Work – Provide a brief overview of the work required and define the extent of the service to be provided. Describe the function of the project management team.
- _____ Duration of Contract
- _____ Options
- _____ Project Methodology
- _____ Evaluation Criteria, Proposal Evaluation Criteria Form
- _____ Proposal Format
- _____ Federal Provisions. The clauses can be found at in Appendix II to 2 CFR Part 200 at <https://www.ecfr.gov/>.
- _____ Addenda as issued
- _____ Legal Documents or Other Documents

4.4 SPECIFICATIONS

Specifications provide clear guides to purchasing and provide vendors with firm criteria of minimum product or service acceptability. A specification is a concise statement of a set of requirements to be satisfied by a product, material, or a process indicating, whenever appropriate, the procedure by means of which it may be determined whether the requirements given are satisfied. As far as practicable, it is desirable that the requirements be expressed numerically in terms of appropriate units together with their limits. Specifications are intended to serve as a means of assuring that the items purchased have the desired quality and performance characteristics.

4.4.1 Specification Criteria

A good specification has four characteristics:

- 1) **It sets the minimum acceptability of the good or service.** The term "minimum acceptability" is key, since the vendor must know the minimum standard in order to determine what to provide. Too high a standard means tax dollars will be wasted. Too low a standard means the good or service will not meet the user's expectations. Standardization is the process of establishing agreement on the characteristics and quality of the products to be purchased. The justification for any standardization program is savings. Some of the cost reduction features of a good standardization program are larger quantities of fewer goods categories, more economical buying, flexibility of inventory, reduction of purchasing time, lower departmental operating costs, and reduced inventories.
- 2) **It should promote competitive bidding.** The maximum number of responsible vendors should be able to bid to the specification. Restrictive specifications decrease competition.
- 3) **It should contain provisions for reasonable tests and inspections for acceptability of the good or service.** The methods and timing of testing and inspecting must be indicated in the specification. Whenever possible, tests should refer to nationally recognized practices and standards.
- 4) **It should provide for an equitable award to the lowest responsible and responsive bidder.** The buyer obtains goods or services that will perform to expectations, and the vendor is able to provide the goods or services at an equitable agreed price.

Use the following checklist to ensure that a specification meets the four criteria stated above.

- _____ It is simple, consistent, and specific enough that a loophole will not allow a bidder to evade any of the provisions and thereby take advantage of competitors or CoLC.
- _____ The specification includes a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.
- _____ Detailed product specifications should be avoided if at all possible.
- _____ It identifies, when possible, several brand names or a specification already on the market. When brand names are used, the bid shall clearly indicate that the intent is not to restrict competition and that other brands and models of the same general type and function will be acceptable. A "brand name or equal" description may be used only when CoLC cannot provide an adequate specification or more detailed description without performing an inspection and analysis in time for the acquisition under consideration. Further, if a "brand name or equal" is used, the specification must carefully identify the minimum needs and clearly set forth those salient physical and functional characteristics of the brand name product in the solicitation. Include an "or equal" or "or approved equal" clause to safeguard against restricting competition. Specifications shall not be restrictive to a single brand or vendor or be labeled "NO SUBSTITUTE." If such restriction is necessary, a sole-source purchase is involved and requires a detailed justification that describes why only one supplier or brand can fill the need. This justification shall contain specific information regarding the peculiarities of the purchase, such as a supplier's unique capability, critical time schedules, which cannot be met by other suppliers, or patent/copyright considerations.
- _____ Describe the method of checking the specification, which will govern acceptance or rejection. A specification which cannot be checked is of little value, and where checking methods vary in accuracy, only confusion can result.
- _____ Allow for reasonable tolerances. Unnecessary precision is expensive.
- _____ The specification is as fair to the vendor as possible.
- _____ Several bidders are capable of meeting the specification for the sake of competition.
- _____ The specification is clear. Misunderstandings are expensive. The specification must be understandable to both the vendor and the CoLC department that will use the product or service.

4.4.2 Where to Obtain Specifications

The CoLC department may have to write its own specifications. However, it is recommended that departments attempt to obtain existing specifications, at least to get some ideas. Specifications may be obtained from the following sources:

- Other local governments - Contact cities, counties or other governmental entities. Your best friends are other governmental purchasing agents.
- The state government
- Trade associations and vendors. If using vendor's specifications, try to remove any "vendor bias", e.g. specifications which fit only one brand name.
- Other public or private standards and specifications writing associations - such as Underwriters Laboratories, American National Standards Institute.
- Professional associations for procurement managers - such as National Purchasing Institute, National Institute for Governmental Purchasing.

4.4.3 Types of Specifications

The below are the most commonly used types of specifications. A single specification may be a combination of two or more of these types, especially the first two.

- **Design Specifications** – detailed descriptions of a good or service, including such things as details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients and all other details needed for the provider to produce an item of minimum acceptability. Design specifications are usually required for construction projects and custom produced items and for many services.
- **Performance Specifications** – where the goods and/or services are described in terms of required performance. They may include such details as required power, strength of material, test methods and standards of acceptability and recommended practices.
- **Combination Specifications** – contains elements of both design and performance specifications. Some features of each are included to allow a vendor to use ingenuity to meet performance needs and also to require certain necessary design characteristics. This is probably the most common type of specification.
- **Brand-Name Specifications** – list a good or service by brand name, model, and other identifying specifics, in order to limit the bidding to a single preferred product. Since this type of specification discourages competition, it should not be used unless the item is the only one which will satisfy requirements. This type of specification is useful for purchasing replacement parts where only the brand name item will work.
- **Brand-Name or Equal Specifications** – similar to brand-name specifications, except that products equal to the characteristics of the named brand are specified as acceptable.

- **Qualified Products List Specifications** – based on a list of products, identified by manufacturers' name and model numbers, which are the only items that will be acceptable. These are used when quality is such a critical factor and testing so lengthy or expensive that CoLC wants to stay with proven products. The list is prepared by testing products, either in the lab or in daily use. Items may be added to the list by the vendor demonstrating their quality in comparison to those on the list.
- **Standard Specifications** – a single specification for one or more goods/services that are ordered on a recurring basis and that have the same general purpose. The same specification is used each time an order is placed or bids are advertised. Examples are office supplies, paper, janitorial supplies and copier service contracts. Standardized specifications will usually be more complete and detailed than one-time specifications.
- **Qualified Bidder** – Specifying the minimum qualifications that a bidder must meet in order to be eligible for award is used primarily for major construction projects and service contracting. Experience, references, qualifications, and evidence of financial stability required of each bidder must be completely described. Avoid using qualification criteria that are not based on a contractor's ability to provide the service or that limit competition.

4.4.4 Specification Writing

Try to obtain an existing specification before starting to write a new one, you will almost always have to do some specification writing or rewriting. This section will help you accomplish this task as simply and efficiently as possible.

- 1) Determine that an acceptable specification is not available and a new one must be written or an old one must be revised.
- 2) Gather data for the specification. Sources are:
 - a. Using department - Determine their needs and requirements;
 - b. Vendors and manufacturers;
 - c. Trade associations for that commodity, service or product;
 - d. Other Local government, State, Federal specifications and standards;
- 3) Analyze and evaluate the data based on the government's requirements.
- 4) Decide on parameters for the item of service and set minimum levels of acceptance so that the items purchased will meet the needs.
- 5) Write the proposed specification. Use a standard format for all specifications to ensure uniform preparation and to promote easier understanding by users of the specification.
 - a. Specifications should always be written to encourage competition by containing as little restrictive language as possible.
 - b. Use U.S. Industry and national standards and measures where appropriate to describe the items.
- 6) Where applicable, and especially for standardized specifications, circulate the specification to:
 - a. All potential users
 - b. Buyers in the purchasing office
 Request their comments. Users should comment on unsatisfactory aspects of the specification to avoid protests later.

- 7) Analyze and evaluate comments on the proposed specification:
 - a. Tabulate recommended changes
 - b. Evaluate the effect on proposed specification
 - c. Discuss with users and buyers
- 8) Change proposed specification, and
 - a. If necessary, re-circulate new proposed specification. Go back to Step 6,
or
 - b. If only minor changes, prepare final version.
- 9) Assign specification number.

CHAPTER 5 – DISPUTE AND PROTEST PROCEDURES

Grantees alone will be responsible in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the grantee of any contractual responsibility under its contracts. Violations of the law will be referred to the Local, State, or Federal authority having proper jurisdiction. In all instances, CoLC shall disclose information regarding protests upon request by any Local, State or Federal authority.

Potential bidders, contractors, or proposers can lodge written protests as a remedy to correct a perceived wrong that may have **occurred** during the procurement process. CoLC will accept and review the protest with the understanding that the integrity of the procurement process may be at stake. CoLC will use the below procedures to resolve disputes.

All protests lodged by potential or actual bidders, contractors, or proposers must be made in writing and contain the following information:

- 1) Name, address, and telephone number of the protester.
- 2) Identification of the solicitation or contract number and title.
- 3) A detailed statement of the protest's legal and factual grounds, including copies of relevant documents.
- 4) Identification of the issue(s) to be resolved and statement of what relief is requested.
- 5) Argument and authorities in support of the protest.
- 6) A statement that copies of the protest have been mailed or delivered to all interested parties in the Invitation to Bid or Request for Proposal process. In the case of Requests for Proposals, the Purchasing Manager shall direct the protester to mail or deliver the protest to relevant parties.

Mail the protest to:

Purchasing Manager
City of Lake Charles
P.O. Box 900
Lake Charles, LA 70602

Overnight or hand deliver the protest to:

Purchasing Manager
City of Lake Charles
326 Pujo Street
Lake Charles, LA 70601

Faxed or e-mailed protests will not be accepted.

The CoLC Purchasing Manager will respond, in written detail, counterclaims to each substantive issue raised in the protest. The Purchasing Manager will also perform the following analysis:

- 1) Price Analysis or Cost Analysis for each claim.
- 2) Technical Analysis to determine the validity of the claim(s) and determine the appropriate response(s).
- 3) Legal Analysis to consider all the factors available after the price, cost and technical analyses have been conducted to determine the contractor's, and CoLC's legal positions.

Purchasing Manager has the authority to render the final determination regarding the protest. Any determination rendered by City of Lake Charles will be final.

5.1 PRE-BID OR SOLICITATION PHASE PROTEST

A Pre-Bid or Solicitation Phase Protest must be received in writing by the CoLC Purchasing Manager a minimum of five (5) full work days prior to the bid opening or proposal due date. If the written protest is not received in the time specified, the award may be made following normal procedures, unless the Purchasing Manager, upon investigation, determines that remedial action is required on the grounds of fraud, gross abuse of the procurement process, or otherwise indicates substantial prejudice to the integrity of the procurement system, and said action should be taken. Within three (3) work days from the time the protest is received, the CoLC Purchasing Manager will notify all potential bidders, contractors, or proposers that a protest has been lodged and the nature of the protest. The Purchasing Manager will respond to the protest in writing within five (5) working days from the time the protest was received. If the Purchasing Manager decides to withhold the award pending the resolution of the protest, the Purchasing Manager may request a time extension for award acceptance from those bidders, contractors, or proposers whose bids or proposal might become eligible for award. This extension for award acceptance must be with the consent of sureties, if any, in order to avoid the need for re-advertising.

CoLC will not make an award prior to five (5) working days after the protest is resolved, unless CoLC determines that:

- 1) The items or services to be procured are urgently required;
- 2) Delivery or performance will be unduly delayed by failure to make the award promptly; or
- 3) Failure to make the award will otherwise cause undue harm to CoLC

The Purchasing Manager will document this action and give written notice of the decision to proceed with the award to the Protester, and to other parties where deemed necessary.

5.2 PRE-AWARD PROTEST

Protests may be lodged after the Bid Opening or Close of Request for Proposal deadline and prior to Notice of Award. Within three (3) work days from the time the protest is received, the Purchasing Manager will notify all potential bidders, contractors, or proposers that a protest has been lodged and the nature of the protest. The Purchasing Manager will respond to the protest in writing within five (5) working days from the time the protest was received. If the Purchasing Manager decides to withhold the award pending the resolution of the protest, the Purchasing Manager may request a time extension for award acceptance from those bidders, contractors, or proposers whose bids or proposal might become eligible for award. This extension for award acceptance must be with the consent of sureties, if any, in order to avoid the need to re-advertise.

CoLC will not make an award prior to five (5) working days after the protest is resolved, unless CoLC determines that:

- 1) The items or services to be procured are urgently required;
- 2) Delivery or performance will be unduly delayed by failure to make the award promptly; or
- 3) Failure to make the award will otherwise cause undue harm to CoLC

The Purchasing Manager will document this action and give written notice of the decision to proceed with the award to the Protester, and to other parties where deemed necessary.

5.3 POST-AWARD PROTEST

Purchasing Manager will receive protests in writing within three (3) working days after the Notice of Award and letters of notification should have been received by bidders or proposers. Upon receipt of a protest, the Purchasing Manager shall notify the bidder or proposer awarded the contract. The Purchasing Manager will render a determination to proceed with the contract or suspend the project until the protest is resolved. The Purchasing Manager will respond to the protest in writing within five (5) working days after receipt of the protest.

5.4 APPEALS

The Purchasing Manager has the authority to settle any dispute and resolve the protest. The Purchasing Manager may solicit written responses regarding the protest from other parties. If this course of action does not result in a satisfactory resolution, the Protester may appeal in writing to the CoLC Purchasing Manager within three (3) working days after the Purchasing Manager issues a final decision. The CoLC Purchasing Manager will issue a decision within five (5) working days after receipt of the appeal.

CoLC may elect to involve legal counsel or arbitration and mediation consultants to resolve the issue(s).

CHAPTER 6 – CONTRACT NEGOTIATION

The Purchasing Manager or designee shall be responsible for all negotiations with proposers, and prospective contractors and shall obtain the necessary assistance from personnel involved in the procurement project and legal counsel.

6.1 COMPETITIVE NEGOTIATION

In order to procure Professional/Personal Services, Technology, and Architectural/Engineering (A&E) services, CoLC will issue Request for Proposals. All proposals except for A&E shall require both technical and cost proposals. CoLC shall solicit proposals from a minimum of three sources to ensure adequate competition. CoLC reserves the right and sole discretion to cancel the solicitation, without penalty. CoLC reserves the right to reject all proposals and resolicit or cancel the procurement if this action is considered to be in CoLC's best interest. CoLC also reserves the right to award the contract based upon initial submissions or on the basis of a best and final offer without conducting written or oral discussions if the solicitation specifically stipulates this reservation of CoLC's rights. Whenever CoLC enters negotiations with one proposer, CoLC must enter discussions with all proposers that submitted proposals within CoLC's predetermined price range, except in the case of A&E (see below). If CoLC does enter into negotiations, CoLC shall make the final selection at the conclusion of formal negotiations based upon the evaluation of best and final offers, unless CoLC decides to award the contract based upon initial submissions. It is critical to thoroughly document all correspondence and negotiations.

If procuring Architectural or Engineering services, CoLC will follow the procedures outlined in Section 3.4. CoLC will enter into negotiations with the most technically qualified firm to arrive at a fair and reasonable price. If an agreement cannot be reached, CoLC will enter negotiations with the next qualified firm on the list, and will proceed in this manner, until an award is made. If an agreement cannot be reached with a firm, the RFP process shall start over.

The CoLC Proposal Evaluation Team for the specific procurement will convene to evaluate and rank the proposals. If needed, the Evaluation Team may conduct oral interviews with the finalists. The questions to be asked during the interviews may be sent to the finalists a minimum of three (3) days prior to the interviews. The Evaluation Team shall then finalize the selection of proposers in descending order for the document file.

The Evaluation Team may then enter into detailed and carefully documented negotiations with each of the finalists. The negotiations shall consist of addressing the total proposed effort and contract terms and conditions. Avoid "auctioning" of prices (allowing vendors to lower their prices below their competitor's, and so on). After negotiating with each proposer, establish a schedule and deadline for the submission of "Best and Final Offers" which may include Technical and/or Cost/Price Proposals.

Upon receiving the "Best and Final Offers," reconvene the Evaluation Team. Perform a Cost Analysis on the submitted contract modifications, and decide which proposer should receive the contract award based either upon the final offers or the initial offers. Complete the procurement steps listed in section 3.4.1. Document the Evaluation Team's methodology to select a proposal.

If the Evaluation Team is unable to reach an agreement with the proposers, assess the reasons and either amend the Request for Proposals and send the amendments to the proposers with whom the Evaluation Team is negotiating, or formally cancel the solicitation and start over with a new Request for Proposals.

Appendix B – Standard Forms

Form B-1 – CoLC "FAIR AND REASONABLE" PRICE DOCUMENTATION FOR MICRO PURCHASES (\$0 TO \$10,000)

ITB OR RFP NUMBER: _____ **GRANT/EVENT:** _____

PROCUREMENT DESCRIPTION: _____

I hereby determine that the price of the product to be purchased is "fair and reasonable," based upon the methodology indicated below. Comments section must be completed to provide explanation for methodology chosen.

- _____ Found reasonable on recent purchase
- _____ Obtained from current price list
- _____ Obtained from current catalog
- _____ Commercial market sales price from advertisements
- _____ Similar in related industry
- _____ Personal knowledge of item procured
- _____ Regulated rate (utility)
- _____ Established Market Prices
- _____ Other

Comments: _____

_____ Copy of purchase order, quotes, catalog page, price list, etc. is attached

City of Lake Charles Representative

Date

Form B-2 – CoLC PRICE QUOTES DOCUMENTATION FOR SMALL PURCHASES (\$10,001 TO \$60,000)

Purchases costing more than \$60,000 must be advertised and procured through competitive bidding and approved and awarded by Lake Charles City Council.

ITB OR RFP NUMBER: _____ **GRANT/EVENT:** _____

PROCUREMENT DESCRIPTION: _____

For purchases with a unit cost of less than \$60,000, solicitation of verbal bids is required from at least three sources according to the State of Louisiana R.S. 38 (Public Bid law).

A – Telephone Quotes (3 required)

Name of Offeror 1 _____ \$ _____ DBE? Yes or No

Name of Offeror 2 _____ \$ _____ DBE? Yes or No

Name of Offeror 3 _____ \$ _____ DBE? Yes or No

Name of Offeror 4 _____ \$ _____ DBE? Yes or No

Name of Offeror 5 _____ \$ _____ DBE? Yes or No

B – Companies who did not supply requested quote

Name of Company _____ DBE? Yes or No

Name of Company _____ DBE? Yes or No

Name of Company _____ DBE? Yes or No

Comments: _____

City of Lake Charles Representative

Date

Form B-3 – CoLC INDEPENDENT COST/PRICE ESTIMATE FOR SMALL PURCHASES (\$10,001 TO \$250,000) AND LARGE PURCHASES (Over \$250,000)
Purchases costing more than \$60,000 must be advertised and procured through competitive bidding and approved and awarded by Lake Charles City Council.

ITB OR RFP NUMBER: _____ **GRANT/EVENT:** _____

PROCUREMENT DESCRIPTION: _____

CONTRACT TYPE: _____

Cost Estimate Details:

Through the method stated below it has been determined that the total cost of the goods/services is expected to be: \$_____. Comments section must be completed to provide explanation for methodology chosen.

Method of obtaining the estimate:

_____ Published Price List / Past Pricing (date) _____

_____ Engineering or Technical Estimate

_____ Independent Third Party Estimate

_____ Other (specify) _____

_____ Copy of price list, estimates, etc. supporting above method must be attached

Comments: _____

City of Lake Charles Representative

Date

Form B-4 – CoLC JUSTIFICATION FOR CONTRACT TYPE

Page 1 of 2

ITB OR RFP NUMBER: _____ **GRANT/EVENT:** _____

PROCUREMENT DESCRIPTION: _____

Procurement Decision Matrix (check all that apply)

- **Micro-Purchase** _____
 - Less than \$10,000 _____
 - Multiple sources _____
- **Competitive Procurement** _____
 - Greater than \$10,000 _____
 - Multiple sources _____
 - Not an emergency _____
- **Sole Source** _____
 - OEM, Custom Item _____
 - Only one source _____
 - Competition inadequate after solicitation _____
 - Emergency/Public Exigency _____
- **Small Purchase** _____
 - Amount less than \$250,000 _____
 - Complete and adequate specification or description _____
 - Two or more quotes available _____
- **Sealed Bid** _____
 - Complete and adequate specification or description _____
 - Two or more responsible bidders willing to compete _____
 - Selection can be made on the basis of price alone _____
 - Firm Fixed Price Contract _____
 - No discussion with bidders required after receipt of bids _____

Form B-4 – CoLC JUSTIFICATION FOR CONTRACT TYPE

Page 2 of 2

- **Request for Proposals (RFPs)** _____
Complete specifications but not feasible _____
Bidder input needed _____
Two or more responsible bidders willing to compete _____
Discussion needed with bidders after proposals _____
Fixed price can be set after discussions _____
- **Type of Contract**
Fixed price _____
Firm fixed unit prices _____
Cost plus fixed fee _____
Time and materials _____
Blanket purchase order _____
Indefinite delivery/Indefinite quantity _____

***Cost Plus Percentage of Cost contracts are prohibited. Under this type of contract, the owner agrees to pay the cost plus an agreed upon percentage of the costs, (e.g., 10%), up to a maximum dollar amount, including change orders.**

****Time and Materials Contracts must include a ceiling price that the contractor exceeds at its own risk and a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.**

Type of contract selected: _____

The contract type was selected because: _____

City of Lake Charles Representative

Date

Form B-5 – CoLC PRICE ANALYSIS DOCUMENTATION FOR SMALL PURCHASES OVER \$10,001 AND LARGE PURCHASES OVER \$250,000

ITB OR RFP NUMBER: _____ **GRANT/EVENT:** _____

PROCUREMENT DESCRIPTION: _____

Based upon the bids/quotes received as identified on the bid tabulation, I hereby determine that adequate price competition was obtained by comparison of the quotations and that the low price is fair and reasonable based upon one of the following methods.

The price analysis was obtained through:

- Comparison of bid received _____
- Comparison to previous purchase _____
 - Changes in quantity, quality, delivery schedules and the economy cause price variations.
 - Make sure previous price was fair and reasonable based on physical review of documentation contained in previous files.
 - Analyze each differing situation through trend analysis.
 - Use when adequate competition does not exist.
- Surveyed other agencies _____
 - Contact other public agencies that recently purchased a similar item to find out the price they paid.
 - Place information in a *memorandum* or a form.
 - Include additions or deletions for specific components (e.g., operator's seat, lighting system, signage system, etc.
 - Use when adequate competition does not exist.
 - Other (provide explanation)

- This was a sole source bid _____
 - Include a letter of explanation in the contract file and complete Form B-7 *CoLC Sole Source Procurement Justification*.

City of Lake Charles Representative

Date

Form B-6 – CoLC COST ANALYSIS DOCUMENTATION FOR CONSTRUCTION CONTRACTS, RFPs (TECHNOLOGICAL ITEMS), AND SOLE SOURCE CONTRACTS OVER \$60,000

ITB OR RFP NUMBER: _____ **GRANT/EVENT:** _____

PROCUREMENT DESCRIPTION: _____

When necessary: Perform a Cost Analysis when the offeror is required to submit the following elements of the estimated cost for professional consulting, architectural and engineering services contracts: Labor Hours, Overhead, Materials, etc. Architect/Engineering firm must provide unit quantity prices (e.g., estimates for asphalt, curb and gutter, number of hours for surveyors, drafting, etc.)

Perform a Cost Analysis whenever adequate price competition is lacking and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalogue or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation. If the contract modification or change order increases the quantity of items included in the original bid and is the same amount as the original bid pricing, no cost analysis is required.

Based upon the proposals or bids received, I hereby determine that the price is fair and reasonable based upon one of the following methods.

The cost analysis was obtained through:

- **Technical Evaluation**
 - This method is not directly related to price, but involves an assessment of quantitative and qualitative factors that influence the offered price. This method allows an evaluation of the functions that cause cost. It is recommended that technically trained and experienced personnel assist in the analysis of hours, quantities, tooling, testing, head counts, productivity, and similar factors. When a technical evaluation is required prior to negotiations, it should address:
 - An estimate of necessary labor hours with an indication of desirable adjustments;
 - Reasonableness of proposed material type, quantity and necessity;
 - The need for acquiring equipment and which equipment is considered general purpose or unique to perform a particular contract;
 - The possibility and availability of property that could be furnished by the grantee;
 - The number, location, and need for any grantee funded trips for contractor personnel; and
 - The evaluator's summary statement and rationale that address whether or not the labor, material, travel and other cost elements are reasonable.
- **Accounting Records**
 - This method can present the cost of a job, but it is limited in determining reasonableness. Technical skills and judgements are required to determine reasonableness and necessity of the costs.
- **Auditor's Support**
 - An auditor verifies proposed costs, overhead costs, and examines the vendor's estimates. Certain categories of materials, salaries, or the actual cost elements have contributed to an overhead rate. The auditor should tell you the prohibited costs included in the contractor's proposal.

City of Lake Charles Representative

Date

Form B-7 – CoLC SOLE SOURCE PROCUREMENT JUSTIFICATION

Complete this form to document to justify a Sole Source procurement.

ITB OR RFP NUMBER: _____ **GRANT/EVENT:** _____

PROCUREMENT DESCRIPTION: _____

Indicate the reason for choosing a sole source procurement based upon compliance with the following considerations from 2 CFR § 200.320 (c). (For more information, see www.ecfr.gov.)

- The item is available only from a single source (e.g., utilities, when only one entity owns the patent on the process or product required, etc.) _____
 - Explain how this was determined

 - How did you determine the availability of the service or item? (e.g., checked on prior procurements for the same or similar item)

- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation -- there is no time to competitively procure. _____
 - Describe the public exigency or emergency and attach documentation

- After solicitation of a number of sources, competition is determined inadequate _____
 - Total number of bids or proposals received _____
 - Number of responsible bids or proposals received _____

City of Lake Charles Representative

Date

Form B-8 – CoLC DETERMINATION OF BEST VALUE

ITB OR RFP NUMBER: _____ **GRANT/EVENT:** _____

PROCUREMENT DESCRIPTION: _____

_____ (name of company)
is determined to be the lowest, most responsive bid and will provide the best value to CoLC.

- Company's bid is the lowest bid received _____
- Company's bid is not the lowest bid _____
 - o This company was selected due to the following reason(s):

City of Lake Charles Representative

Date

Form B-9 – CoLC CONTRACTOR VERIFICATION

Use this form for the general contractor and all subcontractors.

ITB OR RFP NUMBER: _____ **GRANT/EVENT:** _____
PROCUREMENT DESCRIPTION: _____

I have verified through the _____ Federal Government's System for Award Management list at www.sam.gov and the State of Louisiana's list at www.doa.la.gov/doa/osp/agency-resources/debarred-entities/ that _____,

who has been awarded the CoLC contract to provide _____,

has not been debarred from working on Federally funded projects. Likewise, I have verified through the lists above that the following sub-contractors have not been debarred from working on Federally funded projects.

| Company Name | Address | Subcontract or Service |
|--------------|---------|------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

City of Lake Charles Representative Date

Form B-10 – MASTER CONTRACT FILE CHECK LIST FOR PROJECT

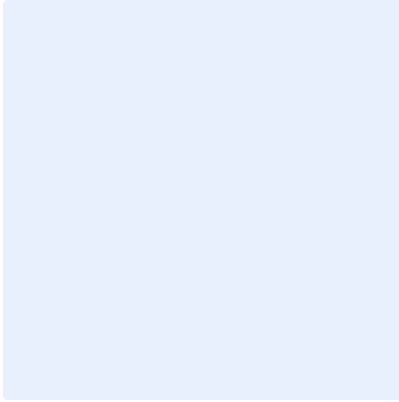
ITB OR RFP NUMBER: _____ **GRANT/EVENT:** _____

PROCUREMENT DESCRIPTION: _____

| | | |
|--|---|---|
| | Email notifying Purchasing Manager of project description | Date: |
| | Independent Cost/Price Estimate (Form B-3) | Date: Process used to derive Independent Estimate: |
| | Justification for Contract Type (Form B-4) | Date: Contract Type: |
| | Requisition | Date: |
| | City Council Agenda item for purchases over \$60,000 | TAB Date: City Council Date: |
| | Invitation to Bid or Request for Proposal Package, Addenda, Federal Provisions | ITB or RFP Date: Addendums _____ Fed Clauses Y N Fed Certs Y N |
| | Advertisement | Publication Date: Publication Date: Publication Date: |
| | Bid/Proposal Summary | Yes No |
| | Pre-Bid/Proposal Conference Sign-in Sheet and Minutes | Conference Date: |
| | Bid Opening / Tabulation | Bid Opening Date: |
| | Verify required certifications are attached to bid | Date: |
| | Adequate price competition Price Analysis or Cost Analysis (Form B-5/B-6) | Date: |
| | Sole Source Procurement Justification (Form B-7) | Date if Applicable: |
| | Determine low bid/best value (Form B-8) Include bids received. | Date: |
| | Letters from vendors to withdraw bids or proposals | Dates if Applicable: |
| | Contractor Verification (Form B-9) to see if selected contractor is debarred (www.sam.gov) | Date: |
| | Proposal Evaluation Criteria | Date if Applicable: |
| | Memorandum of Negotiations/Interviews (Form B-13) | Date if Applicable: |
| | Evaluation Team signatures: Code of Ethics and Conflict of Interest Policy for RFPs | If Applicable: Yes No |
| | Bond Documents, Notices to Sureties | |
| | Miscellaneous Correspondence, letters Approved Equals, etc. | |
| | Misc., such as Stop Work documentation | |

City of Lake Charles Representative

Date



**HURRICANES LAURA/DELTA/IDA & MAY 2021 SEVERE STORMS
CDBG-DISASTER RECOVERY PROGRAM**

Pre-Construction Meeting
<Parish>
<Project Name>
Davis Bacon and Section 3 Requirements

<MONTH DATE, YEAR>

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I. FEDERAL REGULATIONS AND LABOR COMPLIANCE REPORTING GUIDANCE

In accordance with the Louisiana Disaster Recovery CDBG Program, administered by the Office of Community Development Disaster Recovery Unit, all Contractors and Subcontractors involved in CDBG implemented projects in excess of \$2,000 must comply with the following laws and regulations:

1. Federal Fair Labor Standards Act
2. Davis Bacon Act and Related Acts
3. Copeland Anti-Kickback Act
4. Contract Work Hours and Safety Standards
5. Louisiana Labor Standards and local law and regulations
6. Applicable Equal Employment Opportunity laws and regulations
7. Section 3 of the Housing and Development Act of 1968/'New Rule' 24 CFR Part 75

This document is to be used as a guide for Contractors/Sub-Contractors on federally assisted construction projects. **All Payrolls, Section 3, and Employee Information shall be submitted to:**

CONTACT: <Name>
 <Title>
 <Agency/Company>
 <Street Address>
 <City>, LA <Zip>
 Ph: <phone number>
 Email: <email address>

Note: All original weekly payrolls and the appropriate Section 3 compliance forms should be submitted directly to <contact name> for compliance review within 7 days after the payroll ending date.

The Point of Contact related to the grant management of the <Parish – Project Name> and required labor regulations for this project is:

<Name>
<Title>
<Agency/Company>
Ph: <phone number>; Cell: <cell number>
Email: <email address>

This project is federally funded and therefore compliance with Federal Labor Standards, Equal Opportunity, and Section 3 are mandated as follows:

1. The contractor(s) must comply with the effective *Federal Wage Decision* made a part of the bid/contract documents, and addendums, in paying all employees.
2. *Payrolls*, along with the executed *Statement of Compliance*, must be submitted weekly to the Grant Administrator.
3. All Subcontracts must also submit weekly payrolls following the guidelines below. It is the Prime Contractor's responsibility to ensure that all subcontractors submit all required information to the prime in a timely and accurate manner. The prime contractor is responsible for notifying HGA (preferably via email) at the beginning of the subcontractors' work on the jobsite.
4. Upon start of construction, payrolls must be numbered sequentially; Contractors must complete and submit payrolls during construction even if no work occurred during the week.
5. A *Statement of Compliance* must be signed by an officer of the company; in the event someone other than an officer is certifying the payroll, a corporate resolution or written authorization signed by an officer of the company must be submitted authorizing that person to act as certifying official.
6. On the *Statement of Compliance*, either box (4) (a) or (4) (b) must be checked indicating whether fringe benefits are paid in cash or to approved plans.
7. If any deductions are made from employees' earnings other than mandated payroll taxes, i.e., insurance, garnishment, uniform, etc., the employee must complete the *Payroll Deduction Authorization*. This form must be submitted with the payroll(s). (Only one submittal is required as long as authorized deductions remain the same.)
8. Employee classification identified on the payrolls must be included in the federal wage decision. In the event you are using a classification not included in the wage decision, please **immediately** notify the grant administrator. A *Report of Additional Classification and Rate* must be completed and forwarded to the grant administrator.
9. The contractor must visibly post the *Wage Rate Sheet* and *Labor Posters* provided herein at the construction site.
10. During construction, the grant administrator must conduct *Employee Interviews* of workers to determine payroll accuracy and compliance with Davis Bacon.
11. Section 3 requires that the contractor make every effort to hire low/moderate income persons from the target area if any new hires are needed for the project. To document such efforts, the *New Employee Information Form* must be completed for any new employees hired for this project. In addition, the contractor must complete the *Section*

- 3 Plan Monthly Report and submit it to the assigned Grant Administrator for monthly compliance review (attach and submit New Employee Information form with the Section 3 Monthly Report if applicable).
12. The contractor must comply with Equal Opportunity Laws; a handout, Commonly Asked Questions Concerning Equal Opportunity, is provided for your use.
 13. Contract must submit the Section 3 Certification of Selected Bidder and Section 3 Plan, including Tables A and B, if not previously submitted with bid/contract documents.
 14. A list of sub-contractors must be provided to the grant administrator.
 15. Any subcontractor whose contract exceeds \$100,000.00 must complete Section 3 Plan and Tables A and B.
 16. All sub-contractors must complete Certification of Proposed Subcontractor Regarding Section 3 and Segregated Facilities.

II. EFFECTIVE FEDERAL WAGE DECISION

Federal wage decisions are found at the SAM.GOV website: <https://sam.gov/content/wage-determinations>

"General Decision Number: LA20230001 09/22/2023

Superseded General Decision Number: LA20220001

State: Louisiana

Construction Type: Residential

Counties: Acadia, Ascension, Bossier, Caddo, Calcasieu, East Baton Rouge, Jefferson, Lafayette, Lafourche, Livingston, Orleans, Ouachita, Plaquemines, Rapides, St Bernard, St Charles, St James, St John the Baptist, St Landry, St Martin, St Tammany, Terrebonne, Webster and West Baton Rouge Counties in Louisiana.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

| | |
|--|---|
| <p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p> | <p>Executive Order 14026 generally applies to the contract. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</p> |
| <p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p> | <p>Executive Order 13658 generally applies to the contract. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.</p> |

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

| Modification Number | Publication Date |
|---------------------|------------------|
| 0 | 01/06/2023 |
| 1 | 01/13/2023 |
| 2 | 01/20/2023 |
| 3 | 03/10/2023 |

4 04/14/2023
 5 06/16/2023
 6 06/30/2023
 7 08/25/2023
 8 09/01/2023
 9 09/08/2023
 10 09/22/2023

ELEC0130-003 12/05/2022

JEFFERSON, LAFOURCHE, ORLEANS, PLAQUEMINES, ST. BERNARD, ST. CHARLES, ST. JAMES, ST. JOHN THE BAPTIST, ST. MARTIN (Southern Portion), and TERREBONNE PARISHES

| | Rates | Fringes |
|--|----------|---------|
| ELECTRICIAN (including low voltage wiring and installation of fire alarms and security systems)..... | \$ 32.75 | 14.51 |

* ELEC0194-002 09/04/2023

BOSSIER, CADD0, and WEBSTER PARISHES

| | Rates | Fringes |
|--|----------|---------|
| ELECTRICIAN (including low voltage wiring and installation of fire alarms and security systems)..... | \$ 32.25 | 14.87 |

ELEC0446-002 09/01/2023

OUACHITA PARISH

| | Rates | Fringes |
|--|----------|-------------|
| ELECTRICIAN (including low voltage wiring and installation of fire alarms and security systems)..... | \$ 21.81 | 1.25%+13.00 |

ELEC0576-003 03/01/2023

RAPIDES PARISH

| | Rates | Fringes |
|--|----------|------------|
| ELECTRICIAN (including low voltage wiring and installation of fire alarms and security systems)..... | \$ 26.90 | 4.25%+9.90 |

ELEC0861-002 09/01/2023

ACADIA, CALCASIEU, LAFAYETTE, AND ST. MARTIN (Northern Portion) PARISHES

| | Rates | Fringes |
|--|----------|-------------|
| ELECTRICIAN (including low voltage wiring and installation of fire alarms and security systems)..... | \$ 30.73 | 4.34%+13.45 |

ELEC0995-003 01/01/2023

ASCENSION, EAST BATON ROUGE, LIVINGSTON, ST. LANDRY, AND WEST BATON ROUGE PARISHES

| | Rates | Fringes |
|--|----------|---------|
| ELECTRICIAN (including low voltage wiring and installation of fire alarms and security systems)..... | \$ 27.49 | 12.66 |
| ----- | | |
| ELEC1077-006 05/29/2023 | | |

ST. TAMMANY PARISH

| | Rates | Fringes |
|--|----------|---------|
| ELECTRICIAN (including low voltage wiring and installation of fire alarms and security systems)..... | \$ 27.39 | 3%+9.92 |
| ----- | | |
| PLUM0060-005 06/05/2023 | | |

JEFFERSON, LAFOURCHE, ORLEANS, PLAQUEMINES, ST. BERNARD, ST. CHARLES, ST. JAMES (Southeastern Portion), ST. JOHN THE BAPTIST, ST. TAMMANY, AND TERREBONNE PARISHES

| | Rates | Fringes |
|-----------------------------------|----------|---------|
| PLUMBER (including HVAC pipe).... | \$ 31.70 | 13.85 |
| ----- | | |
| PLUM0106-003 06/01/2014 | | |

ACADIA, CALCASIEU, LAFAYETTE, ST. LANDRY, and ST. MARTIN (Western Portion) PARISHES

| | Rates | Fringes |
|-----------------------------------|----------|---------|
| PLUMBER (including HVAC pipe).... | \$ 25.90 | 13.65 |
| ----- | | |
| PLUM0141-003 08/01/2023 | | |

BOSSIER, CADD0, and WEBSTER PARISHES

| | Rates | Fringes |
|-----------------------------------|----------|---------|
| PLUMBER (including HVAC pipe).... | \$ 28.48 | 14.47 |
| ----- | | |
| PLUM0198-002 12/08/2022 | | |

ASCENSION, EAST BATON ROUGE, LIVINGSTON , ST. JAMES (Northwestern Portion), ST. MARTIN (Eastern Portion), AND WEST BATON ROUGE PARISHES

| | Rates | Fringes |
|-----------------------------------|----------|---------|
| PLUMBER (including HVAC pipe).... | \$ 32.42 | 16.50 |
| ----- | | |
| PLUM0247-004 05/01/2020 | | |

RAPIDES PARISH

| | Rates | Fringes |
|-----------------------------------|----------|---------|
| PLUMBER (including HVAC pipe).... | \$ 26.50 | 13.39 |
| ----- | | |
| PLUM0659-004 07/01/2015 | | |

OUACHITA PARISH

| Rates | Fringes |
|-------|---------|
|-------|---------|

PLUMBER (including HVAC pipe)...\$ 26.33 8.97

SHEE0214-003 07/01/2009

Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, and Terrebonne Parishes

| | Rates | Fringes |
|--|----------|---------|
| SHEET METAL WORKER (includes HVAC Duct)..... | \$ 24.54 | 9.65 |

SHEE0214-005 02/01/2009
Acadia, Ascension, Calcasieu, East Baton Rouge, Lafayette, Livingston, St. Landry, St. Martin, and West Baton Rouge Parishes

| | Rates | Fringes |
|--|----------|---------|
| SHEET METAL WORKER (includes HVAC Duct)..... | \$ 24.37 | 9.205 |

SHEE0361-004 07/01/2012
BOSSIER, CADDO, OUACHITA, RAPIDES, AND WEBSTER PARISHES

| | Rates | Fringes |
|---|----------|----------|
| Sheet Metal Worker (including HVAC duct)..... | \$ 26.09 | 10.22+3% |

* SULA2004-012 06/15/2004

| | Rates | Fringes |
|--|-------|---------|
|--|-------|---------|

| | | |
|---|-------------|------|
| CARPENTER (including drywall hanging, metal stud installation, and formbuilding/formsetting)..... | \$ 11.78 ** | 0.00 |
| Laborer, common..... | \$ 8.01 ** | 0.00 |
| PAINTER | | |
| Brush, Roller, and Spray.... | \$ 11.38 ** | .83 |
| Drywall Finishing..... | \$ 12.71 ** | .78 |
| Power Equipment Operator | | |
| Crane..... | \$ 13.00 ** | 0.00 |
| ROOFER..... | \$ 10.11 ** | 2.01 |

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year.

Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate

that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.
=====

END OF GENERAL DECISION

III. WH-347, PAYROLL FORM – STATEMENT OF COMPLIANCE

U.S. Department of Labor
Wage and Hour Division

PAYROLL

For contractor's optional use; see instructions at dol.gov/agencies/whd/forms/wh347
Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.



NAME OF CONTRACTOR OR SUBCONTRACTOR ADDRESS _____
 PAYROLL NO. _____ PROJECT AND LOCATION _____ PROJECT OR CONTRACT NO. _____
 FOR WEEK ENDING _____

| (1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (OR LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER OF WORKER) | (2) SIGNATURE OF EMPLOYEE | (3) WORKER CLASSIFICATION | (4) HOLIDAY AND DATE | | | | | | | (5) TOTAL HOURS | (6) RATE OF PAY | (7) GROSS AMOUNT EARNED | (8) DEDUCTIONS | | | (9) NET WAGES PAID FOR WEEK | |
|--|---------------------------|---------------------------|----------------------|----|----|----|----|----|----|-----------------|-----------------|-------------------------|----------------|------------------|-------|-----------------------------|------------------|
| | | | ST | TH | FR | SA | SU | MO | TU | | | | FICA | WHT- FOLDING TAX | OTHER | | TOTAL DEDUCTIONS |
| | | | | | | | | | | | | | | | | | |
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to report to the information collection contained in 29 C.F.R. §§ 3.5-3.163. The Company Act (40 U.S.C. § 3142) contractors and subcontractors performing work on Federally financed or assisted construction contracts to furnish weekly a statement with respect to the wages paid each employee during the preceding week. U.S. Department of Labor (DOL) requires all 29 C.F.R. § 3.5(d)(3)(iv) require contractors to submit weekly a copy of all payrolls to the Federal agency administering the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and Federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. It will have any administrative burdening effect, including the collection of information, including suggestions for reducing the burden, send them to the agency that sponsors this collection of information, U.S. Department of Labor, Room 55002, 200 Constitution Avenue, N.W., Washington, D.C. 20310.

Date _____

I, _____ (Name of Signatory Party) _____ (Title) do hereby state:

(1) That I pay or supervise the payment of the persons employed by _____ on the _____ (Contractor or Subcontractor) _____ that during the payroll period commencing on the _____ (Building or Work) _____ day of _____ and ending the _____ day of _____ all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said _____ from the full _____ (Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3, 229 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967, 76 Stat. 357, 40 U.S.C. § 3146), and described below:

- _____
- _____
- _____
- _____

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

- (a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS
 - in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

| EXCEPTION (CRAFT) | EXPLANATION |
|-------------------|-------------|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

REMARKS:

| NAME AND TITLE | SIGNATURE |
|---|-----------|
| <p>THE VALUETU FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF TITLE 31 OF THE UNITED STATES CODE</p> | |

IV. COMMENTS REGARDING PAYROLL FORM

General: Department of Labor Form WH-347 has been made available for the convenience of contractors and is not mandatory. Properly completed, this form will satisfy the requirements of the Disaster Recovery CDBG program. Form WH-347 along with instructions in greater detail can be found at: <https://www.dol.gov/agencies/whd/forms>.

Heading Information: Fill in the contractor’s name, address, payroll number, week ending date, project location, and Disaster Recovery CDBG project number. Payrolls are numbered according to weeks having work activity. Example: Work was done during weeks one and two, but the work was stopped due to rain during weeks three and four. Work resumed and the job was completed during week five. The payrolls for the entire project would be numbered 1-initial, 2, and 3-final. The prime contractor should inform the grantee’s Labor Compliance Officer, weekly, for any week during which there is no work done. “No work” payrolls are not required.

Column 1—Name and Last Four Digits of Social Security Number of Employee: In this block, enter the complete name, and the last four digits of the social security number of each employee.

Column 3—Work Classifications: Enter the classification as it is listed on the applicable Davis-Bacon wage decision. Note that “Operator” is not a proper classification since such a classification does not come directly from any wage decision. However, “Backhoe Operator” may be a proper classification if such a classification is on the applicable wage decision.

Columns 4 & 5—Hours Worked and Total Hours: Only enter hours worked on the Disaster Recovery CDBG project—not hours from any other job.

Column 6—Rate Per Hour: Enter the rate of pay on the Disaster Recovery CDBG project, including any cash paid in lieu of fringe benefits. When fringes are paid in cash, the preferred method is to differentiate between basic hourly pay and fringe benefits paid in cash in column 6 on the straight-time row. On the overtime row of column 6 enter the overtime rate of pay including amount paid in cash for fringes. An example follows where John Doe is paid \$10.00 basic hourly rate with \$3.00 in fringe benefits paid in cash. The overtime rate of \$15.00 is 150% of the basic hourly rate of \$10.00—then add the \$3.00 for each hour of fringe benefits. The amount due for each overtime hour becomes \$18.00. In contrast, if the basic hourly rate would not have been identified separately from the fringe and entered as a single figure of \$13.00 then the 150% would have to be applied to the full \$13.00 resulting in a higher overtime rate requirement of \$19.50.

| | | Column 6 |
|----------|---|--------------|
| John Doe | O | 18.00 |
| | S | \$10.00 3.00 |

Column 7—Gross Amount Earned: This column has blocks which are split into two parts, the upper left and the lower right. In the upper left portion of the block enter the gross amount earned from the Disaster Recovery CDBG project. In the lower right portion of the block enter the gross amount earned from all projects.

Column 8--Deductions and Column 9—Net Wages: Deductions are to be based on all projects, both Disaster Recovery CDBG and non-CDBG, and will be deducted from the weekly gross amount earned from all projects. Likewise, net wages are based on all projects.

The Second Page of WH 347—The Statement of Compliance:

The following instructions for the Statement of Compliance are quoted directly from the Department of Labor's instructions that accompany the Payroll Form, WH 347.

FRINGE BENEFITS - Contractors who pay all required fringe benefits: A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of labor shall continue to show on the face of the payroll the basic cash hourly rate and overtime rate paid to his employees just as he has always done. Such a contractor shall check paragraph 4(a) of the statement on the reverse of the payroll to indicate that he is also paying to approved plans, funds or programs not less than the amount predetermined as fringe benefits for each craft. Any exceptions shall be noted in section 4(c).

Contractors who pay no fringe benefits: A contractor who pays no fringe benefits shall pay to the employee and insert in the straight time hourly rate column of the payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringes at the straight time rate. In addition, the contractor shall check paragraph 4(b) of the statement on the reverse of the payroll to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in section 4(c). Enter in the Exception column the craft and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes and the hourly amount paid to plans, funds, or programs as fringes. The contractor shall pay and shall show that he is paying to each such employee for all hours (unless otherwise provided by applicable determination) worked on Federal or Federally assisted project an amount not less than the predetermined rate plus cash in lieu of fringes as shown in Section 4(c). The rate paid and amount of cash paid in lieu of fringe benefits per hour should be entered in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

An additional quotation from the US Department of Labor's instructions for Form WH 347 regarding the Statement of Compliance states penalties for falsification.

Statement Required by Regulations, Parts 3 and 5: While this form need not be notarized, the statement on the back of the payroll is subject to the penalties provided by 18 USV 1001, namely, possible imprisonment of 5 years or \$10,000.00 fine or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

V. PAYROLL AUTHORIZATION FORM

Name of Grant Recipient _____
 DR-CDBG CEA # _____
 Employee _____
 Employer _____

One box should be marked with an “x”. Occasionally more than one box will be marked. In addition to deductions authorized by law, such as social security and income taxes, the following deduction(s) will be subtracted from the employee’s paycheck(s)

- I authorize weekly deduction(s) as described below.
- I authorize a one-time deduction(s), as described below.
- I authorize deduction(s), below, to be subtracted from my paycheck for _____ weeks.

| <u>Description of Additional Deductions*</u> | <u>Amount</u> |
|--|---------------|
| | |
| | |
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| | |
| | |
| | |
| | |

Employee Signature _____

Date _____

*Types of deductions may include retirement, health insurance, uniforms, loans and advance on wages. Deductions for garnishments, such as court orders and child support, may be authorized by this form or an appropriate legal document.

VI. REPORT OF ADDITIONAL CLASSIFICATION AND RATE

| U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REPORT OF ADDITIONAL CLASSIFICATION AND RATE | | HUD FORM 4230A <small>(OMB Approval Number 2501-0111 (Exp. 3/31/2023))</small> | | | | | |
|--|----------------------------|--|---|------------|----------------------------|--|--|
| 1. FROM (name and address of requesting agency) | | 2. PROJECT NAME AND NUMBER | | | | | |
| 4. BRIEF DESCRIPTION OF PROJECT | | 3. LOCATION OF PROJECT (City, County and State) 5. CHARACTER OF CONSTRUCTION <input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Other (specify) <input type="checkbox"/> Highway | | | | | |
| 6. WAGE DECISION NO. (include modification number, if any) <input type="checkbox"/> COPY ATTACHED | | DATE of WAGE DECISION: | 7. WAGE DECISION EFFECTIVE DATE (LOCK-IN): | | | | |
| 8. WORK CLASSIFICATION(S) | | HOURLY WAGE RATES <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; border-bottom: 1px solid black;">BASIC WAGE</th> <th style="width: 50%; border-bottom: 1px solid black;">FRINGE BENEFIT(S) (if any)</th> </tr> </thead> <tbody> <tr> <td style="height: 100px;"></td> <td></td> </tr> </tbody> </table> | | BASIC WAGE | FRINGE BENEFIT(S) (if any) | | |
| BASIC WAGE | FRINGE BENEFIT(S) (if any) | | | | | | |
| | | | | | | | |
| 9. PRIME CONTRACTOR (name, address) | | 9a. <input type="checkbox"/> Agree <input type="checkbox"/> Disagree | 10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address) | | | | |
| 9b. SIGNATURE | DATE | | | | | | |
| Check All That Apply: <input type="checkbox"/> The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision. <input type="checkbox"/> The proposed classification is utilized in the area by the construction industry. <input type="checkbox"/> The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision. <input type="checkbox"/> The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s). <input type="checkbox"/> Supporting documentation attached, including applicable wage decision. | | | | | | | |
| Check One: <input type="checkbox"/> Approved, meets all criteria. DOL confirmation requested. <input type="checkbox"/> One or more classifications fail to meet all criteria. DOL decision requested. | | | | | | | |
| _____ Agency Representative (Typed name and signature) | | _____ Date _____ Phone Number | | | | | |
| | | FOR HUD USE ONLY LR2000: Log in: Log out: | | | | | |

HUD-4230A (8-19) PREVIOUS EDITION IS OBSOLETE

VII. INSTRUCTIONS FOR THE REPORT OF ADDITIONAL CLASSIFICATION AND RATE

(To obtain a “form-fill” version of HUD 4230A go to www.hud.gov and type the following into the search box: “Report of Additional Classification and Rate.” The search results will make the needed form accessible. The top half of HUD 4230A may be completed by the contractor or the grantee based on information from the contractor. The bottom portion of HUD 4230A, beginning where it states, “Check All That Apply,” is to be completed by the OCD/DRU.)

General Procedure: The prime contractor notifies the local government of a request for an additional classification(s) and specifies the rate(s). The local government completes items 1-10 on the “Report of Additional Classification and Rate” and forwards the document(s) to OCD/DRU. Contractors may pay, at a minimum, the requested rate(s) until a response from DOL is received. A DOL response may take two months. If DOL does not agree with the requested rate, restitution will be due retroactively from the first day of work performed at the requested classification.

| | |
|--|--|
| 1. From: | Enter the address of the Office of Community Development as follows: Office of Community Development Disaster Recovery Unit Post Office Box 94095 Baton Rouge, Louisiana 70804-9095 |
| 2. Project Name & Number | Name of the local government and the DR-CDBG CEA number. |
| 3. Location of Project | City, Parish, and State |
| 4. Brief Description of Project | The main objective(s) of the project as funded under the DR-CDBG CEA. Example: Sewer treatment and lines |
| 5. Character of Construction | Choose the type of construction according to Davis-Bacon. |
| 6. Wage Decision Number | The wage decision from the US Dept. of Labor (DOL) that is designated as the effective decision for this part of the project. Normally, the wage decision will not need to be attached and the “Copy Attached” box will not be checked. Example: State—Louisiana DOL Wage Decision Year—2008 Wage Decision Number—6 Modification number—0 would be entered on line 6 using the following method: <u>LA 08-0006 Mod 0</u> |
| 7. Wage Decision Effective Date | The issue date of the effective wage decision. |
| 8. Work Classification(s) | First column: The name(s) of the proposed classification(s) and, if necessary, a brief description(s) of work performed. Second Column: corresponding proposed basic hourly rate(s). Third Column: the proposed fringe benefit amount(s), if any. Example for first column: Metal Building Erector—Installs building framework, siding and metal roofing. |
| 9. Prime Contractor | Name and address of the prime contractor. |
| 10. Subcontractor/employer if applicable | If the employer making the request for an additional classification is not the prime contractor, enter the name and address of the subcontractor. |
| Attachments | Attach any necessary documentation to HUD form 4230-A. Attachments may include any item mentioned under “Check All That Apply”. |
| Check All That Apply | Do not complete below this point. OCD/DRU will complete these sections. |

VIII. PROJECT WAGE RATE SHEET

| Wage Rate Sheet | | | |
|---------------------------------------|--|----------------|------------------------|
| 1. Name of Grant Recipient | | | |
| 2. Disaster Recovery CDBG CEA Number | | | |
| 3. Wage Decision Number, Date, Mod | | | |
| 4. Name of Prime Contractor(s) | | | |
| 5. Classification | | 6. Hourly Rate | 7. Fringe Benefit Rate |
| | | | 8. Total Package Rate |
| <i>Carpenter</i> (includes form work) | | | |
| <i>Carpenter</i> (all other work) | | | |
| <i>Millwright</i> | | | |
| <i>Electrician</i> | | | |
| <i>Cement Mason/Concrete Finisher</i> | | | |
| <i>Laborer</i> (Common/Landscape) | | | |
| <i>Laborer</i> (Fence) | | | |
| <i>Laborer</i> (Flagger) | | | |
| <i>Laborer</i> (Mason Tender) | | | |
| <i>Laborer</i> (Pipe layer) | | | |
| <i>Plumbers</i> | | | |
| <i>Pipefitter</i> | | | |
| <i>Power Equipment Operators</i> | | | |
| Backhoe/Excavator | | | |
| Bulldozer | | | |
| Crane | | | |
| Dragline | | | |
| Mechanic | | | |
| <i>Truck Driver</i> | | | |
| Dump Truck | | | |
| Water Truck | | | |

IX. INSTRUCTION FOR WAGE RATE SHEET

Post either (a) the Wage Rate Sheet or (b) Wage Decision in a worker-accessible place.

| | |
|---|---|
| 1, 2. | Self-explanatory. |
| 3. Wage Decision Number Mod, Date | <p>The wage decision from the US Dept. of Labor (DOL) that is designated as the governing decision for this part of the project.</p> <p>Example: State—Louisiana DOL Wage Decision Year—2008 Wage Decision Number—06 Date of Wage Decision—2/8/08 Modification number—0</p> <p>Enter the above information using the following method: LA 08-0015, Dated 8/27/04, Mod 4</p> <p>If there is more than one wage decision for the project a separate Wage Rate Sheet must be prepared.</p> |
| 4. Name of Prime Contractor | Name of the prime contractor(s) who is subject to the wage decision listed on this Wage Rate Sheet. |
| 5. Classification | <p>List only those classifications from the Wage Decision that are applicable to this project.</p> <p>Each classification must be written on the Wage Rate Sheet exactly as it appears on the Wage Decision.</p> <p>Additional Classification(s), if any, should also be included.</p> |
| 6, 7. Hourly Rate and Fringe Benefit Rate | <p>List exactly as listed on the Wage Decision.</p> <p>Prior to receiving DOL’s response, rates for Additional Classification(s) should be listed at the rates requested by the contractor. After receiving DOL’s response, rates must be listed according to DOL requirements.</p> |
| 8. Total Package Rate | List the total of the hourly rate plus the fringe benefit rate. |

X. SAMPLE REQUIRED CONSTRUCTION POSTERS

EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

1-866-487-9243
TTY: 1-877-888-5627
www.dol.gov/whd



WH21 REY 10/17



Know Your Rights: Workplace Discrimination is Illegal

The U.S. Equal Employment Opportunity Commission (EEOC) enforces Federal laws that protect you from discrimination in employment. If you believe you've been discriminated against at work or in applying for a job, the EEOC may be able to help.

Who is Protected?

- Employees (current and former), including managers and temporary employees
- Job applicants
- Union members and applicants for membership in a union

What Organizations are Covered?

- Most private employers
- State and local governments (as employers)
- Educational institutions (as employers)
- Unions
- Staffing agencies

What Types of Employment Discrimination are Illegal?

Under the EEOC's laws, an employer may not discriminate against you, regardless of your immigration status, on the bases of:

- Race
- Color
- Religion
- National origin
- Sex (including pregnancy, childbirth, and related medical conditions, sexual orientation, or gender identity)
- Age (40 and older)
- Disability
- Genetic information (including employer requests for, or purchase, use, or disclosure of genetic tests, genetic services, or family medical history)
- Retaliation for filing a charge, reasonably opposing discrimination, or participating in a discrimination lawsuit, investigation, or proceeding
- Interference, coercion, or threats related to exercising rights regarding disability discrimination or pregnancy accommodation

What Employment Practices can be Challenged as Discriminatory?

All aspects of employment, including:

- Discharge, firing, or lay-off
- Harassment (including unwelcome verbal or physical conduct)
- Hiring or promotion
- Assignment
- Pay (unequal wages or compensation)
- Failure to provide reasonable accommodation for a disability; pregnancy, childbirth, or related medical condition; or a sincerely-held religious belief, observance or practice
- Benefits
- Job training
- Classification
- Referral
- Obtaining or disclosing genetic information of employees
- Requesting or disclosing medical information of employees
- Conduct that might reasonably discourage someone from opposing discrimination, filing a charge, or participating in an investigation or proceeding
- Conduct that coerces, intimidates, threatens, or interferes with someone exercising their rights, or someone assisting or encouraging someone else to exercise rights, regarding disability discrimination (including accommodation) or pregnancy accommodation

What can You Do if You Believe Discrimination has Occurred?

Contact the EEOC promptly if you suspect discrimination. Do not delay, because there are strict time limits for filing a charge of discrimination (180 or 300 days, depending on where you live/work). You can reach the EEOC in any of the following ways:

Submit an inquiry through the [EEOC's public portal](https://publicportal.eeoc.gov/Portal/Login.aspx) (<https://publicportal.eeoc.gov/Portal/Login.aspx>)

Visit an [EEOC field office](http://www.eeoc.gov/field-office) (www.eeoc.gov/field-office)

Call 1-800-669-4000 (toll free)
1-800-669-6820 (TTY)
1-844-234-5122 (ASL video phone)

E-Mail info@eeoc.gov

Additional information about the EEOC, including information about filing a charge of discrimination, is available at www.eeoc.gov.



EMPLOYERS HOLDING FEDERAL CONTRACTS OR SUBCONTRACTS

The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) enforces the nondiscrimination and affirmative action commitments of companies doing business with the Federal Government. If you are applying for a job with, or are an employee of, a company with a Federal contract or subcontract, you are protected under Federal law from discrimination on the following bases:

Race, Color, Religion, Sex, Sexual Orientation, Gender Identity, National Origin

Executive Order 11246, as amended, prohibits employment discrimination by Federal contractors based on race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

Asking About, Disclosing, or Discussing Pay

Executive Order 11246, as amended, protects applicants and employees of Federal contractors from discrimination based on inquiring about, disclosing, or discussing their compensation or the compensation of other applicants or employees.

Disability

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals with disabilities from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment by Federal contractors. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship to the employer. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

Protected Veteran Status

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits employment discrimination against, and requires affirmative action to recruit, employ, and advance in employment, disabled veterans, recently separated veterans (i.e., within three years of discharge or release from active duty), active duty wartime or campaign badge veterans, or Armed Forces service medal veterans.

Retaliation

Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination by Federal contractors under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under OFCCP's authorities should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP)
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210
1-800-397-6251 (toll-free)

If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services. OFCCP may also be contacted by submitting a question online to [OFCCP's Help Desk](https://ofccphelpdesk.dol.gov/s/) (<https://ofccphelpdesk.dol.gov/s/>), or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor and on [OFCCP's "Contact Us"](https://www.dol.gov/agencies/ofccp/contact) webpage (<https://www.dol.gov/agencies/ofccp/contact>).

PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Race, Color, National Origin, Sex

In addition to the protections of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial assistance.

Individuals with Disabilities

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

If you believe you have been discriminated against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

(Revised 6/27/2023)

XI. CERTIFICATION OF CONTRACTOR REGARDING SECTION 3

Name of Contractor

Project Name and Number

The undersigned hereby certifies that:

- (a) Section 3 provisions are included in the Contract.
- (b) To the greatest extent feasible, the contractor will ensure that employment and other economic opportunities are directed to low- and very low-income persons (Section 3 workers and Targeted Section 3 workers) and to eligible businesses (Section 3 Businesses).
- (c) Contractor will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as outlined below:
 - i. Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers.
 - Section 3 Labor Hours / Total Labor Hours = 25%
 - ii. Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.21.
 - Targeted Section 3 Labor Hours / Total Labor Hours = 5%
- (d) Contractor shall make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan parish) in which assistance is located in the following order of priority (*where feasible*):
 - i. Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project; and
 - ii. Youth Build programs.
- (e) A Section 3 Worker seeking certification shall submit self-certification documentation to the recipient contractor, that the person is a Section 3 Worker or Targeted Section 3 Worker as defined in 24 CFR Part 75. For the purposes of Section 3 Worker eligibility, grantee will use individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published by HUD at the following web address: <https://www.huduser.org/portal/datasets/il.html>.
- (f) Persons seeking the **Section 3 Worker** preference shall demonstrate that he/she meets one or more of the following criteria currently or when hired within the past five years, as documented:

- i. A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- ii. Employed by a Section 3 Business Concern; or
- iii. A Youth Build Participant.

(g) Persons seeking the **Targeted Section 3 Worker** preference shall demonstrate that it meets one or more of the following criteria:

- i. Employed by a Section 3 business Concern; or
- ii. Currently meets—or when hired met—at least one of the following categories as documented within the past five years:
- iii. Living within the Service Area or the Neighborhood of the Project, as defined in 24 CFR Part 75.5; or
- iv. A Youth Build participant.

(h) Subcontractor shall make best efforts to provide employment and training opportunities to Section 3 workers within the metropolitan area (or nonmetropolitan parish) in which the project is located in the priority order listed below:

- i. Section 3 workers residing within the service area or the neighborhood of the project,
- ii. And Participants in Youth Build programs.

(i) The contractor will submit monthly Business Labor Hours reports during the course of their contract.

(j) If Section 3 benchmarks are not met, subcontractor will demonstrate why meeting the benchmarks was not feasible.

Name and Title of Signer (Print or Type)

Date

XII. CERTIFICATION OF SUBCONTRACTOR REGARDING SECTION 3

Name of Contractor

Project Name and Number

The undersigned hereby certifies that:

- (a) Section 3 provisions are included in the Contract.
- (b) To the greatest extent feasible, subcontractor will ensure that employment and other economic opportunities are directed to low- and very low-income persons (Section 3 workers and Targeted Section 3 workers) and to eligible businesses (Section 3 Businesses).
- (c) Subcontractor will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as outlined below:
 - iii. Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers.
 - $\text{Section 3 Labor Hours} / \text{Total Labor Hours} = 25\%$
 - iv. Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.21.
 - $\text{Targeted Section 3 Labor Hours} / \text{Total Labor Hours} = 5\%$
- (d) Subcontractors shall make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan parish) in which assistance is located in the following order of priority (*where feasible*):
 - iii. Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project; and
 - iv. Youth Build programs.
- (e) A Section 3 Worker seeking certification shall submit self-certification documentation to the recipient subcontractor, that the person is a Section 3 Worker or Targeted Section 3 Worker as defined in 24 CFR Part 75. For the purposes of Section 3 Worker eligibility, grantee will use individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published by HUD at the following web address: <https://www.huduser.org/portal/datasets/il.html>.
- (f) Persons seeking the **Section 3 Worker** preference shall demonstrate that he/she meets one or more of the following criteria currently or when hired within the past five years, as documented:
 - iv. A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
 - v. Employed by a Section 3 Business Concern; or

vi. A Youth Build Participant.

(g) Persons seeking the **Targeted Section 3 Worker** preference shall demonstrate that it meets one or more of the following criteria:

- v. Employed by a Section 3 business Concern; or
- vi. Currently meets—or when hired met—at least one of the following categories as documented within the past five years:
- vii. Living within the Service Area or the Neighborhood of the Project, as defined in 24 CFR Part 75.5; or
- viii. A Youth Build participant.

(h) Subcontractor shall make best efforts to provide employment and training opportunities to Section 3 workers within the metropolitan area (or nonmetropolitan parish) in which the project is located in the priority order listed below:

- i. Section 3 workers residing within the service area or the neighborhood of the project,
- ii. And Participants in Youth Build programs.

(i) The subcontractor will submit monthly Business Labor Hours reports during the course of their contract.

(j) If Section 3 benchmarks are not met, subcontractor will demonstrate why meeting the benchmarks was not feasible.

Name and Title of Signer (Print or Type)

Date

XIII. SELF-CERTIFICATION FORM: SECTION 3 WORKERS & TARGETED SECTION 3 WORKERS

A Section 3 Worker seeking certification shall self-certify and submit this form to the recipient contractor or subcontractor, that the person is a Section 3 Worker or Targeted Section 3 Worker as defined in 24 CFR Part 75.

NOTE TO EMPLOYER: The information obtained through this form is private and should not be utilized for any purpose other than reporting compliance with Section 3.

Instructions: Enter/select the appropriate information to confirm your Section 3 Worker or Targeted Section 3 Worker status.

Employee Name: _____

1. Are you a resident of public housing or a Housing Choice Voucher Holder (Section 8)? YES NO
2. Are you a resident of the [City/Parish of insert name] YES NO
3. In the field below, select the amount of individual income you believe you earn on an annual basis.

- | | | |
|--|--|---|
| <input type="checkbox"/> Less than \$10,000 | <input type="checkbox"/> \$30,001 - \$40,000 | <input type="checkbox"/> More than \$60,000 |
| <input type="checkbox"/> \$10,001 - \$20,000 | <input type="checkbox"/> \$40,001 - \$50,000 | |
| <input type="checkbox"/> \$20,001 - \$30,000 | <input type="checkbox"/> \$50,001 - \$60,000 | |

Select from *ONE* of the following two options below:

I qualify as a:

- Section 3 Worker (as defined on page 4 of Section 3 Worker Certification Form)
- Targeted Section 3 Worker (as defined on page 4 of Section 3 Worker Certification Form)

Employee Affirmation

I affirm that the above statements (on frontside of this form) are true, complete, and correct to the best of my knowledge and belief. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Employee Address: _____

Print Name: _____ Date Hired: _____

Signature: _____ Date: _____

FOR ADMINISTRATIVE USE ONLY

- Is the employee a Section 3 Worker based upon their self-certification? YES NO
Is the employee a Targeted Section 3 Worker based upon their self-certification? YES NO
Was this an applicant who was hired as a result of the Section 3 Project? YES NO
If Yes, what is the name of the company? _____
What was the date of hire? _____

EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.

XIV. SECTION 3 INCOME LIMITS

(Insert Grantee Name)

Section 3 Income Limits

Eligibility Guidelines

The worker's income must be at or below the amount provided below for an individual (household of 1) regardless of actual household size.

Individual Income Limits for City of (insert locality here) FY 20 (insert year here)

| Income Limits Category | FY 20 (enter year here) Income Limits |
|-----------------------------------|---------------------------------------|
| Extremely Low Income Limits (30%) | |
| Very Low Income Limits (50%) | |
| Low Income Limits (80%) | |

See <https://www.huduser.gov/portal/datasets/il.html> for most recent income limits.

Section 3 Worker Definition:

- A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- Employed by a Section 3 Business Concern; or
- A Youth Build participant.

Targeted Section 3 Worker Definition:

- Employed by a Section 3 business concern or
- Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - Living within the Service Area or the Neighborhood of the Project, as defined in 24 CFR 75.5
 - A Youth Build participant.

XV. SECTION 3 BUSINESS CONCERN CERTIFICATION FORM

Instructions: Enter the following information and select the criteria that applies to certify your business' Section 3 Business Concern status.

Business Information

Name of Business _____

Address of Business _____

Name of Business Owner _____

Email Address of Business Owner _____

Preferred Contact Information

Same as above

Name of Preferred Contact _____

Phone Number of Preferred Contact _____

Type of Business (select from the following options):

Corporation

Partnership

Sole Proprietorship

Joint Venture

Select from *ONE* of the following three options below that applies:

At least 51 percent of the business is owned and controlled by low- or very low-income persons (Refer to income guidelines on page 4).

At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers (Refer to definition on page 4).

Business Concern Affirmation

I affirm that the above statements (on the frontside of this form) are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 Business Concerns and report false information to [insert name of recipient/grantee] may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Print Name: _____

Signature: _____ Date: _____

*Certification expires within six months of the date of signature

Information regarding Section 3 Business Concerns can be found at 24 CFR 75.5

FOR ADMINISTRATIVE USE ONLY

Is the business a Section 3 Business Concern based upon their certification?

YES NO

EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.

XVI. FREQUENTLY ASKED QUESTIONS CONCERNING EQUAL OPPORTUNITY

A PRECONSTRUCTION CONFERENCE HANDOUT

1. What are the responsibilities of the offeror or bidder to ensure equal employment opportunity?

The offeror or bidder must comply with the "Equal Opportunity Clause" and the "Standard Federal Equal Opportunity Construction Contract Specifications".

2. Are contractors required to ensure a comfortable working environment for all employees?

Yes. It is the Contractor's responsibility to provide an environment free of harassment, intimidation, and coercion to all employees and to notify all foremen and supervisors to carry out this obligation, with specific attention to minority or female individuals.

3. To alleviate developing separate facilities for men and women on all sites, can a contractor put all women employees on one site?

No. The Contractor must assign two or more women to each site when possible.

4. Are contractors required to make special outreach efforts to minority and female recruitment sources?

Yes. Contractors must establish a current list of minority and female recruitment sources, notify them when employment opportunities are available including on-the-job training and apprenticeship programs and record responses.

5. Must any efforts be made to record the number of minority and females applying for positions with construction contractors?

Yes. All contractors must maintain a current file of the names, addresses and telephone numbers of all minority and female applicants and document whatever action was taken.

6. What happens if a woman or minority is sent to the union by the Contractor and is not referred back to the Contractor for employment?

If the unions impede the Contractor's responsibility to provide equal employment opportunity, a written notification must be sent to the Director, Office of Federal Contract Compliance Programs, and United States Department of Labor.

7. What efforts must be made by contractors to create entry level positions for women and minorities?

Contractors are required to develop on-the-job training programs or participate in training programs, especially those funded by the Department of Labor, to create positions for women and minorities relevant to the Contractor's employment needs.

8. Must any efforts be made by the Contractor to publicize their Equal Employment Opportunity (EEO) Policy?

Yes. The Contractor is responsible for notifying unions and training programs and request their cooperation as well as including it in any policy manual or collective bargaining agreement, and to publicize it in the company newspaper and annual report. Externally, the Contractor is responsible for including the EEO Policy in all media advertisements.

9. Must any in-service training programs be provided for staff to update the EEO Policy?

At least annually, a review of the EEO Policy and the affirmative action obligations are required of all personnel employees of a decision making status. A record of the meeting including date, time, location, persons present, subject matter discussed, and disposition of the subject matter shall be maintained.

10. What recruitment efforts are made for minorities and women?

The Contractor must notify both orally and in writing, minority and female recruitment sources one month prior to the date of acceptance for apprenticeship or other training programs. The Contractor must also encourage present minority and female employees to recruit members of their own group.

11. Must any measures be taken to encourage promotions for minorities and women?

Yes. An annual evaluation must be conducted for all minority and female personnel to encourage these employees to seek higher positions.

12. What efforts must be taken to ensure that personnel policies are in accordance with the EEO Policy?

Personnel policies in regard to job practices, work assignments, etc., must be continually monitored to ensure that the EEO Policy is carried out.

13. Can women be excluded from utilizing any facilities available to men?

No. All facilities and company activities are non-segregated except for bathrooms or changing facilities to ensure privacy.

14. What efforts must be made to utilize minority and female contractors and suppliers?

None. However, records must be kept of all offers to minority and female construction contractors.

15. If a contractor participates in a business related association, which does not comply with affirmative action standards, does this show his/her failure to comply?

No. The Contractor's obligation to comply is his own. If he makes every effort to assume that this group has a positive impact on EEO Policy and they fail to accept this attitude, it shall not be contrived as noncompliance on the part of the Contractor.

16. Would a contractor be in violation of EEO Policy and affirmative action if he set up one set of goals to include minorities and women?

Yes. There is a single goal for minorities and a separate single goal for women. The Contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority.

17. Can a contractor hire a subcontractor who has been debarred from government contracts pursuant to EEO?

No. The Contractor must suspend, terminate or cancel any subcontractor who is in violation of the EEO Policy.

18. What effort must be taken by the Contractor to monitor all employment to ensure the company EEO policy is being carried out?

The Contractor must designate a responsible individual to keep accurate records of all employees which includes specific information required by the government.

Form B-11 – MEMORANDUM OF NEGOTIATIONS

ITB OR RFP NUMBER: _____ **GRANT/EVENT:** _____

PROCUREMENT DESCRIPTION: _____

Use this form to document the proposal terms and conditions including price, specifications, warranty provisions, etc. for a Request for Proposals.

RFP NUMBER: _____ **GRANT NUMBER:** _____

PROJECT TITLE: _____

Date Prepared: _____ **Consultant:** _____

Project Description: _____

| Contract Value | Line Items | Amount |
|----------------|------------|--------|
| | | |
| | | |
| | | |
| | | |
| | | |
| Total | | |

Request for Proposal Form Amount: (Order of Magnitude)

Source of Funds: _____% Federal _____% CoLC

Contract Type:

Performance Period:

Selection Process and Criteria:

Authorization:

Cost/Price Analysis-Negotiation Documentation and Results:

Contract Articles (Terms and Conditions):

Summary and Recommendations:

Agreed Upon Contract Price:

City of Lake Charles Representative

Date

APPENDIX C – CURRENT CONTACT LIST

(Revised April 2024)

The purpose of this Appendix is to provide the names of the people currently filling the positions referenced in the manual.

City of Lake Charles Director of Finance: Emily K. McDaniel

(337) 491-1251

emily.mcdaniel@cityoflc.us

City of Lake Charles Purchasing Manager: Alecia Comeaux

(337) 491-1263

acomeaux@cityoflc.us

City of Lake Charles Assistant City Attorney: Corey Rubin

(337) 491-1412

corey.rubin@cityoflc.us

City of Lake Charles Risk Management Division: Dana Reed

(337) 491-1546

dreed@cityoflc.us

3.1 MICRO-PURCHASES

- Micro-Purchases do not exceed \$10,000, including delivery charges.
- Splitting procurements to avoid the \$10,000 competition requirement is not allowed.
- To justify Sole Source Procurements, complete Form B-7 and attach it to the Purchase Order documentation.

3.1.1 Steps Involved in Making Micro-Purchases

When making a micro-purchase, complete each of the following steps.

- ___ Step 1 Obtain budget approval and enter requisition.
- ___ Step 2 Determine "fair and reasonable" price for the product or service to be purchased. Complete the *Fair and Reasonable Price Documentation* (Form B-1).
 - a. On the form, indicate the method used to determine that the price is "fair and reasonable."
 - b. If telephone quotes are used, write the name of the company and the dollar amount of the quotes in the spaces provided.
 - c. If catalogues or newspaper advertisements are used, photocopy the catalogue page or advertisement and attach it to the form.
 - d. If found reasonable based upon a recent purchase, explain in the space provided.
 - e. If found reasonable based upon personal knowledge, explain in the space provided
 - f. If any other method is used, place the name of the vendor and dollar amount of quote and comments in the space provided.
 - g. Sign and date the form.
 - h. Attach this form to the requisition along with any other attachments (photocopies of catalogue pages, advertisements, etc.) to be filed.
- ___ Step 3 Select the source that provides the product or service for the lowest price and meets the required specifications, as opposed to desired specifications.
- ___ Step 4 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.
- ___ Step 5 ****PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT****
Review System for Award Management (www.sam.gov) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- ___ Step 6 Attach all required Federal provisions and send to vendor with purchase order.
- ___ Step 7 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.
- ___ Step 8 Make the purchase.

3.2 SMALL PURCHASES

- Small Purchases are purchases of materials that cost a minimum of \$10,000 and do not exceed the \$250,000 simplified threshold. Use this procurement method for:
 - 1) Goods and services that are clearly defined,
 - 2) Construction projects, and
 - 3) When the award can be made primarily based upon the price of the bid.
- This method of procurement allows for free and open competition.
- Complete the *Price Quotes Documentation for Small Purchases* (Form B-2) prior to requesting bids or proposals.
- The Lake Charles City Council is required to approve purchases of materials that exceed \$60,000.
- Advertise Invitation for Bid if the cost exceeds \$60,000.
- After the bids are received, the City Council is required to award contracts over \$60,000 through an agenda item.
- Splitting procurements to avoid the \$60,000 (\$250,000 simplified threshold) competition requirement is not allowed.
- Price or rate quotations shall be obtained from at least three (3) qualified sources if the purchase does not exceed \$60,000.
- To justify Sole Source Procurements, complete Form B-7 and attach it to the Purchase Order documentation.
- CoLC may not restrict competition by:
 - 1) Placing unreasonable requirements on firms in order for them to qualify to do business,
 - 2) Having an organizational conflict of interest,
 - 3) Requiring vendors to have unnecessary experience or unnecessary bonding,
 - 4) Giving preference in the evaluation of bids to in-state or local businesses, except in those cases where Federal statutes expressly mandate or encourage geographic preference. (This does not preempt State licensing law.)

3.2.1 Small Purchases Not Exceeding \$60,000

When making a small purchase that costs between \$10,001 and \$60,000, complete each of the following steps.

- ___ Step 1 Obtain budget approval and enter requisition.
- ___ Step 2 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.
- ___ Step 3 Obtain at least **three** verbal or written price quotations (faxed quotes are acceptable) and complete the *CoLC Price Quotes Documentation for Small Purchases* (Form B-2). If telephone quotes are obtained, write the name of the company and the dollar amount of the quotes in the spaces provided. Sign and date the form.
- ___ Step 4 Select the source that provides the product or service for the lowest price and meets the required specifications (as opposed to desired specifications).
- ___ Step 5 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.
- ___ Step 6 Complete *Determination of Best Value* (Form B-8).
- ___ Step 7 ****PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT****
Review System for Award Management (www.sam.gov) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- ___ Step 8 Attach all required Federal provisions and send to vendor with purchase order.
- ___ Step 9 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.
- ___ Step 10 Make the purchase.

3.2.2 Small Purchases Exceeding \$60,000

- Plan for minimum of sixty (60) business days to place the order.
- The Lake Charles City Council is required to approve purchases of materials that exceed \$60,000.
- Advertise Invitation for Bid or Request for Proposals if the independent estimate exceeds \$60,000.
- After the bids are received, the City Council is required to award contracts over \$60,000 through an agenda item.

When making a small purchase that exceeds \$60,000, complete each of the following steps. Place the date of completion for each step on the line provided.

- ___ Step 1 Obtain budget approval and enter requisition.
- ___ Step 2 Via e-mail, notify the Purchasing Manager about the purchase and include a description. Work closely with the Purchasing Manager to complete and file forms in the procurement file throughout the project.
- ___ Step 3 Determine whether or not the purchase, service or construction project exceeds \$60,000 by completing the *Independent Cost/Price Estimate* (Form B-3).
- ___ Step 4 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.
- ___ Step 5 If the independent estimate for a purchase exceeds \$60,000, the purchase must be approved by the City of Lake Charles City Council. Prepare an agenda item for the Agenda Meeting.
- ___ Step 6 Prepare the Specifications and Bid Package. The buyer must still identify the minimum needs and clearly describe the essential physical and functional characteristics of the brand name product. If you must use a brand name in your specification, you may allow bidders to substitute an equal product with a different brand name. You may reserve the right to determine whether a particular brand or model is equal to the one you specified. If you use a brand name and allow equal brands, you must also specify the salient characteristics of the specified brand that will be among the criteria used in determining whether a suggested substitute is equal to the specified brand or not.

- ___ Step 7 The advertisement for the small purchase competitive sealed bid must be published in the City's official journal at least twice, (once a week for two consecutive weeks) indicating the deadline date, time, and place by which bids will be received, and the date, time, and place where bids will be opened. **Place the legal notice(s) in the file.** The advertisement must contain the following:
 - ~The description of the work, goods, or services to be procured;
 - ~The location at which the bidding documents, plans, specifications, or other documents may be examined by all bidders and time and place of the pre-bid conference (set the pre-bid conference a minimum of ten days after the first notice publication.
 - ~The date, time, and place for submitting bids and the date, time (including time zone), and place for the opening of competitive sealed bids.
 - ~DBE program requirements or goals (2 C.F.R. § 200.321) (attach form B-12).
 - ~Late bids will be returned unopened to the sender.
- ___ Step 8 Send the advertisement to third parties on the CoLC Bidder List (list of businesses interested in competing for various types of contracts and/or purchases) and the vendors on the CoLC DBE Vendor Listing.
- ___ Step 9 Send bid packages to third parties requesting bid packages. List the vendors requesting bid packages on the Bid Summary.
- ___ Step 10 Date and time stamp the sealed bids as received.
- ___ Step 11 Keep a list of the responding vendors on the Bid Summary. Keep sealed bids in a secure place until the bid opening.
- ___ Step 12 At the designated time and place, formally open and read aloud the sealed bids.
- ___ Step 13 Record the bids on the Bid Tabulation.
- ___ Step 14 Any sealed bids that reach City of Lake Charles after the bid opening time and date must be mailed back to the source without opening.
- ___ Step 14 Complete the *Price Analysis Documentation for Small and Large Purchases* (Form B-5). This form certifies that adequate price competition was obtained by comparison of quotations and the low price is fair and reasonable.
- ___ Step 15 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.

- ___ Step 16 Select the lowest, most responsive bid that meets the specifications as stated in the Invitation to Bid. Complete *Determination of Best Value* (Form B-8). In determining which products or services are in CoLC's best interest, the agency may consider the following factors (if stated in the Invitation for Bids): installation costs and hardware costs; the overall life cycle cost of the requested equipment; the estimated cost of employee training and estimated increase in employee productivity; estimated software and maintenance costs; and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. These factors are not the only ones you may use. Attach information to the agency file for future clarification of the award.
- ___ Step 17 If the lowest bid is not selected, document the reasons for the selection on the *Determination of Best Value* (Form B-8). If none of the bids are selected, document the reasons and start the bidding process over. The specifications may need to be amended. If a single bid or single responsive bid is received, determine fair and reasonableness of the bid and whether or not to accept the bid or reject the bid and begin the process again or abandon the project. If a single bid is received, an option is to return the bid unopened to the vendor and reject all bids and begin again. Do not negotiate bids as in a sole source procurement.
- ___ Step 18 ****PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT****
Review System for Award Management (www.sam.gov) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- ___ Step 19 Attach all required Federal provisions and send to vendor with purchase order.
- ___ Step 20 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.
- ___ Step 21 Make the purchase.

3.3 LARGE PURCHASES (EXCEEDING \$250,000) SEALED BIDS (INVITATION FOR BIDS)

- Federal threshold (Simplified Acquisition Threshold) for Large Purchases is \$250,000. However, State of Louisiana R.S. 38 (Title 38 Public Bid Law) requires that all purchases exceeding \$60,000 be advertised and publicly bid.
- Plan for sixty (60) business days to place the order.
- Primary Goal: To obtain the best quality products and service at minimum cost.
- Secondary Goal: To guard against favoritism and profiteering at public expense.
- Tertiary Goal: To provide equal opportunities for potential parties to participate in public business.
- This method of procurement allows for free and open competition.
- Use this procurement method for:
 - 1) Goods and Services that are clearly defined;
 - 2) Construction Projects (follow R.S. 38 threshold); and
 - 3) Awards that can be made primarily based upon the price of the bid.
- Contracts that exceed \$250,000 shall be awarded by sealed bid unless there is an explicit exception.
- An independent estimate is required for purchases exceeding \$250,000.
- The Lake Charles City Council is required to approve purchases of materials that exceed \$60,000.
- Advertise Invitation for Bid or Request for Proposals if the independent estimate exceeds \$60,000.
- After the bids are received, the City Council is required to award contracts over \$60,000 through an agenda item.
- In order for sealed bidding to be feasible, the following conditions must be present:
 - 1) A complete, adequate, and realistic specification or purchase description is available;
 - 2) Two or more responsible bidders are willing and able to compete effectively for the business;
 - 3) The procurement lends itself to a firm fixed price contract, and the successful bidder can be selected principally on the basis of price;
 - 4) No discussion with the bidders is needed.
- Large Purchases require the following:
 - 1) Publicly advertise the Invitation for Bids, and solicit bids from an adequate number of known suppliers, and provide them sufficient time to prepare bids prior to the date set for opening the bids;
 - 2) The Invitation for Bids shall include specifications and pertinent attachments, and shall define the items or services sought so the bidder can properly respond;
 - 3) Award a firm fixed-price contract (lump sum or unit price) in writing to the lowest responsive and responsible bidder whose bid conforms with all the material terms and conditions of the Invitation For Bids. Factors such as discounts, transportation costs, and life cycle costs shall be considered in determining the lowest bid;

- 4) Any or all bids may be rejected based upon a sound documented business decision.
- CoLC may not restrict competition by:
 - 1) Placing unreasonable requirements on firms in order for them to qualify to do business;
 - 2) Having an organizational conflict of interest;
 - 3) Requiring vendors to have unnecessary experience or unnecessary bonding; or
 - 4) Giving preference in the evaluation of bids to in-state or local businesses, except in those cases where Federal statutes expressly mandate or encourage geographic preference. (This does not preempt State licensing law.)

3.3.1 Steps Involved in Making Large Purchases

When making a large purchase that exceeds \$250,000, complete each of the steps in “Small Purchases Exceeding \$60,000.”

3.4 COMPETITIVE PROPOSALS (REQUEST FOR PROPOSALS)

- Plan for sixty (60) business days to place the order.
- Requests for Proposals are used to procure revenue contracts, architectural and engineering services, technology, legal services, accounting services, insurance and in cases where the quality of the service outweighs price.
- The competitive proposal method is normally conducted with more than one source submitting an offer (proposal).
- Request for Proposals must meet the following four requirements:
 - 1) Requests for Proposals must be publicized. Include all evaluation factors in the published notification and their relative importance.
 - 2) Proposals will be solicited from an adequate number of qualified sources.
 - 3) Develop a method to evaluate the proposals in order to select a vendor.
 - Cost shall be evaluated separately.
 - Proposer shall submit cost in separate envelope which will be evaluated and scored by Finance.
 - Scoring shall be based on the following:
 - Put cost in order from lowest to highest
 - Lowest cost receives full percentage score
 - Score each of the remaining costs based on the percentage difference between the cost and the lowest cost (for example: 10% higher than the lowest, percentage score is 10% lower than full percentage available)
 - 4) Make contract awards to responsible firms whose proposals are the most advantageous to the grantee's program considering price and other factors.
- A cost analysis is required.
- Proposers may be required to submit corporate financial data and labor rates which proposers usually regard as privileged information. Therefore, treat all documentation received in response to Requests for Proposals as confidential. Should the need arise to share the contents of the proposal with another company or firm, first acquire permission in writing from a responsible official of the proposing firm. Dissemination of proposals within City of Lake Charles will be done in a manner so that only staff with a demonstrable "need to know" have access to the proposals.
- An independent estimate is required for purchases exceeding \$250,000.
- The Lake Charles City Council is required to approve purchases of materials that exceed \$60,000.
- Advertise all Request for Proposals
- After the proposals are received, the City Council is required to award contracts over \$60,000 through an agenda item.

3.4.1 Steps Involved in Procuring Through Request for Proposals

Complete each of the following steps when soliciting proposals.

- ___ Step 1 Obtain budget approval and enter requisition.
- ___ Step 2 Via e-mail, notify the Purchasing Manager about the purchase and include a description. Work closely with the Purchasing Manager to complete and file forms in the Master Project File throughout the project. Contact Engineering Department for a construction project and follow steps in Section 3.6.
- ___ Step 3 Determine whether or not the purchase, service or construction project exceeds \$60,000 by completing the *Independent Cost/Price Estimate* (Form B-3).
- ___ Step 4 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.
- ___ Step 5 If the independent estimate for a purchase exceeds \$60,000, the purchase must be approved by the City of Lake Charles City Council. Prepare an agenda item for the Agenda Meeting.
- ___ Step 6 Prepare the Specifications and Request for Proposal Package. The buyer must still identify the minimum needs and clearly describe the essential physical and functional characteristics of the brand name product. If you must use a brand name in your specification, you may allow proposers to substitute an equal product with a different brand name. You may reserve the right to determine whether a particular brand or model is equal to the one you specified. If you use a brand name and allow equal brands, you must also specify the salient characteristics of the specified brand that will be among the criteria used in determining whether a suggested substitute is equal to the specified brand or not. The buyer may directly contact manufacturers to get assistance with identifying specifications. Document these transactions via a memorandum for the file.
- ___ Step 7 Prepare the Request for Proposal (RFP) and specify the required and desired elements. Specify the weights that will be used to evaluate the proposals, (e.g., technical 40%, cost 20%, customer service 15%, training 15%, experience 10%). Include the evaluation process in detail, the scoring methodology, and procedures to weigh price into selection. The RFP may also contain the statement, "The award of this contract may be made on the basis of initial proposals submitted without any negotiations or discussions." If necessary in order to obtain firm commitments from proposers, you may wish to require that the offerors provide a proposal guaranty in the form of a letter of credit, cashier's check, or approved performance bond.

- ___ Step 8 The **advertisement** for the request for proposal must be published in the City's official journal at least twice, (once a week for two consecutive weeks) indicating the deadline date, time, and place by which bids will be received, and the date, time, and place where bids will be opened. **Place the legal notice(s) in the file.** The advertisement must contain the following:
 - ~The description of the work, goods, or services to be procured;
 - ~The location at which the bidding documents, plans, specifications, or other documents may be examined by all bidders and time and place of the pre-bid conference (set the pre-bid conference a minimum of ten days after the first notice publication.
 - ~The date, time, and place for submitting bids and the date, time (including time zone), and place for the opening of competitive sealed bids.
 - ~Evaluation criteria
 - ~DBE program requirements or goals (2 C.F.R. § 200.321) (attach form B-12).

~Late proposals will be returned unopened to the sender.
- ___ Step 9 Send the advertisement to third parties on the CoLC Proposer List (list of businesses interested in competing for various types of contracts and/or purchases) and the vendors on the DBE CoLC Vendor Listing.
- ___ Step 10 Send proposal packages to third parties requesting bid packages. List the vendors requesting packages on the Proposal Summary.
- ___ Step 11 Date and time stamp the sealed proposals as received.
- ___ Step 12 Keep a list of the responding vendors on the Proposal Summary. Keep sealed proposals in a secure place until the opening.
- ___ Step 13 At the designated time and place, formally open and read aloud the sealed proposals.
- ___ Step 14 Record the proposals on the Proposal Tabulation.
- ___ Step 15 Any sealed proposals that reach CoLC after the opening time and date must be mailed back to the source without opening.
- ___ Step 16 Complete the *Cost Analysis Documentation* (Form B-6). This form certifies that adequate price competition was obtained by comparison of quotations and the low price is fair and reasonable.

- ___ Step 17 Select the lowest, most responsive proposal that meets the specifications as stated in the Request for Proposals. Complete *Determination of Best Value* (Form B-8) and/or *Memorandum of Negotiations* (Form B-13). In determining which products or services are in CoLC's best interest, the agency may consider the following factors (if stated in the Request for Proposals): installation costs and hardware costs; the overall life cycle cost of the requested equipment; the estimated cost of employee training and estimated increase in employee productivity; estimated software and maintenance costs; and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. These factors are not the only ones you may use. Attach information to the agency file for future clarification of the award.
- ___ Step 18 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.
- ___ Step 19 If none of the proposals are selected, document the reasons and start the process over. The specifications may need to be amended. If a single proposal or single responsive proposal is received, determine fair and reasonableness of the proposal and whether or not to accept the proposal or reject the proposal and begin the process again or abandon the project. Do not negotiate bids as in a sole source procurement.
- ___ Step 20 ****PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT****
Review System for Award Management (www.sam.gov) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- ___ Step 21 Attach all required Federal provisions and send to vendor with purchase order.
- ___ Step 22 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed
- ___ Step 23 Make the purchase

3.4.2 Procurement of Architectural and Engineering Services (A&E)

To procure Architectural and Engineering Services, follow the procurement steps outlined above for Competitive Proposals (Request for Proposals) in Section 3.4.

- When Contracting for Architectural, Professional Engineering Services, and Land Surveying, use the competitive proposal procedures.
 - 1) An offeror's qualifications be evaluated and selection is based upon qualifications not price;
 - 2) Price be excluded as an evaluation factor although the price must be fair and reasonable;
 - 3) Negotiations be conducted with only the most qualified offeror; and
 - 4) Failing agreement on price, negotiations with the next most qualified offeror are conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee.
- Initial selection shall be based only on the demonstrated competence and qualifications of the person, including any firm, who is to provide the services. **Price and/or number of staff-hours must not be asked for or discussed during the initial selection phase**
- This "qualifications based procurement method" can only be used for the procurement of A&E services. This method of procurement cannot be used to obtain other types of services even though a firm that provides A&E services is also a potential source to perform other types of services. These requirements apply except to the extent any state adopts or has adopted by statute a formal procedure for the procurement of architectural and engineering services.
- Other types of services considered A&E services include program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, and services which require performance by a registered or licensed architect or engineer.
- Develop Scope of Work.
- Choose the contract type most appropriate for the project such as fixed price or labor hour contract.
- Requests for Qualifications must be publicized. Include all evaluation factors in the published notification.
- Select the most qualified firm from this pool of firms based upon criteria established and published.

To procure Architectural and Engineering Services, follow the procurement steps outlined above for Competitive Proposals (Request for Proposals) in Section 3.4.

3.5 SOLE SOURCE PROCUREMENTS

- Sole Source procurements are accomplished through solicitation or acceptance of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement that must comply with the following:
 - 1) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:
 - a) The item is available only from a single source (e.g. utilities, when only one entity owns the patent on the process or product required);
 - b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - c) After solicitation of a number of sources, competition is determined inadequate; or
 - d) The item is an associated capital maintenance item that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify in writing that such manufacturer or supplier is the only source for such item; and that the price of such item is no higher than the price paid for such item by like customers.
 - 2) the data, and the evaluation of the specific elements of costs and profit, is required.
 - 3) Avoid Sole Source procurements except in circumstances where it is both necessary and in CoLC's best interest.
 - 4) Make sure the item or service is needed to meet a requirement and is not merely desired as something "nice to have."

3.5.1 Steps Involved in Sole Source Procurements

Complete the following steps when making a Sole Source Procurement. You may have already performed Steps 1 through 6 if (d) above "After solicitation of a number of sources, competition is determined inadequate," is the reason for the sole source method of procurement.

- ___ Step 1 Obtain budget approval and enter requisition.
- ___ Step 2 Via e-mail, notify the Purchasing Manager about the purchase and include a description. Work closely with the Purchasing Manager to complete and file forms in the Master Project File throughout the project.
- ___ Step 3 Determine whether or not the purchase, service, or construction project exceeds \$60,000 by completing the *Independent Cost/Price Estimate* (Form B-3).
- ___ Step 4 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.

- ___ Step 5 If the independent estimate for a purchase exceeds \$60,000, the purchase must be approved by the City of Lake Charles City Council. Prepare an agenda item for the Agenda Meeting.
- ___ Step 6 Prepare the Specifications and Bid Package. The buyer must still identify the minimum needs and clearly describe the essential physical and functional characteristics of the brand name product. If you must use a brand name in your specification, you may allow bidders to substitute an equal product with a different brand name. You may reserve the right to determine whether a particular brand or model is equal to the one you specified. If you use a brand name and allow equal brands, you must also specify the salient characteristics of the specified brand that will be among the criteria used in determining whether a suggested substitute is equal to the specified brand or not. The buyer may directly contact manufacturers to get assistance with identifying specifications. Document these transactions via a memorandum for the file.
- ___ Step 7 The advertisement for the small purchase competitive sealed bid must be published in the City's official journal at least twice, (once a week for two consecutive weeks) indicating the deadline date, time, and place by which bids will be received, and the date, time, and place where bids will be opened. Place the legal notice(s) in the file. The advertisement must contain the following:
 - ~The description of the work, goods, or services to be procured;
 - ~The location at which the bidding documents, plans, specifications, or other documents may be examined by all bidders and time and place of the pre-bid conference (set the pre-bid conference a minimum of ten days after the first notice publication.
 - ~The date, time, and place for submitting bids and the date, time (including time zone), and place for the opening of competitive sealed bids.
 - ~DBE program requirements or goals (2 C.F.R. § 200.321) (attach form B-12).
- ___ Step 8 Send the advertisement to third parties on the CoLC Bidder List (list of businesses interested in competing for various types of contracts and/or purchases) and the vendors on the CoLC DBE Vendor Listing
- ___ Step 9 Send bid packages to third parties requesting bid packages. List the vendors requesting bid packages on the Bid Summary.
- ___ Step 10 Date and time stamp the sealed bids as received.
- ___ Step 11 Keep a list of the responding vendors on the Bid Summary. Keep sealed bids in a secure place until the bid opening.
- ___ Step 12 At the designated time and place, formally open and read aloud the sealed bids.
- ___ Step 13 Record the bids on the Bid Tabulation.

- ___ Step 14 Any sealed bids that reach City of Lake Charles after the bid opening time and date must be mailed back to the source without opening.

- ___ Step 15 Complete the *Price Analysis Documentation for Small and Large Purchases* (Form B-5). This form certifies that adequate price competition was obtained by comparison of quotations and the low price is fair and reasonable.

- ___ Step 16 Select the lowest, most responsive bid that meets the specifications as stated in the Invitation to Bid. Complete *Determination of Best Value* (Form B-8). In determining which products or services are in CoLC's best interest, the agency may consider the following factors (if stated in the Invitation for Bids): installation costs and hardware costs; the overall life cycle cost of the requested equipment; the estimated cost of employee training and estimated increase in employee productivity; estimated software and maintenance costs; and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. These factors are not the only ones you may use. Attach information to the agency file for future clarification of the award.

- ___ Step 17 If the lowest bid is not selected, document the reasons for the selection on the *Determination of Best Value* (Form B-8). If none of the bids are selected, document the reasons and start the bidding process over. The specifications may need to be amended. If a single bid or single responsive bid is received, determine fair and reasonableness of the bid and whether or not to accept the bid or reject the bid and begin the process again or abandon the project. Do not negotiate bids as in a sole source procurement.

- ___ Step 18 Complete *Sole Source Procurement Justification* (Form B-7).

- ___ Step 19 ****PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT****
Review System for Award Management (www.sam.gov) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.

- ___ Step 20 Attach all required Federal provisions and send to vendor with purchase order.

- ___ Step 21 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.

- ___ Step 22 Make the purchase.

4.1 INVITATION TO BID PACKAGE

Bid Packages will contain all or some of the following sections:

- 1) Cover Page including the following items:
 - _____ Invitation to Bid Number and the item to be procured
 - _____ CoLC mailing address and physical address
 - _____ Date that the Invitation to Bid is issued
 - _____ Bid Closing Date
 - _____ Bid Closing Time (indicate the prevailing local time)
 - _____ Pre-Bid Meeting Date
 - _____ Pre-Bid Meeting Time (indicate the prevailing local time)
 - _____ CoLC contact's name and telephone number
 - _____ A space for the bidder's name and address
 - _____ Description of Invitation to Bid
 - _____ Section for the Bidder's signature

- 2) Purchasing Rules and Regulations, Rolling Stock Specifications (if applicable) Specifications, Bid Proposal Page, Insurance Requirements, Federal provisions, and any additional required documentation.

Introduction and General Information – Purpose and the history or background of the service. A general statement of the minimum experience and qualifications required of the contractor are also usually included in the introduction. For commodities, state the intended use of the item and the name of the using department.

- _____ Scope – Explain what CoLC expects to accomplish from the contract. Give a brief overview of the work required and define the extent of the service to be provided and the contract term.
- _____ Contract Documents
- _____ Notice, Waiver, and Applicable Law
- _____ Compliance with Federal Requirements
 - _____ General Compliance
 - _____ Wage Price Regulations
 - _____ Federal Provisions
- _____ Pre-Bid Conference (if applicable)
 - _____ Pre-Bid Conference Date, Time, and Location
 - _____ Attendance: Bidder's Responsibility, Non Mandatory
 - _____ Accommodations for Persons with Disabilities
 - _____ Pre-Bid Conference Agenda
- _____ Bid Submittal
 - _____ Delivery procedures, Time, and Date
 - _____ Bid Requirements and Format (number of copies, sealed, etc.)
 - _____ Pre-Award Investigation
 - _____ Bid Preparation Costs
 - _____ Bid Acceptance Period
 - _____ Modification of Bid
 - _____ Withdrawal of Bid
 - _____ Samples
- _____ Clarification of Requirements
- _____ Addenda and Modifications

- _____ Protest Procedures
 - _____ General Protest Procedures
 - _____ Pre-Bid or Solicitation Phase Protest
 - _____ Pre-Award Protest
 - _____ Post-Award Protest
 - _____ Appeals
- _____ Service and Parts
 - _____ Location of nearest technical service representative to CoLC
 - _____ Location of nearest parts distribution center to CoLC
 - _____ Policy for delivery of parts and components to be purchased for service and maintenance
- _____ Payment – The ITB may not include a ceiling budget or price, however, it may specify options that effectively limit the amount of funds CoLC will spend
 - _____ Payment schedule
 - _____ Sales Tax Exemption
- _____ Contractor qualifications including description of experience
- _____ Licenses, Permits, Taxes
- _____ Information and Reports
- _____ Alternative Bid – Permission, if any, to submit alternative bids, including alternative material or design. The alternative bid must be in addition to the basis bid.
- _____ Equal Employment Opportunity
- _____ Disadvantaged Business Enterprise (DBE) Requirements
 - _____ Equal Opportunity to Submit Bid
 - _____ DBE Definition
- _____ Conflict of Interest
 - _____ Prohibited Interest
 - _____ Disclosure of Conflicts of Interest
 - _____ Interest of Members of or Delegates to Congress
 - _____ Covenant Against Contingent Fees
 - _____ Covenant Against Gratuities
- _____ Authorization to Bind Submitter of Bid
 - _____ Bidder Name, Address, Office Signature
 - _____ Integral Part of the Contract
- _____ Factors and Requirements to be considered in the evaluation of bids (including shipping costs and how each factor will be evaluated)
- _____ Notice of Award
- _____ Notice of Acceptance of Award
- _____ Changes by Contractor
- _____ Time Extension
- _____ Liquidated Damages
 - _____ Liquidated Damages Compensation
 - _____ Delays Beyond the Contractor's Control
- _____ Contractor's Liability
- _____ Approval by the Purchasing Manager
- _____ Defective or Damaged Work
- _____ Damages
- _____ Penalty for Failure to Complete Contract

- _____ Infringements of Patents
- _____ Assignment
- _____ Warranty of Title
- _____ Compliance with Laws and Regulations
 - _____ Specifications (Omission and Priority)
 - _____ Modifications to Contract: Price Adjustment for Regulatory Changes
 - _____ Interchangeability
 - _____ Materials/Accessories Responsibility
 - _____ Service and Parts (Instructors, Engineers, Documents, and Spare Parts)
 - _____ Deliveries (Assumption of risk of loss, acceptance)
 - _____ Repairs after non-acceptance
 - _____ Patents
 - _____ Brand Names
 - _____ Past Performance
 - _____ Financial Stability
 - _____ Safety Certification
 - _____ Performance Data
 - _____ Specified Parts
- _____ Specifications and Brand Names
 - _____ Descriptive Not Restrictive
 - _____ Certify Equivalency
 - _____ Minor Deviations
 - _____ Approved Brand List
 - _____ Samples
- _____ Federal Provisions. The clauses can be found at in Appendix II to 2 CFR Part 200 at <https://www.ecfr.gov/>.
- _____ Bid Opening
 - _____ Bid Opening Date, Time, and Location
 - _____ Bid Opening Postponement, Amendment and Addenda
 - _____ Public Opening of Bids
 - _____ Rejection of Bids
 - _____ Single Bid
- _____ Examination of Documents and Requirements
 - _____ Examination of ITB Documents
 - _____ Bidder responsibility to examine conditions and requirements
 - _____ Evidence of responsibility
 - _____ Verify submission of required certifications (Lobbying, etc.)
- _____ Award Procedure
- _____ Review SAM and print screen with results for master file

- _____ Execution of Contract and Bonds
 - _____ Time Period for Execution of Contract and Filing Bonds
 - _____ Performance Bond (for contracts exceeding \$25,000), and Payment Bond (for contracts utilizing subcontractors and exceeding \$25,000) Requirements, if any
 - _____ Bond Issued by Corporate Surety
 - _____ Contract Commencement Date
 - _____ Acceptance
 - _____ Contract Termination for Convenience
 - _____ Contract Termination for Default
 - _____ Effect of Extensions of Time
 - _____ Waiver
 - _____ Delivery of Goods and Service
 - _____ Delivery Procedures
 - _____ Delivery Schedule

3) Sufficient detail to permit open, full and free competition and should include methods and timing of testing and inspecting. (See Section 4.4 for more detail). *Technical Specifications* – Include the following requirements as needed:

- _____ Design Features and Requirements: List all design requirements, including materials, manufacturing standards and directions, dimensions, physical characteristics of all kinds, and workmanship standards.
- _____ Performance Requirements and Characteristics: List all functional needs and performance requirements and include work-related needs which the item must achieve.
- _____ Other Requirements: List any requirements not covered in the first two sections.

4) Specifications: a description of the supplies or services to be furnished in *Applicable Documents* – List all documents, plans, drawings, specifications, etc., that have been referenced in the specification, including title, edition or issue number, year of publication and publisher or originating organization. If necessary, state where the document(s) are located.

Definitions – Define technical and critical terms where necessary.

5) Addenda as issued.

6) Legal Documents and Other Documents.

4.2 REQUEST FOR PROPOSALS PACKAGE

Request for Proposals packages will contain all or some of the following sections.

1) Cover Page including the following items:

- RFP Number (assigned by the Purchasing Manager) and the item or service to be procured
- CoLC mailing address and physical address
- Date that the RFP is issued
- RFP Closing Date
- RFP Closing Time (indicate the prevailing local time)
- Pre-Proposal Meeting Date
- Pre-Proposal Meeting Time (indicate the prevailing local time)
- CoLC Contact's name and telephone number
- A space for the proposer's name and address
- Description of RFP/Project Title
- Section for proposer's authorized signature

2) Purchasing Rules and Regulations, Rolling Stock Specifications (if applicable), Specifications, Bid Proposal Page, Insurance Requirements, Any Additional Required Documentation.

- Proposal Delivery, Time & Date
- Pre-Proposal Conference
- Clarification of Requirements
- Addenda & Modifications
- Examination of Documents and Requirements
- Proposal Copies
- Proposal Preparation Costs
- Disadvantaged Business Enterprise (DBE) Requirements
- Conflict of Interest
- Anti-Lobbying Provision
- Authorization to Bind Submitted of Proposal
- Evaluation Process
- Selection
- Award Procedure and Contract
- Equal Employment Opportunity
- Competitive RFP Procedures for Architectural and Professional Engineering Services Contract Costing more than \$15,000 (Use only if needed)
- Architecture and Professional Engineering Services Contracts for Services Costing less than \$25,000 (Use only if needed.)
- Intent
- Project Description – History or background of the item or service to be procured. Describe the project in detail, using department, etc.
- Purpose of the Project – Describe how CoLC will use the product or service.

- _____ Scope of Work – Provide a brief overview of the work required and define the extent of the service to be provided. Describe the function of the project management team.
- _____ Duration of Contract
- _____ Options
- _____ Project Methodology
- _____ Evaluation Criteria, Proposal Evaluation Criteria Form
- _____ Proposal Format
- _____ Federal Provisions. The clauses can be found at in Appendix II to 2 CFR Part 200 at <https://www.ecfr.gov/>.
- _____ Addenda as issued
- _____ Legal Documents or Other Documents

FEDERAL CONTRACT PROVISIONS

FOR NON-FEDERAL ENTITY UNDER FEDERAL AWARDS

REQUIRED BY 2 C.F.R. §200.326 APPENDIX II TO 2 CFR §200

FEDERAL CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY UNDER FEDERAL AWARDS REQUIRED BY 2 C.F.R. §200.326 APPENDIX II TO 2 CFR §200

REMEDIES

(For all awarded contracts with a value greater than \$150,000.00)

Any violation or breach of terms of this contract on the part of the Contractor or the Contractor's subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this contract. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. Any violation or breach of terms of this contract of the Contractor or the Contractor's sub-contractors will be subject to the remedies, including liquidated damages, described in the bid specifications or Request for Proposal and the City of Lake Charles rules and regulations and special conditions which are incorporated herein by reference in their entirety.

TERMINATION FOR CAUSE AND CONVENIENCE

(For all awarded contracts with a value greater than \$10,000.00)

The City of Lake Charles reserves the right to terminate this contract for cause or convenience pursuant to the rules and regulations and special conditions which are incorporated herein by reference in their entirety.

EQUAL EMPLOYMENT OPPORTUNITY

(For all awarded contracts that meet the definition of "federally assisted construction contract" provided in 41 CFR Part 60-1.3)

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.

Federal Contract Provisions Continued

- (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.

Federal Contract Provisions Continued

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.

DAVIS-BACON ACT AND COPELAND "ANTI-KICKBACK" ACT

(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.

(1) *Minimum wages.*

- (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1 (b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(l)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(l)(ii) of this section) and the Davis Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- (ii) (A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

Federal Contract Provisions Continued

- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
 - (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
 - (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- (2) *Withholding.*
The Federal Agency and/or City of Lake Charles 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 the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

Federal Contract Provisions Continued

(3) *Payrolls and basic records.*

- (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section I (b) (2) (B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- (ii) (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the federal agency if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the federal agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the federal agency if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the federal agency, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

- (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
 - (1) That the payroll for the payroll period contains the information required to be provided under §5.5 (a) (3) (ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a) (3) (i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

Federal Contract Provisions Continued

- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
 - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
- (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the federal agency or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
- (4) *Apprentices and trainees-*
- (i) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify

Federal Contract Provisions Continued

- fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (ii) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (iii) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- (5) *Compliance with Copeland Act requirements.*
The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (6) *Subcontracts.*
The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a) (1) through (10) and such other clauses as the grant 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 the contract clauses in 29 CFR 5.5.
- (7) *Contract termination: debarment.*
A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) *Compliance with Davis-Bacon and Related Act requirements.*
All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

Federal Contract Provisions Continued

(9) *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.

(10) *Disputes concerning labor standards.*

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(11) *Certification of eligibility.*

- (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis Bacon Act or 29 CFR 5.12(a)(l).
- (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(l).
- (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

(For all awarded contracts related to "mechanics and laborers" with a value greater than \$100,000.00)

- (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.

Federal Contract Provisions Continued

- (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.

RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

(This requirement **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." If FEMA federal award meets definition of "funding agreement" under 37 CFR §401.2(a), for all awarded contracts related to experimental, developmental, or research work type contracts)

(a) Definitions

- (1) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of *et seq.*
- (2) *Subject invention* means any invention of the *contractor* conceived or first actually reduced to practice in the performance of work under this *contract*, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401 (d)) must also occur during the period of *contract* performance.
- (3) *Practical Application* means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.
- (4) *Made* when used in relation to any invention means the conception or first actual reduction to practice of such invention.
- (5) *Small Business Firm* means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.
- (6) *Nonprofit Organization* means a university or other institution of higher education or an organization of the type described in section 501 (c) {3} of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) Allocation of Principal Rights

The *Contractor* may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the *Contractor* retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Application by *Contractor*

- (1) The *contractor* will disclose each subject invention to the *Federal Agency* within two months after the inventor discloses it in writing to *contractor* personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the *contract* under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the *agency*, the *Contractor* will promptly notify the *agency* of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the *contractor*.

Federal Contract Provisions Continued

- (2) The *Contractor* will elect in writing whether or not to retain title to any such invention by notifying the *Federal agency* within two years of disclosure to the *Federal agency*. However, in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the *agency* to a date that is no more than 60 days prior to the end of the statutory period.
 - (3) The *contractor* will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The *contractor* will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.
 - (4) Requests for extension of the time for disclosure, election, and filing under subparagraphs (1), (2), and (3) may, at the discretion of the *agency*, be granted.
- (d) Conditions When the Government May Obtain Title
- The *contractor* will convey to the *Federal agency*, upon written request, title to any subject invention-
- (1) If the *contractor* fails to disclose or elect title to the subject invention within the times specified in (c), above, or elects not to retain title; provided that the *agency* may only request title within 60 days after learning of the failure of the *contractor* to disclose or elect within the specified times.
 - (2) In those countries in which the *contractor* fails to file patent applications within the times specified in (c) above; provided, however, that if the *contractor* has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of the *Federal agency*, the *contractor* shall continue to retain title in that country.
 - (3) In any country in which the *contractor* decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.
- (e) Minimum Rights to *Contractor* and Protection of the *Contractor* Right to File
- (1) The *contractor* will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the *contractor* fails to disclose the invention within the times specified in (c), above. The *contractor's* license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the *contractor* is a party and includes the right to grant sublicenses of the same scope to the extent the *contractor* was legally obligated to do so at the time the *contract* was awarded. The license is transferable only with the approval of the *Federal* to which the invention pertains.
 - (2) The *contractor's* domestic license may be revoked or modified by the *funding Federal agency* to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and *agency* licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the *contractor* has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the *funding Federal agency* to the extent the *contractor*, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.
 - (3) Before revocation or modification of the license, the *funding Federal agency* will furnish the *contractor* a written notice of its intention to revoke or modify the license, and the *contractor* will be allowed thirty days (or such other time as may be authorized by the *funding Federal agency* for good cause shown by the *contractor*) after the notice to show cause why the license should not be revoked or modified. The *contractor* has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and *agency* regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

Federal Contract Provisions Continued

(f) *Contractor* Action to Protect the Government's Interest

- (1) The *contractor* agrees to execute or to have executed and promptly deliver to the *Federal agency* all instruments necessary to
 - (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the *contractor* elects to retain title, and
 - (ii) convey title to the *Federal agency* when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.
- (2) The *contractor* agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the *contractor* each subject invention made under *contract* in order that the *contractor* can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c) (l), above. The *contractor* shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.
- (3) The *contractor* will notify the *Federal agency* of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.
- (4) The *contractor* agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the *contract*) awarded by (identify the Federal agency). The government has certain rights in the invention."

(g) Subcontracts

- (1) The *contractor* will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work. The subcontractor will retain all rights provided for the *contractor* in this clause, and the *contractor* will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.
- (2) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the *agency*, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (i) of this clause.

(h) Reporting on Utilization of Subject Inventions

The *Contractor* agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the *contractor* or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the contractor, and such other data and information as the *agency* may reasonably specify. The *contractor* also agrees to provide additional reports as may be requested by the *agency* in connection with any march-in proceeding undertaken by the *agency* in accordance with paragraph (i) of this clause. As required by 35 U.S.C. 202(c) (5), the *agency* agrees it will not disclose such information to persons outside the government without permission of the *contractor*.

(i) Preference for United States Industry

Notwithstanding any other provision of this clause, the *contractor* agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the *Federal agency* upon a showing by the *contractor* or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

Federal Contract Provisions Continued

(j) March-in Rights

The *contractor* agrees that with respect to any subject invention in which it has acquired title, the *Federal agency* has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the *agency* to require the *contractor*, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the *contractor*, assignee, or exclusive licensee refuses such a request the *Federal agency* has the right to grant such a license itself if the *Federal agency* determines that:

- (1) Such action is necessary because the *contractor* or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.
- (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the *contractor*, assignee or their licensees;
- (3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the *contractor*, assignee or licensees; or
- (4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for *Contracts* with Nonprofit Organizations

If the *contractor* is a nonprofit organization, it agrees that:

- (1) Rights to a subject invention in the United States may not be assigned without the approval of the *Federal agency*, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the *contractor*;
- (2) The *contractor* will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;
- (3) The balance of any royalties or income earned by the *contractor* with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and
- (4) It will make efforts that are reasonable under the circumstances to attract licensees of subject invention that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the *contractor* determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the *contractor* is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the *contractor*. However, the *contractor* agrees that the Secretary applicants, and the *contractor* will negotiate changes to its licensing policies, procedures, or practices with the Secretary when the Secretary's review discloses that the *contractor* could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4).

(l) Communication

Any communications to be given hereunder by either party to the other shall be deemed to be duly given if set forth in writing and personally delivered or sent by mail, registered or certified, postage prepaid with return receipt requested, as follows:

Council President
City of Lake Charles Council
326 Pujoe Street, 4th Floor
Lake Charles, LA 70601

Written notices hereunder delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated five (5) days after deposit in the mail, post prepaid, certified, in accordance with this Paragraph.

Federal Contract Provisions Continued

CLEAN AIR ACT

(For all awarded contracts with a value greater than \$150,000.00)

- (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 (City of Lake Charles) and understands and agrees that the (City of Lake Charles) 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.

FEDERAL WATER POLLUTION CONTROL ACT

(For all awarded contracts with a value greater than \$150,000.00)

- (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 etseq.
- (2) The contractor agrees to report each violation to the (City of Lake Charles) and understands and agrees that the (City of Lake Charles) 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.

DEBARMENT AND SUSPENSION

(Contractor must complete enclosed certification and submit with bid submission. Failure to do so will result in bid rejection.)

- (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 City of Lake Charles. 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.

Federal Contract Provisions Continued

BYRD ANTI-LOBBYING AMENDMENT

(For all awarded contracts with a value greater than \$100,000.00. **Contractor must complete enclosed certification and submit with bid submission. Failure to do so will result in bid rejection.**)

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.

The Contractor 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 any 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 federally 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 contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) Contractor will include language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$150,000.00 shall certify and disclose accordingly.

PROCUREMENT OF RECOVERED MATERIALS

(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.)

- (1) 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:
 - a) Competitively within a timeframe providing for compliance with the contract performance schedule;
 - b) Meeting contract performance requirements; or
 - c) At a reasonable price.
- (2) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <http://www.epa.gov/cpg/products.htm>.
- (3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

ACCESS TO RECORDS

The following access to records requirements apply to this contract:

- (1) The Contractor agrees to provide the City of Lake Charles, the Federal 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 Federal 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 City of Lake Charles and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the Federal Administrator or the Comptroller General of the United States.

CHANGES

To be eligible for federal assistance under the non-federal entity's federal 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.

Federal recommendations state 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.

DHS SEAL, LOGO, AND FLAGS

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

COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that federal 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, federal policies, procedures, and directives.

NO OBLIGATION BY FEDERAL GOVERNMENT

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.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

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.

PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

2 C.F.R. § 200.216 prohibits the Contractor from using equipment, services, or systems 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.

- (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 2 C.F.R. § 200.216, as used in this clause.

Federal Contract Provisions Continued

(b) *Prohibitions.*

- (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.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.
- (2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - (i) 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;
 - (ii) 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;
 - (iii) 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
 - (iv) 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.*

- (1) This clause does not prohibit contractors from providing:
 - (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (ii) 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.
- (2) By necessary implication and regulation, the prohibitions also do not apply to:
 - (i) 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.
 - (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) *Reporting requirement.*

- (1) In the event the contractor 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 contractor is notified of such by a subcontractor at any tier or by any other source, the contractor 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.

Federal Contract Provisions Continued

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

- (i) 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.
- (ii) Within 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 contractor 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 Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

DOMESTIC PREFERENCES FOR PROCUREMENTS

As appropriate and to the extent consistent with law, the Contractor agrees, to the greatest extent practicable, prefer 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).

For purposes of this clause:

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.

Manufactured products mean 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.

CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES AND LABOR SURPLUS AREA FIRMS – AFFIRMATIVE SOCIOECONOMIC STEPS

If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

- (a) Any party to this contract must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. These steps are also required for the hiring of any subcontractors under this contract.
- (b) Affirmative steps must include:
 - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
 - (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

COPYRIGHT AND DATA RIGHTS

"License and Delivery of Works Subject to Copyright and Data Rights"

The Contractor grants to the City of Lake Charles a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the City of Lake Charles or acquire on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the City of Lake Charles data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the City of Lake Charles."

BYRD ANTI-LOBBYING CERTIFICATION

Contractor must complete enclosed certification and submit with bid submission.
Failure to do so will result in bid rejection.

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 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

DEBARMENT/SUSPENSION CERTIFICATION

Contractor must complete enclosed certification and submit with bid submission.
Failure to do so will result in bid rejection.

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).

This requirement applies to all federal grant and cooperative agreement programs.

Federal Executive Order (E .O.) 12549 "Debarment" requires that all contractors receiving individual awards, using federal funds, and all sub recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government. By signing this document you certify that your organization and its principals are not debarred. Failure to comply or attempts to edit this language may disqualify your bid. Information on debarment is available at the following websites:

www.sam.gov and <https://acquisition.gov/far/index.html> see section 52.209-6.

The Contractor _____ certifies or affirms by your signature that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

CIVIL RIGHTS COMPLIANCE PROVISIONS

**Contractor must complete enclosed certification and submit with bid submission.
Failure to do so will result in bid rejection.**

1. EQUAL EMPLOYMENT OPPORTUNITY (Equal Opportunity Clause)

(For all awarded contracts that meet the definition of "federally assisted construction contract" provided in 41 CFR Part 60-1.3)

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.

Federal Contract Provisions Continued

- (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.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

This content is from the eCFR and is authoritative but unofficial.

Title 2 – Grants and Agreements

Subtitle A – Office of Management and Budget Guidance for Grants and Agreements

Chapter II – Office of Management and Budget Guidance

Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Subpart A – Acronyms and Definitions

Acronyms

Authority: 31 U.S.C. 503

Source: 78 FR 78608, Dec. 26, 2013, unless otherwise noted.

§ 200.1 Definitions.

These are the definitions for terms used in this part. Different definitions may be found in Federal statutes or regulations that apply more specifically to particular programs or activities. These definitions could be supplemented by additional instructional information provided in governmentwide standard information collections. For purposes of this part, the following definitions apply:

Acquisition cost means the cost of the asset including the cost to ready the asset for its intended use.

Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Acquisition costs for software includes those development costs capitalized in accordance with generally accepted accounting principles (GAAP). Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in or excluded from the acquisition cost in accordance with the non-Federal entity's regular accounting practices.

Advance payment means a payment that a Federal awarding agency or pass-through entity makes by any appropriate payment mechanism, including a predetermined payment schedule, before the non-Federal entity disburses the funds for program purposes.

Allocation means the process of assigning a cost, or a group of costs, to one or more cost objective(s), in reasonable proportion to the benefit provided or other equitable relationship. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives.

Assistance listings refers to the publicly available listing of Federal assistance programs managed and administered by the General Services Administration, formerly known as the Catalog of Federal Domestic Assistance (CFDA).

Assistance listing number means a unique number assigned to identify a Federal Assistance Listings, formerly known as the CFDA Number.

Assistance listing program title means the title that corresponds to the Federal Assistance Listings Number, formerly known as the CFDA program title.

Audit finding means deficiencies which the auditor is required by § 200.516(a) to report in the schedule of findings and questioned costs.

Auditee means any non-Federal entity that expends Federal awards which must be audited under subpart F of this part.

Auditor means an auditor who is a public accountant or a Federal, State, local government, or Indian tribe audit organization, which meets the general standards specified for external auditors in generally accepted government auditing standards (GAGAS). The term auditor does not include internal auditors of nonprofit organizations.

Budget means the financial plan for the Federal award that the Federal awarding agency or pass-through entity approves during the Federal award process or in subsequent amendments to the Federal award. It may include the Federal and non-Federal share or only the Federal share, as determined by the Federal awarding agency or pass-through entity.

Budget period means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which recipients are authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to § 200.308.

Capital assets means:

- (1) Tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:
 - (i) Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange, or through a lease accounted for as financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and
 - (ii) Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).
- (2) For purpose of this part, capital assets do not include intangible right-to-use assets (per GASB) and right-to-use operating lease assets (per FASB). For example, assets capitalized that recognize a lessee's right to control the use of property and/or equipment for a period of time under a lease contract. See also § 200.465.

Capital expenditures means expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.

Central service cost allocation plan means the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a State or local government or Indian tribe on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.

Claim means, depending on the context, either:

- (1) A written demand or written assertion by one of the parties to a Federal award seeking as a matter of right:
 - (i) The payment of money in a sum certain;
 - (ii) The adjustment or interpretation of the terms and conditions of the Federal award; or
 - (iii) Other relief arising under or relating to a Federal award.
- (2) A request for payment that is not in dispute when submitted.

Class of Federal awards means a group of Federal awards either awarded under a specific program or group of programs or to a specific type of non-Federal entity or group of non-Federal entities to which specific provisions or exceptions may apply.

Closeout means the process by which the Federal awarding agency or pass-through entity determines that all applicable administrative actions and all required work of the Federal award have been completed and takes actions as described in § 200.344.

Cluster of programs means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. "Other clusters" are as defined by OMB in the compliance supplement or as designated by a State for Federal awards the State provides to its subrecipients that meet the definition of a cluster of programs. When designating an "other cluster," a State must identify the Federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with § 200.332(a). A cluster of programs must be considered as one program for determining major programs, as described in § 200.518, and, with the exception of R&D as described in § 200.501(c), whether a program-specific audit may be elected.

Cognizant agency for audit means the Federal agency designated to carry out the responsibilities described in § 200.513(a). The cognizant agency for audit is not necessarily the same as the cognizant agency for indirect costs. A list of cognizant agencies for audit can be found on the Federal Audit Clearinghouse (FAC) website.

Cognizant agency for indirect costs means the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under this part on behalf of all Federal agencies. The cognizant agency for indirect cost is not necessarily the same as the cognizant agency for audit. For assignments of cognizant agencies see the following:

- (1) For Institutions of Higher Education (IHEs): Appendix III to this part, paragraph C.11.
- (2) For nonprofit organizations: Appendix IV to this part, paragraph C.2.a.
- (3) For State and local governments: Appendix V to this part, paragraph F.1.
- (4) For Indian tribes: Appendix VII to this part, paragraph D.1.

Compliance supplement means an annually updated authoritative source for auditors that serves to identify existing important compliance requirements that the Federal Government expects to be considered as part of an audit. Auditors use it to understand the Federal program's objectives, procedures, and compliance requirements, as well as audit objectives and suggested audit procedures for determining compliance with the relevant Federal program.

Computing devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or "peripherals") for printing, transmitting and receiving, or storing electronic information. See also the definitions of *supplies* and *information technology systems* in this section.

Contract means, for the purpose of Federal financial assistance, a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a Federal award. For additional information on subrecipient and contractor determinations, see § 200.331. See also the definition of *subaward* in this section.

Contractor means an entity that receives a contract as defined in this section.

Cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency and a recipient or a pass-through entity and a subrecipient that, consistent with 31 U.S.C. 6302–6305:

- (1) Is used to enter into a relationship the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal Government or pass-through entity's direct benefit or use;
- (2) Is distinguished from a grant in that it provides for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award.
- (3) The term does not include:
 - (i) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or
 - (ii) An agreement that provides only:
 - (A) Direct United States Government cash assistance to an individual;
 - (B) A subsidy;
 - (C) A loan;
 - (D) A loan guarantee; or
 - (E) Insurance.

Cooperative audit resolution means the use of audit follow-up techniques which promote prompt corrective action by improving communication, fostering collaboration, promoting trust, and developing an understanding between the Federal agency and the non-Federal entity. This approach is based upon:

- (1) A strong commitment by Federal agency and non-Federal entity leadership to program integrity;
- (2) Federal agencies strengthening partnerships and working cooperatively with non-Federal entities and their auditors; and non-Federal entities and their auditors working cooperatively with Federal agencies;
- (3) A focus on current conditions and corrective action going forward;
- (4) Federal agencies offering appropriate relief for past noncompliance when audits show prompt corrective action has occurred; and
- (5) Federal agency leadership sending a clear message that continued failure to correct conditions identified by audits which are likely to cause improper payments, fraud, waste, or abuse is unacceptable and will result in sanctions.

Corrective action means action taken by the auditee that:

- (1) Corrects identified deficiencies;
- (2) Produces recommended improvements; or
- (3) Demonstrates that audit findings are either invalid or do not warrant auditee action.

Cost allocation plan means central service cost allocation plan or public assistance cost allocation plan.

Cost objective means a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A cost objective may be a major function of the non-Federal entity, a particular service or project, a Federal award, or an indirect (Facilities & Administrative (F&A)) cost activity, as described in subpart E of this part. See also the definitions of *final cost objective* and *intermediate cost objective* in this section.

Cost sharing or matching means the portion of project costs not paid by Federal funds or contributions (unless otherwise authorized by Federal statute). See also § 200.306.

Cross-cutting audit finding means an audit finding where the same underlying condition or issue affects all Federal awards (including Federal awards of more than one Federal awarding agency or pass-through entity).

Disallowed costs means those charges to a Federal award that the Federal awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the Federal award.

Discretionary award means an award in which the Federal awarding agency, in keeping with specific statutory authority that enables the agency to exercise judgment ("discretion"), selects the recipient and/or the amount of Federal funding awarded through a competitive process or based on merit of proposals. A discretionary award may be selected on a non-competitive basis, as appropriate.

Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000. See also the definitions of *capital assets*, *computing devices*, *general purpose equipment*, *information technology systems*, *special purpose equipment*, and *supplies* in this section.

Expenditures means charges made by a non-Federal entity to a project or program for which a Federal award was received.

- (1) The charges may be reported on a cash or accrual basis, as long as the methodology is disclosed and is consistently applied.
- (2) For reports prepared on a cash basis, expenditures are the sum of:
 - (i) Cash disbursements for direct charges for property and services;
 - (ii) The amount of indirect expense charged;
 - (iii) The value of third-party in-kind contributions applied; and
 - (iv) The amount of cash advance payments and payments made to subrecipients.
- (3) For reports prepared on an accrual basis, expenditures are the sum of:
 - (i) Cash disbursements for direct charges for property and services;
 - (ii) The amount of indirect expense incurred;
 - (iii) The value of third-party in-kind contributions applied; and
 - (iv) The net increase or decrease in the amounts owed by the non-Federal entity for:
 - (A) Goods and other property received;

- (B) Services performed by employees, contractors, subrecipients, and other payees; and
- (C) Programs for which no current services or performance are required such as annuities, insurance claims, or other benefit payments.

Federal agency means an "agency" as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).

Federal Audit Clearinghouse (FAC) means the clearinghouse designated by OMB as the repository of record where non-Federal entities are required to transmit the information required by subpart F of this part.

Federal award has the meaning, depending on the context, in either paragraph (1) or (2) of this definition:

- (1)
 - (i) The Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101; or
 - (ii) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101.
- (2) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (2) of the definition of *Federal financial assistance* in this section, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- (3) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal Government owned, contractor operated facilities (GOCOs).
- (4) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Federal award date means the date when the Federal award is signed by the authorized official of the Federal awarding agency.

Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity.

Federal financial assistance means

- (1) Assistance that non-Federal entities receive or administer in the form of:
 - (i) Grants;
 - (ii) Cooperative agreements;
 - (iii) Non-cash contributions or donations of property (including donated surplus property);
 - (iv) Direct appropriations;
 - (v) Food commodities; and
 - (vi) Other financial assistance (except assistance listed in paragraph (2) of this definition).
- (2) For § 200.203 and subpart F of this part, *Federal financial assistance* also includes assistance that non-Federal entities receive or administer in the form of:
 - (i) Loans;

- (ii) Loan Guarantees;
 - (iii) Interest subsidies; and
 - (iv) Insurance.
- (3) For § 200.216, Federal financial assistance includes assistance that non-Federal entities receive or administer in the form of:
- (i) Grants;
 - (ii) Cooperative agreements;
 - (iii) Loans; and
 - (iv) Loan Guarantees.
- (4) Federal financial assistance does not include amounts received as reimbursement for services rendered to individuals as described in § 200.502(h) and (i).

Federal interest means, for purposes of § 200.330 or when used in connection with the acquisition or improvement of real property, equipment, or supplies under a Federal award, the dollar amount that is the product of the:

- (1) The percentage of Federal participation in the total cost of the real property, equipment, or supplies; and
- (2) Current fair market value of the property, improvements, or both, to the extent the costs of acquiring or improving the property were included as project costs.

Federal program means:

- (1) All Federal awards which are assigned a single Assistance Listings Number.
- (2) When no Assistance Listings Number is assigned, all Federal awards from the same agency made for the same purpose must be combined and considered one program.
- (3) Notwithstanding paragraphs (1) and (2) of this definition, a cluster of programs. The types of clusters of programs are:
 - (i) Research and development (R&D);
 - (ii) Student financial aid (SFA); and
 - (iii) "Other clusters," as described in the definition of *cluster of programs* in this section.

Federal share means the portion of the Federal award costs that are paid using Federal funds.

Final cost objective means a cost objective which has allocated to it both direct and indirect costs and, in the non-Federal entity's accumulation system, is one of the final accumulation points, such as a particular award, internal project, or other direct activity of a non-Federal entity. See also the definitions of *cost objective* and *intermediate cost objective* in this section.

Financial obligations, when referencing a recipient's or subrecipient's use of funds under a Federal award, means orders placed for property and services, contracts and subawards made, and similar transactions that require payment.

Fixed amount awards means a type of grant or cooperative agreement under which the Federal awarding agency or pass-through entity provides a specific level of support without regard to actual costs incurred under the Federal award. This type of Federal award reduces some of the administrative burden and record-keeping requirements for both the non-Federal entity and Federal awarding agency or pass-through entity. Accountability is based primarily on performance and results. See §§ 200.102(c), 200.201(b), and 200.333.

Foreign organization means an entity that is:

- (1) A public or private organization located in a country other than the United States and its territories that is subject to the laws of the country in which it is located, irrespective of the citizenship of project staff or place of performance;
- (2) A private nongovernmental organization located in a country other than the United States that solicits and receives cash contributions from the general public;
- (3) A charitable organization located in a country other than the United States that is nonprofit and tax exempt under the laws of its country of domicile and operation, and is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization engaged exclusively in research or scientific activities, church, synagogue, mosque or other similar entities organized primarily for religious purposes; or
- (4) An organization located in a country other than the United States not recognized as a foreign public entity.

Foreign public entity means:

- (1) A foreign government or foreign governmental entity;
- (2) A public international organization, which is an organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288–288f);
- (3) An entity owned (in whole or in part) or controlled by a foreign government; or
- (4) Any other entity consisting wholly or partially of one or more foreign governments or foreign governmental entities.

General purpose equipment means equipment which is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles. See also the definitions of *equipment* and *special purpose equipment* in this section.

Generally accepted accounting principles (GAAP) has the meaning specified in accounting standards issued by the GASB and the FASB.

Generally accepted government auditing standards (GAGAS), also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

Grant agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304:

- (1) Is used to enter into a relationship the principal purpose of which is to transfer anything of value to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use;
- (2) Is distinguished from a cooperative agreement in that it does not provide for substantial involvement of the Federal awarding agency in carrying out the activity contemplated by the Federal award.
- (3) Does not include an agreement that provides only:
 - (i) Direct United States Government cash assistance to an individual;
 - (ii) A subsidy;
 - (iii) A loan;
 - (vi) A loan guarantee; or
 - (v) Insurance.

Highest level owner means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest-level owner as defined in the Federal Acquisition Regulations (FAR) (48 CFR 52.204-17).

Hospital means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

Improper payment means:

- (1) Any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other *legally applicable* requirements.
 - (i) Incorrect amounts are overpayments or underpayments that are made to eligible recipients (including inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts, payments that are for an incorrect amount, and duplicate payments). An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law).

Note 1 to paragraph (1)(i) of this definition. Applicable discounts are only those discounts where it is both advantageous and within the agency's control to claim them.

- (ii) When an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment should also be considered an improper payment. When establishing documentation requirements for payments, agencies should ensure that all documentation requirements are necessary and should refrain from imposing additional burdensome documentation requirements.
- (iii) Interest or other fees that may result from an underpayment by an agency are not considered an improper payment if the interest was paid correctly. These payments are generally separate transactions and may be necessary under certain statutory, contractual, administrative, or other legally applicable requirements.

- (iv) A “questioned cost” (as defined in this section) should not be considered an improper payment until the transaction has been completely reviewed and is confirmed to be improper.
 - (v) The term “payment” in this definition means any disbursement or transfer of Federal funds (including a commitment for future payment, such as cash, securities, loans, loan guarantees, and insurance subsidies) to any non-Federal person, non-Federal entity, or Federal employee, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity.
 - (vi) The term “payment” includes disbursements made pursuant to prime contracts awarded under the Federal Acquisition Regulation and Federal awards subject to this part that are expended by recipients.
- (2) See definition of improper payment in OMB Circular A–123 appendix C, part I A (1) “What is an improper payment?” Questioned costs, including those identified in audits, are not an improper payment until reviewed and confirmed to be improper as defined in OMB Circular A–123 appendix C.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. Chapter 33), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (25 U.S.C. 450b(e)). See annually published Bureau of Indian Affairs list of Indian Entities Recognized and Eligible to Receive Services.

Institutions of Higher Education (IHEs) is defined at 20 U.S.C. 1001.

Indirect (facilities & administrative (F&A)) costs means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect (F&A) costs. Indirect (F&A) cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

Indirect cost rate proposal means the documentation prepared by a non-Federal entity to substantiate its request for the establishment of an indirect cost rate as described in appendices III through VII and appendix IX to this part.

Information technology systems means computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. See also the definitions of *computing devices* and *equipment* in this section.

Intangible property means property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

Intermediate cost objective means a cost objective that is used to accumulate indirect costs or service center costs that are subsequently allocated to one or more indirect cost pools or final cost objectives. See also the definitions of *cost objective* and *final cost objective* in this section.

Internal controls for non-Federal entities means:

- (1) Processes designed and implemented by non-Federal entities to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (i) Effectiveness and efficiency of operations;
 - (ii) Reliability of reporting for internal and external use; and
 - (iii) Compliance with applicable laws and regulations.
- (2) Federal awarding agencies are required to follow internal control compliance requirements in OMB Circular No. A-123, Management's Responsibility for Enterprise Risk Management and Internal Control.

Loan means a Federal loan or loan guarantee received or administered by a non-Federal entity, except as used in the definition of *program income* in this section.

- (1) The term "direct loan" means a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Federal Government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.
- (2) The term "direct loan obligation" means a binding agreement by a Federal awarding agency to make a direct loan when specified conditions are fulfilled by the borrower.
- (3) The term "loan guarantee" means any Federal Government guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.
- (4) The term "loan guarantee commitment" means a binding agreement by a Federal awarding agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

Local government means any unit of government within a state, including a:

- (1) County;
- (2) Borough;
- (3) Municipality;
- (4) City;
- (5) Town;
- (6) Township;
- (7) Parish;
- (8) Local public authority, including any public housing agency under the United States Housing Act of 1937;
- (9) Special district;
- (10) School district;
- (11) Intrastate district;
- (12) Council of governments, whether or not incorporated as a nonprofit corporation under State law; and

(13) Any other agency or instrumentality of a multi-, regional, or intra-State or local government.

Major program means a Federal program determined by the auditor to be a major program in accordance with § 200.518 or a program identified as a major program by a Federal awarding agency or pass-through entity in accordance with § 200.503(e).

Management decision means the Federal awarding agency's or pass-through entity's written determination, provided to the auditee, of the adequacy of the auditee's proposed corrective actions to address the findings, based on its evaluation of the audit findings and proposed corrective actions.

Micro-purchase means a purchase of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchases comprise a subset of a non-Federal entity's small purchases as defined in § 200.320.

Micro-purchase threshold means the dollar amount at or below which a non-Federal entity may purchase property or services using micro-purchase procedures (see § 200.320). Generally, the micro-purchase threshold for procurement activities administered under Federal awards is not to exceed the amount set by the FAR at 48 CFR part 2, subpart 2.1, unless a higher threshold is requested by the non-Federal entity and approved by the cognizant agency for indirect costs.

Modified Total Direct Cost (MTDC) means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

Non-discretionary award means an award made by the Federal awarding agency to specific recipients in accordance with statutory, eligibility and compliance requirements, such that in keeping with specific statutory authority the agency has no ability to exercise judgement ("discretion"). A non-discretionary award amount could be determined specifically or by formula.

Non-Federal entity (NFE) means a State, local government, Indian tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Nonprofit organization means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

- (1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (2) Is not organized primarily for profit; and
- (3) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Notice of funding opportunity means a formal announcement of the availability of Federal funding through a financial assistance program from a Federal awarding agency. The notice of funding opportunity provides information on the award, who is eligible to apply, the evaluation criteria for selection of an awardee, required components of an application, and how to submit the application. The notice of funding opportunity is any paper or electronic issuance that an agency uses to announce a funding opportunity, whether it is called a "program announcement," "notice of funding availability," "broad agency announcement," "research announcement," "solicitation," or some other term.

Office of Management and Budget (OMB) means the Executive Office of the President, Office of Management and Budget.

Oversight agency for audit means the Federal awarding agency that provides the predominant amount of funding directly (direct funding) (as listed on the schedule of expenditures of Federal awards, see § 200.510(b)) to a non-Federal entity unless OMB designates a specific cognizant agency for audit. When the direct funding represents less than 25 percent of the total Federal expenditures (as direct and sub-awards) by the non-Federal entity, then the Federal agency with the predominant amount of total funding is the designated oversight agency for audit. When there is no direct funding, the Federal awarding agency which is the predominant source of pass-through funding must assume the oversight responsibilities. The duties of the oversight agency for audit and the process for any reassignments are described in § 200.513(b).

Participant support costs means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.

Pass-through entity (PTE) means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Performance goal means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate. In some instances (e.g., discretionary research awards), this may be limited to the requirement to submit technical performance reports (to be evaluated in accordance with agency policy).

Period of performance means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the period of performance in the Federal award per § 200.211(b)(5) does not commit the awarding agency to fund the award beyond the currently approved budget period.

Personal property means property other than real property. It may be tangible, having physical existence, or intangible.

Personally Identifiable Information (PII) means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Some information that is considered to be PII is available in public sources such as telephone books, public websites, and university listings. This type of information is considered to be Public PII and includes, for example, first and last name, address, work telephone number, email address, home telephone number, and general educational credentials. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that, when combined with other available information, could be used to identify an individual.

Program income means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in § 200.307(f). (See the definition of *period of performance* in this section.) Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award,

program income does not include rebates, credits, discounts, and interest earned on any of them. See also § 200.407. See also 35 U.S.C. 200–212 "Disposition of Rights in Educational Awards" applies to inventions made under Federal awards.

Project cost means total allowable costs incurred under a Federal award and all required cost sharing and voluntary committed cost sharing, including third-party contributions.

Property means real property or personal property. See also the definitions of *real property* and *personal property* in this section.

Protected Personally Identifiable Information (Protected PII) means an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts. This does not include PII that is required by law to be disclosed. See also the definition of *Personally Identifiable Information (PII)* in this section.

Questioned cost means a cost that is questioned by the auditor because of an audit finding:

- (1) Which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal award, including for funds used to match Federal funds;
- (2) Where the costs, at the time of the audit, are not supported by adequate documentation; or
- (3) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.
- (4) Questioned costs are not an improper payment until reviewed and confirmed to be improper as defined in OMB Circular A–123 appendix C. (See also the definition of *Improper payment* in this section).

Real property means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

Recipient means an entity, usually but not limited to non-Federal entities that receives a Federal award directly from a Federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.

Renewal award means an award made subsequent to an expiring Federal award for which the start date is contiguous with, or closely follows, the end of the expiring Federal award. A renewal award's start date will begin a distinct period of performance.

Research and Development (R&D) means all research activities, both basic and applied, and all development activities that are performed by non-Federal entities. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods (see § 200.320). Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items at or below the simplified acquisition

threshold. The simplified acquisition threshold for procurement activities administered under Federal awards is set by the FAR at 48 CFR part 2, subpart 2.1. The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. However, in no circumstances can this threshold exceed the dollar value established in the FAR (48 CFR part 2, subpart 2.1) for the simplified acquisition threshold. Recipients should determine if local government laws on purchasing apply.

Special purpose equipment means equipment which is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers. See also the definitions of *equipment* and *general purpose equipment* in this section.

State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.

Student Financial Aid (SFA) means Federal awards under those programs of general student assistance, such as those authorized by Title IV of the Higher Education Act of 1965, as amended, (20 U.S.C. 1070–1099d), which are administered by the U.S. Department of Education, and similar programs provided by other Federal agencies. It does not include Federal awards under programs that provide fellowships or similar Federal awards to students on a competitive basis, or for specified studies or research.

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Subsidiary means an entity in which more than 50 percent of the entity is owned or controlled directly by a parent corporation or through another subsidiary of a parent corporation.

Supplies means all tangible personal property other than those described in the definition of *equipment* in this section. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life. See also the definitions of *computing devices* and *equipment* in this section.

Telecommunications cost means the cost of using communication and telephony technologies such as mobile phones, land lines, and internet.

Termination means the ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance. A lack of available funds is not a termination.

Third-party in-kind contributions means the value of non-cash contributions (*i.e.*, property or services) that—

- (1) Benefit a federally-assisted project or program; and
- (2) Are contributed by non-Federal third parties, without charge, to a non-Federal entity under a Federal award.

Unliquidated financial obligations means, for financial reports prepared on a cash basis, financial obligations incurred by the non-Federal entity that have not been paid (liquidated). For reports prepared on an accrual expenditure basis, these are financial obligations incurred by the non-Federal entity for which an expenditure has not been recorded.

Unobligated balance means the amount of funds under a Federal award that the non-Federal entity has not obligated. The amount is computed by subtracting the cumulative amount of the non-Federal entity's unliquidated financial obligations and expenditures of funds under the Federal award from the cumulative amount of the funds that the Federal awarding agency or pass-through entity authorized the non-Federal entity to obligate.

Voluntary committed cost sharing means cost sharing specifically pledged on a voluntary basis in the proposal's budget on the part of the non-Federal entity and that becomes a binding requirement of Federal award. See also § 200.306.

[85 FR 49529, Aug. 13, 2020, as amended at 86 FR 10439, Feb. 22, 2021]

This content is from the eCFR and is authoritative but unofficial.

Title 2 – Grants and Agreements

Subtitle A – Office of Management and Budget Guidance for Grants and Agreements

Chapter II – Office of Management and Budget Guidance

Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards

Source: 85 FR 49539, Aug. 13, 2020, unless otherwise noted.

Authority: 31 U.S.C. 503

Source: 78 FR 78608, Dec. 26, 2013, unless otherwise noted.

§ 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

- (a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - (1) Procure or obtain;
 - (2) Extend or renew a contract to procure or obtain; or
 - (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems 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. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) 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).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) 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.
- (b) In implementing the prohibition under Public Law 115–232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

- (c) See Public Law 115-232, section 889 for additional information.
- (d) See also § 200.471.

This content is from the eCFR and is authoritative but unofficial.

Title 2 – Grants and Agreements

Subtitle A – Office of Management and Budget Guidance for Grants and Agreements

Chapter II – Office of Management and Budget Guidance

Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Subpart D – Post Federal Award Requirements

Source: 85 FR 49543, Aug. 13, 2020, unless otherwise noted.

Authority: 31 U.S.C. 503

Source: 78 FR 78608, Dec. 26, 2013, unless otherwise noted.

Procurement Standards

- § 200.317 Procurements by states.
- § 200.318 General procurement standards.
- § 200.319 Competition.
- § 200.320 Methods of procurement to be followed.
- § 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
- § 200.322 Domestic preferences for procurements.
- § 200.323 Procurement of recovered materials.
- § 200.324 Contract cost and price.
- § 200.325 Federal awarding agency or pass-through entity review.
- § 200.326 Bonding requirements.
- § 200.327 Contract provisions.

PROCUREMENT STANDARDS

§ 200.317 Procurements by states.

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§ 200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by § 200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§ 200.318 through 200.327.

§ 200.318 General procurement standards.

- (a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§ 200.317 through 200.327.

- (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- (c)
 - (1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.
 - (2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
- (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- (e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.
- (f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- (g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- (h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also § 200.214.

- (i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- (j)
 - (1) The non-Federal entity may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a non-Federal entity is the sum of:
 - (i) The actual cost of materials; and
 - (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.
 - (2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
- (k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[85 FR 49543, Aug. 13, 2020, as amended at 86 FR 10440, Feb. 22, 2021]

§ 200.319 Competition.

- (a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and § 200.320.
- (b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
 - (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
 - (2) Requiring unnecessary experience and excessive bonding;
 - (3) Noncompetitive pricing practices between firms or between affiliated companies;
 - (4) Noncompetitive contracts to consultants that are on retainer contracts;
 - (5) Organizational conflicts of interest;

- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
 - (7) Any arbitrary action in the procurement process.
- (c) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- (d) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
 - (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- (e) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.
- (f) Noncompetitive procurements can only be awarded in accordance with § 200.320(c).

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§ 200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

- (a) **Informal procurement methods.** When the value of the procurement for property or services under a Federal award does not exceed the *simplified acquisition threshold (SAT)*, as defined in § 200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:
- (1) **Micro-purchases** —

- (i) **Distribution.** The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of *micro-purchase* in § 200.1). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.
- (ii) **Micro-purchase awards.** Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.
- (iii) **Micro-purchase thresholds.** The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.
- (iv) **Non-Federal entity increase to the micro-purchase threshold up to \$50,000.** Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with § 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:
 - (A) A qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;
 - (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
 - (C) For public institutions, a higher threshold consistent with State law.
- (v) **Non-Federal entity increase to the micro-purchase threshold over \$50,000.** Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

(2) **Small purchases** –

- (i) **Small purchase procedures.** The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) **Simplified acquisition thresholds.** The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) **Formal procurement methods.** When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with § 200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

(1) **Sealed bids.** A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

- (A) A complete, adequate, and realistic specification or purchase description is available;
- (B) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

- (A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- (B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (E) Any or all bids may be rejected if there is a sound documented reason.

(2) **Proposals.** A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

- (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
 - (ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;
 - (iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and
 - (iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.
- (c) **Noncompetitive procurement.** There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:
- (1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);
 - (2) The item is available only from a single source;
 - (3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
 - (4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
 - (5) After solicitation of a number of sources, competition is determined inadequate.

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

- (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- (b) Affirmative steps must include:
 - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

§ 200.322 Domestic preferences for procurements.

- (a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- (b) For purposes of this section:
 - (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
- (c) Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in 2 CFR part 184.

[85 FR 49543, Aug. 13, 2020, as amended at 88 FR 57790, Aug. 23, 2023]

§ 200.323 Procurement of recovered materials.

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

§ 200.324 Contract cost and price.

- (a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

- (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
- (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.325 Federal awarding agency or pass-through entity review.

- (a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- (b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
 - (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
 - (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
- (c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
 - (1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

- (2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.326 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.327 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in appendix II to this part.

This content is from the eCFR and is authoritative but unofficial.

Title 2 – Grants and Agreements

Subtitle A – Office of Management and Budget Guidance for Grants and Agreements

Chapter II – Office of Management and Budget Guidance

Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Source: 85 FR 49543, Aug. 13, 2020, unless otherwise noted.

Source: 85 FR 49539, Aug. 13, 2020, unless otherwise noted.

Authority: 31 U.S.C. 503

Source: 78 FR 78608, Dec. 26, 2013, unless otherwise noted.

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

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

- (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- (D) Davis-Bacon Act, as amended (40 U.S.C. 3141–3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part

3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from 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.

- (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- (G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any

other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.323.

(K) See § 200.216.

(L) See § 200.322.

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

Housing Rehabilitation Program Description

The Housing Rehabilitation Program maximum grant amount will be \$50,000 and will be funded by the City's HOME and CDBG grant program. Assistance will only be provided to households who meet the definition of a Low-to-Moderate Income (LMI) household and whose homes are stick-built. LMI households are defined as households whose income is 80% or less than the Area Median Income (AMI).

In exchange for financial assistance, a qualifying homeowner must agree to a 5-year restrictive covenant that establishes ownership and occupancy requirements on their home. Homes must be located within the city limits of Lake Charles. Repair work on other buildings on the property not considered the primary residence (i.e. detached garage, sheds and barns) are not allowed.

The Housing Rehabilitation Program is designed to preserve existing housing and enhance the quality of life by providing decent, safe and sanitary housing for LMI households. It is understood that fully functional homes better protect the occupants and add value to neighborhoods, thus increasing the livability of the entire city.

The Housing Rehabilitation Program will be implemented with all applicable rules and regulations of the City of Lake Charles (COLC) and the United States Department of Housing and Urban Development (HUD). The Program shall be under the direct supervision of Mark Tizano, Director the City's Community Development Department.

Procurement

The City's Community Development Department (CDD) will be responsible for developing a contractor pool for the program. A series of informational meetings will be held that will allow contractors to learn the details of the program, ask and receive answers to questions they might have, and what they need to do in order to participate in the program. These meetings will be mandatory.

Contractors must meet and comply with all contractor requirements as hereinafter established for the program. They are as follows:

1. All contractors must have, at a minimum, a Home Improvement Registration with the Louisiana State Licensing Board for Contractors.
2. Insurance:
 - A. Evidence of Workmen's Compensation-Full statutory liability of State of Louisiana with employee Liability Coverage of \$100,000 minimum per occurrence connected to the work contracted herein.
 - B. Evidence of Comprehensive General Liability (including Premises Operation, Contractor's Protective Liability, Complete Operations and Product, Contractual Liability Coverage) Bodily Injuries. \$1,000,000 per person, \$1,000,000 per occurrence, property damage of at least \$1,000,000 per occurrence, or bodily injury/property damage of at least \$1,000,000 combined single limit.
 - C. Evidence of Automobile Liability of at least \$500,000 per person, \$500,000 per occurrence, property damage/bodily injury of at least \$500,000 per occurrence, bodily injury/property damage of at least \$500,000 combined single limit.

Contractors will be given two weeks from the date of the meeting to turn in its licensing information to the CDD and to complete a vendor's package with the City's Purchasing Department. Once that is done, they will be added to the City's approved list of contractors.

Note: Contractors must not be debarred, suspended or ineligible from working in federally funded programs. CDD Staff will check the SAMS system to check for contractor clearance prior to adding contractors to the list of approved contractors. If they are found to be debarred, suspended or ineligible to participate in a federal program they will not be added to the list and notified in writing. Contractors added to the list will be required to certify they are not debarred, suspended or ineligible during contract execution.

Upon completion of work write-ups and cost estimates, the CDD shall receive bids from contractors in the contractor's pool. The homeowner may select any bid that is within 10% of the City's cost estimate. However, the low qualified bid is always preferred. The homeowner would be required to pay the difference in the lowest qualified bid and selected bid.

The procurement sequence for the rehabilitation projects shall be: Invitation to Provide a Bid, Bid Opening and Award Letter.

1. Invitation to Provide a Bid – CDD will assemble an invitation packet which will include instructions on providing a quote and a work write-up and provide it to all contractors in the pool.
2. Bids – CDD will open bids in the presence of at least three staff members. Homeowners and Contractors will be encouraged to attend.
3. Award Letter – Staff will award contracts based on the lowest qualified bid (within 10% of cost estimate). After homeowners are notified and approve a contractor's bid, verbal and written notice of award will provided to all contractors.

Contractors that are the lowest responsible bidders but have reached their maximum capacity can turn jobs down and it not be held against them. In the event this occurs, the projects they turn down will be awarded to the next lowest bidder, pending that this bidder has not exceeded his capacity. In that event, it would go to the next lowest bidder and so on.

COST REASONABLENESS

The bid must be within 10% of the initial cost estimate. If the lowest bid is 10% or more higher than the cost estimate then the low bidder will be given the opportunity to negotiate his bid into the acceptable range. If the bid cannot be negotiated into the acceptable range then the project may be rebid. If the lowest bid is 10% more lower than the work write-up then the low bidder will be evaluated to determine if there were any mistakes and that he contractor can complete the work as outlined in the scope of work. If the bid is determined to be reasonable and responsive it may be accepted as the winning bid.

REHABILITATION WORK

The CDD Housing Inspector will inspect the job in accordance with normal building inspection requirements. The Housing Inspector will ensure that all contracted work is complete prior to payment and that such work was performed in an acceptable manner. Progress inspections will be made on a daily basis and a final inspection will be performed upon completion of all of the work (noting deficiencies in written reports and keeping these reports in the project case files). “During” rehabilitation photos shall be taken while the rehabilitation work is ongoing.

PROGRESS PAYMENTS AND CONTRACT COMPLETION

During the course of a job, the program will make progress payments to the contractor upon reaching certain milestones. Those milestones will be determined by the Housing Inspector on a case-by-case basis, as each job will be different in scope.

Progress payments will be initiated by the Housing Inspector as follows:

| <u>Progress Payment</u> | <u>% of Job Complete</u> | <u>Milestone</u> |
|--------------------------------|---------------------------------|---------------------------|
| Payment #1 | 25 | To be determined, per job |
| Payment #2 | 50 | To be determined, per job |
| Payment #3 | 90 | Job complete and Final |
| Retainage | 10 | End of lien period |

After the work specified in the contract has been completed to the satisfaction of the Housing Inspector, a Final Acceptance of Work will be issued. Upon execution of the Final Acceptance of Work, contractors shall provide all material warranties that apply and a final invoice form.

If there are construction issues after thirty (30) days from final inspection, the Housing Inspector shall conduct a post-inspection, along with the applicant and contractor. If NO issues are found during the post-inspection, the Housing Inspector will approve the release of the ten percent (10%) retainage to the contractor. However, if discrepancies are noted, the CDD shall continue to withhold the retainage until the discrepancies are corrected.

Following the completion and acceptance of the rehabilitation work, the City shall take “after” rehabilitation pictures, (interior and exterior) to provide a photographic record of the structure and the improvements made.

All work performed by the contractor shall be guaranteed for a period of one (1) year from the date of the Final Acceptance of Work. Such warranty shall be stipulated in the construction contract between the contractor and the applicant. For a period of one (1) year, the applicant may require the contractor to correct defects or problems arising from his or her work under this contract. Should the contractor fail to do so, the applicant may take any necessary legal recourse as prescribed in the construction contract. A reasonable amount of time shall be given to correct the problem, but the contractor shall respond to warranty calls within three (3) days of notification by the homeowner. Emergency warranty calls shall be responded to the same day the complaint is received.

CHANGE ORDERS

A change order occurs when there is any modification to the agreed upon work write-up. The modification may be relatively minor or incorporate a major change. A change order may be must be executed for any deviation, addition, or deletion made to the original job specification (even if there is no cost change). Change orders must be in writing and approved by the Homeowner and Community Development Director.

All change orders must be evaluated for cost reasonableness and for the effect it will have on the amount of assistance approved prior to the change order. The cost analysis of the recommended changes will be documented and will include a statement verifying that the approved cost is both reasonable and acceptable. The Housing Inspector will establish the cost reasonableness of the change order.

Housing Reconstruction Program Description

The Housing Reconstruction Program maximum grant amount for an 875 sq. ft. two-bedroom home is \$70,765.00. Home reconstruction will be funded by the City's HOME grant program. Assistance will only be provided to households who meet the definition of a Low-to-Moderate Income (LMI) household and whose homes are stick-built. LMI households are defined as households whose income is 80% or less than the Area Median Income (AMI).

In exchange for financial assistance, a qualifying homeowner must agree to a 5-year restrictive covenant that establishes ownership and occupancy requirements on their home. Homes must be located within the city limits of Lake Charles. Reconstruction work on other buildings on the property not considered the primary residence (i.e. detached garage, sheds and barns) are not allowed.

The Housing Reconstruction Program is designed to preserve existing housing and enhance the quality of life by providing decent, safe and sanitary housing for LMI households. It is understood that fully functional homes better protect the occupants and add value to neighborhoods, thus increasing the livability of the entire city.

The Housing Reconstruction Program will be implemented with all applicable rules and regulations of the City of Lake Charles (COLC) and the United States Department of Housing and Urban Development (HUD). The Program shall be under the direct supervision of Mark Tizano, Director the City's Community Development Department.

Procurement

The City's Community Development Department (CDD) will be responsible for developing a contractor pool for the program. A series of informational meetings will be held that will allow contractors to learn the details of the program, ask and receive answers to questions they might have, and to what they need to do in order to participate in the program. These meetings will be mandatory.

Contractors must meet and comply with all contractor requirements as hereinafter established for the program. They are as follows:

1. All contractors must have, at a minimum, a Home Improvement Registration with the Louisiana State Licensing Board for Contractors.
2. Insurance:
 - A. Evidence of Workmen's Compensation-Full statutory liability of State of Louisiana with employee Liability Coverage of \$100,000 minimum per occurrence connected to the work contracted herein.
 - B. Evidence of Comprehensive General Liability (including Premises Operation, Contractor's Protective Liability, Complete Operations and Product, Contractual Liability Coverage) Bodily Injuries. \$1,000,000 per person, \$1,000,000 per occurrence, property damage of at least \$1,000,000 per occurrence, or bodily injury/property damage of at least \$1,000,000 combined single limit.

- C. Evidence of Automobile Liability of at least \$500,000 per person, \$500,000 per occurrence, property damage/bodily injury of at least \$500,000 per occurrence, bodily injury/property damage of at least \$500,000 combined single limit.

Contractors will be given two weeks from the date of the meeting to turn in its licensing information to the CDD and to complete a vendor's package with the City's Purchasing Department. Once that is done, they will be added to the City's approved list of contractors.

Note: Contractors must not be debarred, suspended or ineligible from working in federally funded programs. CDD Staff will check the SAMS system to check for contractor clearance prior to adding contractors to the list of approved contractors. If they are found to be debarred, suspended or ineligible to participate in a federal program they will not be added to the list and notified in writing. Contractors added to the list will be required to certify they are not debarred, suspended or ineligible during contract execution.

Building Contractors will be chosen by the homeowner(s) from the list of approved contractors to build their home and driveway (if necessary). Building contractors will also be responsible for demolition and clearance of the house and property. The cost of building a driveway will be fixed at \$8 per square foot. The cost of demolition will be fixed at \$7.25 times the square footage of the existing structure.

The homeowners will be given as much time as needed to make their selection. Once they make their selections, the CDD will send out an award letter to the contractor and move forward with contract execution between the two parties.

Demolition and Clearance

Demolition and clearance will be funded by the City's Community Development Block Grant and will include the following:

- Turn off water at meter, cut water line before beginning Demolition
- Demolition of structure:
 - This shall include concrete steps, piers, slab, porches and piping in the new foundation area, exposing at least 10 feet of existing sewer line and clearly mark its location and dispose of materials.
- Haul in three (3) loads of clay, two (2) loads of fill sand and spread.
- Provide storm water controls and maintain them.
- Grading the site and place two rows of sod around the new home.

Note: Demolition of the structure and hauling dirt in will be considered Phase I. Grading the site and placing of sod around the new home will be considered Phase II. These two phases will be paid separately as the work is completed after the contractor provides the City with an invoice for services.

RECONSTRUCTION WORK

The CDD Housing Inspector will inspect the job in accordance with normal building inspection requirements. The Housing Inspector will ensure that all contracted work is complete prior to payment and that such work was performed in an acceptable manner. Progress inspections will be

made on a daily basis and a final inspection will be performed upon completion of all of the work (noting deficiencies in written reports and keeping these reports in the project case files). “During” photos shall be taken while the reconstruction work is ongoing.

PROGRESS PAYMENTS AND CONTRACT COMPLETION

During the course of a job, the program will make progress payments to the contractor upon reaching certain milestones. These progress payments will be initiated by the Housing Inspector as follows:

| <u>Progress Payment</u> | <u>% of Job Complete</u> | <u>Milestone</u> |
|--------------------------------|---------------------------------|-------------------------|
| Payment #1 | 25 | 25% of job completed |
| Payment #2 | 50 | 50% of job completed |
| Payment #3 | 90 | Job complete and Final |
| Retainage | 10 | End of lien period |

After the work specified in the contract has been completed to the satisfaction of the Housing Inspector, a Final Acceptance of Work will be issued. Upon execution of the Final Acceptance of Work, contractors shall provide all material warranties that apply and a final invoice form.

If there are construction issues after thirty (30) days from final inspection, the Housing Inspector shall conduct a post-inspection, along with the applicant and contractor. If NO issues are found during the post-inspection, the Housing Inspector will approve the release of the ten percent (10%) retainage to the contractor. However, if discrepancies are noted, the CDD shall continue to withhold the retainage until the discrepancies are corrected.

Following the completion and acceptance of the reconstruction work, the City shall take “after” reconstruction pictures, (interior and exterior) to provide a photographic record of the structure and the improvements made.

All work performed by the contractor shall be guaranteed for a period of one (1) year from the date of the Final Acceptance of Work. Such warranty shall be stipulated in the construction contract between the contractor and the applicant. For a period of one (1) year, the applicant may require the contractor to correct defects or problems arising from his or her work under this contract. Should the contractor fail to do so, the applicant may take any necessary legal recourse as prescribed in the construction contract. A reasonable amount of time shall be given to correct the problem, but the contractor shall respond to warranty calls within three (3) days of notification by the homeowner. Emergency warranty calls shall be responded to the same day the complaint is received.

CDBG-DR COMPLIANCE REQUIREMENTS

All contractors working on DR projects must adhere to these requirements as well as the rest of the procurement manual.

REPORTING: The <FIRM>, at such times and in such forms as the **CITY OF LAKE CHARLES, LA** may require, shall furnish the **CITY OF LAKE CHARLES, LA** such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

ACCESS TO RECORDS: The <FIRM> shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the **CITY OF LAKE CHARLES, LA** to assure proper accounting for all project funds, both federal and non-federal shares. These records will be made available for audit or other financial reporting purposes to the **CITY OF LAKE CHARLES, LA** or any authorized representative and will be retained for five years after the OCD-DRU has officially closed-out the Disaster Recovery CDBG grant with HUD, unless permission to destroy them is granted by the **CITY OF LAKE CHARLES, LA**.

RECORDS AND AUDITS: The <FIRM> shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the **CITY OF LAKE CHARLES, LA** to assure proper accounting for all project funds, both federal and non-federal shares. These records will be made available for audit or other financial reporting purposes to the **CITY OF LAKE CHARLES, LA** or any authorized representative and will be retained for five years after the OCD-DRU has officially closed-out the Disaster Recovery CDBG grant with HUD, unless permission to destroy them is granted by the **CITY OF LAKE CHARLES, LA**.

CONFLICT OF INTEREST: No member of the governing body of the **CITY OF LAKE CHARLES, LA** and no other officer, employee, or agent of the **CITY OF LAKE CHARLES, LA** who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the <FIRM> shall take appropriate steps to assure compliance.

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the <FIRM> shall take appropriate steps to assure compliance.

The <FIRM> covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the project area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The <FIRM> further covenants that in the performance of this Contract, no person having any such interest shall be employed.

CIVIL RIGHTS ACT OF 1964/EQUAL EMPLOYMENT OPPORTUNITY: Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under

any program or activity receiving federal financial assistance. During the performance of this Contract, the <FIRM> agrees as follows:

a) The <FIRM> will not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, handicap or familial status. The <FIRM> will take affirmative steps to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, national origin, handicap or familial status. 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 or compensation; and selection for training, including apprenticeship. The <FIRM> agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **CITY OF LAKE CHARLES, LA** setting forth the provisions of this non-discrimination clause.

b) The <FIRM> will, in all solicitations or advertisements for employees placed by or on behalf of the <FIRM>; state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, national origin, handicap or familial status.

c) The <FIRM> will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials

d) The <FIRM> will comply with all provisions of Presidential Executive Order 11246 (Executive Order 11246) of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

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

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

g) The <FIRM> will include the provisions of paragraphs (a) through (g) 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

<FIRM> will take such action with respect to any subcontract or purchase order as the **CITY OF LAKE CHARLES, LA** may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event the <FIRM> becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the **CITY OF LAKE CHARLES, LA**, the <FIRM> may request the United States to enter into such litigation to protect the interests of the United States.

CERTIFICATION OF NONSEGREGATED FACILITIES: By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he/she does not maintain or provide for his/her establishments, and that he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

He/she further agrees that (except where he/she has obtained for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974: No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

SECTION 503 OF THE REHABILITATION ACT OF 1973 (29 USC 793)

a) The <FIRM> will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is otherwise qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment upgrading, demotion or transfer,

recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

b) The <FIRM> agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

c) In the event of the <FIRM>'s noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

d) The <FIRM> agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

e) The <FIRM> will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

f) The <FIRM> will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, 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 Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED: The <FIRM> agrees that no otherwise qualified individual with disabilities shall, solely by reason of his disability, be denied the benefits, or be subjected to discrimination including discrimination in employment, any program or activity that receives the benefits from the federal financial assistance.

AGE DISCRIMINATION ACT OF 1975: The <FIRM> shall comply with the provisions of the Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS: The <FIRM> and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended. In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

- a) A stipulation by the <FIRM> or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR Part 15, as amended.
- b) Agreement by the <FIRM> to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- c) A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.
- d) Agreement by the <FIRM> that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

FLOOD DISASTER PROTECTION: Any contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). Nothing included as a part of the contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any assistance provided under the contract for such acquisition for construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements or Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under any Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of Flood Disaster Protection Act of 1973.

INSPECTION: The authorized representative and agents of the State of Louisiana and the Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

PATENTS:

- a) The <FIRM> shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Owner, unless otherwise specifically stipulated in the Contract Document.
- b) License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Contractor.
- c) If the <FIRM> uses any design device or materials covered by letters, patent, or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copyrighted design device or material. It is mutually agreed and understood that without exception the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copy-righted design, device or materials or any trademark or copy-right in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

COPYRIGHT: No materials, to include but not limited to reports, maps, or documents produced as a result of this contract, in whole or in part, shall be available to the <FIRM> for copyright purposes. Any such materials produced as a result of any contract that might be subject to copyright shall be the property of the Owner and all such rights shall belong to the Owner.

ENERGY EFFICIENCY: The <FIRM> shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

SUBCONTRACTS:

- a) The <FIRM> shall not enter into any subcontract with any subcontractor who has been debarred, suspended, declared ineligible, or voluntarily excluded from participating in contacting programs by any agency of the United States Government or the State of Louisiana.
- b) The <FIRM> shall be as fully responsible to the Owner for the acts and omissions of the Contractor's subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by the Contractor.
- c) The <FIRM> shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractor to the Contractor by the terms of the contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same

power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the contract documents.

- d) Nothing contained in any contract shall create any contractual relation between any subcontractor and the Owner.

DEBARMENT, SUSPENSION, AND INELIGIBILITY: The <FIRM> represents and warrants that it and its subcontractors are not debarred, suspended, or placed in ineligibility status under the provisions of 24 CFR 24 (government debarment and suspension regulations).

BREACH OF CONTRACT TERMS: Any violation or breach of terms of any contract on the part of the <FIRM> or subcontractors may result in the suspension or termination of the contract or such other action that may be necessary to enforce the rights of the parties of the contract. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

PROVISIONS REQUIRED BY LAW DEEMED INSERTED: Each and every provision of law and clause required by law to be inserted in any contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

PERSONNEL: The <FIRM> represents that it has, or will secure at its own expense, all personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Owner. All the services required hereunder will be performed by the <FIRM> or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. No person who is serving sentence in a penal or correctional institution shall be employed on work under any Contract.

ANTI-KICKBACK RULES: Salaries of personnel performing work under any Contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. 874; and Title 40 U.S.C. 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under the contract to ensure compliance by the subcontractors with such regulations and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

ASSIGNABILITY: The <FIRM> shall not assign any interest in any Contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the Owner provided that claims for money due or to become due the Contractor from the Owner under the Contract may be assigned to a bank, trust company, or other financial

institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Owner.

INTEREST OF CONTRACTOR: The <FIRM> covenants that he presently has no interest and shall not acquire any interest direct or indirect in the above-described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The <FIRM> further covenants that in the performance of any Contract no person having any such interest shall be employed.

POLITICAL ACTIVITY: The <FIRM> will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.

COMPLIANCE WITH THE OFFICE OF MANAGEMENT AND BUDGET: The parties agree to comply with the regulations, policies, guidelines, and requirements of the Office of Management and Budget, Circulars A-95, A-102, A-133, and A-54, as they relate to the use of Federal funds under any contract.

DISCRIMINATION DUE TO BELIEFS: No person with responsibilities in operation of the project to which this grant relates will discriminate with respect to any program participant or any applicant for participation in such program because of political affiliation or beliefs.

CONFIDENTIAL FINDINGS: All of the reports, information, data, etc., prepared or assembled by the <FIRM> under any Contract are confidential, and the Contractor agrees that they shall not be made available to any individual or organization without prior written approval of the Owner.

LOBBYING: The <FIRM> certifies, to the best of his or her knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the contractor, 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 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 federally 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 contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

"SECTION 3" COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES

a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by the U.S. Department of Housing and Urban Development (HUD) assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

b) The parties to this contract agree to comply with HUD's regulations in 24 CFR 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the 24 CFR 75 regulations.

c) The <**FIRM**> agrees to include this Section 3 Contract Requirements clause in every sub-contract subject to compliance with regulations in 24 CFR 75, and agrees to take appropriate action, as provided in an applicable provision of the sub-contractor in this Section 3 Contract Requirements clause, upon a finding that the sub-contractor is in violation of the regulations in 24 CFR 75. The <**FIRM**> will not sub-contract with any subcontractor where the contractor has notice or knowledge that the sub-contractor has been found in violation of the regulations in 24 CFR 75.

d) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, the **PARSH** and <**FIRM**> and sub-contractors for the CDBG-DR project shall ensure contracts and sub-contracts for work awarded in connection with the project are awarded to business concerns that provide economic opportunities to Section 3 Workers; and where feasible in the following order of priority: (1) Section 3 Business concerns that provide economic opportunities to Section 3 Workers residing within the metropolitan area (or nonmetropolitan county) in which the HUD funded assistance is provided/in which the HUD funded/CDBG project is occurring; and (2) Youth Build programs.

e) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, the **CITY OF LAKE CHARLES, LA** and <**FIRM**> and sub-contractors for the CDBG-DR project shall ensure employment and training opportunities generated in connection with the project are filled by Section 3 Workers; and where feasible, in the following order of priority: (1) low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the CDBG assistance is expended (i.e., in which the CDBG project is occurring); and (2) participants in Youth Build programs.

f) Definitions for Section 3 terms per 24 CFR 75 are as follows: Section 3 Worker: An employee who currently fits (if hired more than five (5) years before starting work on the CDBG-DR project), or fit at the time of hire (if hired within five (5) years of starting work on the CDBG-DR project), at least one (1) of the following categories: (1) is employed by a Section 3 Business concern; or (2) is a low- or very low-income resident (i.e., a local person living within the Section 3 service area as defined in 24 CFR 75.5, with an individual annualized income at the time of hire (if hired within five (5) years of starting

work on the CDBG-DR project), or currently as of date of starting work on the project (if hired more than five (5) years before starting work on the CDBG project) that was/is at or below the low-income (80%) threshold established by HUD for a Family of 1 for the county in which the person lives) or (3) is a Youth Build participant. Targeted Section 3 Worker: An employee who is employed by a Section 3 Business concern; or who currently fits (or when hired fit) at least one (1) of the following categories as documented within the past five (5) years: (1) lives/lived within the Section 3 service area or the neighborhood of the CDBG-DR project as defined in 24 CFR 75.5; or (2) is a Youth Build participant. Section 3 Business concern: A business that fits at least one (1) of the following categories: (1) 51% or more owned by low- or very low-income persons; or (2) 75% or more of the labor hours are performed by low- or very low-income persons; or (3) 51% or more owned by current residents of public housing or Section 8-assisted housing. Section 3 Service Area: An area within one (1) mile of the CDBG-DR project's location (i.e., street address); or an area within a circle centered around the CDBG-DR project site that encompasses 5,000 people [if less than 5,000 people live within a one (1) mile radius of the CDBG-DR project site].

g) **CITY OF LAKE CHARLES, LA** and **<FIRM>** and sub-contractors for the CDBG-DR project shall report all worker labor hours on the project as follows: (1) the total number of labor hours worked; (2) the total number of labor hours worked by Section 3 Workers; and (3) the total number of labor hours worked by Targeted Section 3 Workers. The labor hours reported shall include the total number of labor hours worked on the financially assisted project by workers employed by the **CITY OF LAKE CHARLES, LA**, and employed by their contractors and sub-contractors, during the reporting period specified by HUD and the OCD-DRU. The labor hours reported may be based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance-based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

h) The HUD Section 3 Final Rule (24 CFR 75) establishes "safe harbor" benchmarks that are quantitative benchmarks and prioritized qualitative efforts that funding recipients must complete to assist low- and very low-income persons with employment and training opportunities: (1) 25% or more of all labor hours worked must be worked by Section 3 Workers; and (2) 5% or more of all labor hours worked must be worked by Targeted Section 3 Workers. If the "safe harbor" benchmarks are not met over the course of the project, then the **CITY OF LAKE CHARLES, LA** and **<FIRM>** and sub-contractors for the CDBG project shall provide evidence of completing qualitative efforts to assist low- and very low-income persons with employment and training opportunities. Supporting documentation of these completed efforts must also be maintained in the **CITY OF LAKE CHARLES, LA's** and **<FIRM>S'** CDBG-DR project files, to be made available upon request for monitoring purposes.

i) When the Section 3 benchmarks are not met, the **CITY OF LAKE CHARLES, LA** and **<FIRM>** and sub-contractors for the CDBG-DR project shall demonstrate and report qualitative efforts made in an attempt to meet the benchmarks, which may include but are not limited to the following: (1) Engage in outreach efforts to generate job applicants who

are Targeted Section 3 Workers. (2) Provide training or apprenticeship opportunities. (3) Provide technical assistance to help Section 3 Workers compete for jobs (e.g., resume assistance, coaching). (4) Provide or connect Section 3 Workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services. (5) Hold one or more job fairs. (6) Provide or refer Section 3 Workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare). (7) Provide assistance to Section 3 Workers to apply for/or attend community college, a four-year educational institution, or vocational/technical training. (8) Assist Section 3 Workers to obtain financial literacy training and/or coaching. (9) Engage in outreach efforts to identify and secure bids from Section 3 Business concerns. (10) Provide technical assistance to help Section 3 Business concerns understand and bid on contracts. (11) Divide contracts into smaller jobs to facilitate participation by Section 3 Business concerns. (12) Provide bonding assistance, guaranties, or other efforts to support viable bids from Section 3 Business concerns. (13) Promote use of business registries designed to create opportunities for disadvantaged and small businesses. (14) Conduct outreach, engagement, or referrals with the state one-stop system as defined in Section 121€2) of the Workforce Innovation and Opportunity Act.

j) The **CITY OF LAKE CHARLES, LA** and <FIRM> and sub-contractors for the CDBG-DR project shall maintain all records demonstrating compliance with 24 CFR 75, including contracting information and documents, worker income certifications (for Section 3 Worker status determinations), and worker labor hours on CDBG-DR project; and provide data and reporting documents as requested and required by the OCD-DRU and/or HUD. Grantee and contractor records may be monitored for compliance by the OCD-DRU and/or HUD.

k) Non-compliance with HUD's regulations in 24 CFR 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

GENERAL INFORMATION

Complete the yellow cells as applicable.

This workbook completed by (name and title):

This workbook QC'd by (name and title):

Project Owner Name

Project Name or Description

Project or Agreement No.

General/Prime Contractor Name

Original Contract Amount

Final Contract Amount (including change orders)

Cost analyses performed for all contract modifications involving budget increase or decrease

Project scope, budget and term of performance did not increase enough to warrant re-procurement under the project owner's policies

Environmental review amended if necessary to account for scope increase or modification

The following checklists in this workbook have been completed for this procurement (*check all that apply*):

Micropurchase

Small Purchase

Construction or Property over the Simplified Acquisition Threshold

Non-A&E Services over the Simplified Acquisition Threshold

A&E Services over the Simplified Acquisition Threshold

Noncompetitive Procurement

The project owner is: (*Check the appropriate options below*)

State grantee

If project owner is a State grantee, which procurement rules are they following? (*Check one*)

-State has adopted 2 CFR 200.318 through 200.327 for itself and all subrecipients

-State follows its own procurement policies and procedures and establishes requirements for procurement processes for local governments and subrecipients based on full and open competition pursuant to 24 CFR 570.489(g)

- State has adopted 2 CFR 200.317, meaning that it will follow its own state procurement processes and evaluate the cost or price of the product or service, but impose 2 CFR 200.318 through 200.327 on its subrecipients.

Subrecipient to a state grantee

If project owner is a subrecipient/local government to a state grantee, which procurement rules are they following? (*Check one*)

-2 CFR 200.318 through 200.327

-A procurement process established by the state based on full and open competitor

Entitlement grantee following 2 CFR 200.318 through 200.327

Subrecipient to an entitlement grantee following 2 CFR 200.318 through 200.327

Note that entitlement grantees and local government subrecipients must follow state and local procurement rules where they are more restrictive than federal rules.

Also, state grantees following their own procurement rules must still comply with 2 CFR 200.321 (M/WBE), 200.322 (Domestic preference) and 200.323 (Recovered Materials) and ensure that all purchase orders or contracts incorporate applicable provisions of Appendix II to 2 CFR 200.

MICROPURCHASE PROCUREMENT (UP TO \$5,000)

Complete the checklist in Column A by selecting from the dropdown menus. Type information into the yellow cells in Columns B and C if applicable.

| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
|--|--|-------------------------|
| MICROPURCHASE THRESHOLD | | |
| | Grantee's micropurchase threshold is (select <u>ONE</u> of the following) : | |
| | -The Federal Acquisition Regulation threshold (currently \$10K) per FAR 2.101 | 2 CFR 200.320(a) |
| X | -A lower threshold established by the grantee under state or local code: | 2 CFR 200.320(a) |
| | \$5,000.00 | Ord. 18779 |
| | -Under \$50K and grantee self-certifies annually that it meets one of the conditions under 2 CFR 200.320(a)(1)(iv) pertaining to grantee capacity and risk | 2 CFR 200.320(a)(1)(iv) |
| | -Over \$50K and grantee has received written approval from HUD or other applicable cognizant agency | 2 CFR 200.320(a)(1)(v) |
| | <i>[Enter approved micropurchase threshold here and include approval in file]</i> | |
| MICROPURCHASE DISTRIBUTION AND AWARD | | |
| | Purchase does not exceed the micropurchase threshold identified above | 2 CFR 200.320(a)(1)(i) |
| | Lease vs. purchase or other analysis was conducted to ensure the most economical approach to procurement | 2 CFR 200.318(d) |
| | Purchase is distributed equitably among suppliers to the maximum extent feasible | 2 CFR 200.320(a)(1)(i) |
| | If using a purchase card, grantee has documented and approved purchase card procedures | 2 CFR 200.320(a)(ii) |
| | Federal and state debarment checks performed and qualifications verified for selected vendor | 2 CFR 200.318(h) |
| | Purchase is reasonable based on the following (research, experience, purchase history or other information): | 2 CFR 200.320(a)(ii) |
| | <i>[Enter explanation of cost reasonableness here and include supporting documentation in file if applicable]</i> | |
| | Contract includes applicable provisions of 2 CFR 200, Appendix II | 2 CFR 200.327 |
| CONTRACTING WITH SMALL, MINORITY AND/OR WOMEN'S BUSINESS ENTERPRISE OR LABOR SURPLUS AREA FIRMS | | |
| | This product or service was purchased from a small, minority or women's business enterprise or labor surplus area firm (place documentation in file) OR | 2 CFR 200.321 |
| | The following effort(s) were made to contract with small, minority and/or women's business enterprises or labor surplus area firms for this purchase: | 2 CFR 200.321 |
| | -Prices were sought from one or more of these types of firms for this purchase | |
| | -Total purchase requirements were divided into smaller tasks or quantities to permit maximum participation by these firms | |
| | -Delivery schedules were coordinated to encourage participation by small and minority businesses, and women's business enterprises | |
| | -A request for quote was distributed to a M/W/DBE listserv or other distribution list | |
| | -Other efforts were made to do business with one or more of these types of firms as follows: | |
| | <i>[Describe additional efforts here]</i> | |

SMALL PURCHASE PROCUREMENT (OVER \$5,000 UP TO \$60,000)

Complete the checklist in Column A by selecting from the dropdown menus. Type information into the yellow cells in Columns B and C if applicable.

IMPORTANT NOTE: Design-build contracts are prohibited by 2 CFR 200.319(b).

| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
|--|--|---------------------------|
| SMALL PURCHASE THRESHOLD | | |
| | Grantee's Small Purchase Threshold is: | 2 CFR 200.320(a)(2)(i) |
| | -The Simplified Acquisition Threshold (currently \$250K) identified in FAR 2.101 | |
| X | -Other threshold as authorized by state or local code: | |
| | \$60,000.00 | Ord. 18779 |
| SMALL PURCHASE STEPS FOR ALL PROJECTS OR PRODUCTS (Complete this section for ALL small purchases, then complete whichever of the next two sections applies to your project) | | |
| | Clear scope of work or technical specifications developed to ensure consistent evaluation of bids or quotes | 2 CFR 200.319(d)(1) |
| | Lease vs. purchase or other analysis was conducted to ensure the most economical approach to procurement | 2 CFR 200.318(d) |
| | Informal cost estimate performed on scope of work or specifications to determine appropriate dollar threshold for procurement | 2 CFR 200.318(i) |
| | Purchase does not exceed the Simplified Acquisition Threshold or other small purchase threshold as indicated above | 2 CFR 200.320(a)(2)(i) |
| | Contract includes applicable provisions of 2 CFR 200, Appendix II | 2 CFR 200.327 |
| ADDITIONAL STEPS FOR NON-CONSTRUCTION PROJECTS OR PRODUCTS (Complete this section for small purchase construction management services and non-construction products and services) | | |
| | Price quotes obtained either by telephone, in writing or by facsimile from at least three qualified sources (if three quotes were sought but only one quote was obtained, follow checklist for Noncompetitive Procurement) | Ord. 18779 |
| | Written confirmation of accepted offer obtained from winning firm | Ord. 18779 |
| | Domestic preference applied for items produced in the United States | 2 CFR 200.322 |
| | Procurements over \$10K involving "designated" items under 40 CFR 247: Percentage of recovered materials evaluated in compliance with Section 6002 of the Solid Waste Disposal Act | 2 CFR 200.323 |
| | Cost reasonableness documented by performing price analysis of all qualified quotes | 2 CFR 200.403(a) |
| | Conflict of interest disclosure and certification obtained from selected vendor | 2 CFR 200.319(c) |
| | Federal and state debarment checks performed on selected vendor | 2 CFR 200.214 |
| | State or local governing body approval obtained (if over required threshold) | [State or local citation] |
| ADDITIONAL STEPS FOR CONSTRUCTION PROJECTS (Complete this section for construction services. For small purchase construction management services, complete the previous section.) | | |
| | Environmental clearance (Authority to Use Grant Funds) obtained or project converted to Exempt under 24 CFR 58.34 | 24 CFR 58.22 |
| | Bid package assembled: | 2 CFR 200.319(d)(1) |
| | -Invitation for bid or other general information for bidders including notice of funding source requirements | |
| | -Specifications or scope of work (do not include cost estimate or other budget information) | |
| | -Sample federal, state and/or local contract terms as applicable. | |
| | -If project cost is over \$2K in federal funds (based on estimate) : 1. Federal Labor Standards (HUD-4010) 2. Applicable federal and state wage determinations* | |
| | *Federal labor standards do not apply to demolition without an end use or projects involving at least 8 (CDBG) or 12 (HOME) residential units | |
| | -If project cost is over \$200K in HUD funds (based on estimate) : 1. Section 3 contract clause, 2. Certification, and 3. Reporting form templates** | |
| | **Section 3 applies to new construction, rehab or demolition of housing, public facilities and/or infrastructure | |
| | -Bonding and insurance as required by state or local code | [State or local citation] |
| | At least two qualified bids obtained via one of the following methods (if only one bid was obtained, follow checklist for Noncompetitive Procurement): | |
| | -Direct solicitation from an adequate number of qualified bidders | 2 CFR 200.320(a)(2)(i) |
| | -Bid opening advertised if required by state or local code | [State or local citation] |
| | Cost reasonableness documented by performing price analysis of all qualified quotes | 2 CFR 200.403(a) |
| | Conflict of interest disclosure and certification obtained from selected vendor | 2 CFR 200.319(c) |
| | Federal and state debarment checks performed and qualifications verified for selected vendor | 2 CFR 200.318(h) |

SMALL PURCHASE PROCUREMENT (OVER \$5,000 UP TO \$60,000)

Complete the checklist in Column A by selecting from the dropdown menus. Type information into the yellow cells in Columns B and C if applicable.

IMPORTANT NOTE: Design-build contracts are prohibited by 2 CFR 200.319(b).

| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
|--|---|---------------------------|
| | Governing body approval obtained (if over required state or local threshold) | [State or local citation] |
| CONTRACTING WITH SMALL, MINORITY AND/OR WOMEN'S BUSINESS ENTERPRISE OR LABOR SURPLUS AREA FIRMS | | |
| | This product or service was purchased from a small, minority or women's business enterprise or labor surplus area firm (place documentation in file) OR | 2 CFR 200.321(b)(1-6) |
| | The following effort(s) were made to contract with small, minority and/or women's business enterprises or labor surplus area firms for this purchase: | 2 CFR 200.321(b)(1-6) |
| | -Prices were sought from one or more of these types of firms for this purchase | |
| | -Total purchase requirements were divided into smaller tasks or quantities to permit maximum participation by these firms | |
| | -Delivery schedules were coordinated to encourage participation by small and minority businesses, and women's business enterprises | |
| | -A request for quote was distributed to a M/W/DBE listserv or other distribution list | |
| | -Other efforts were made to do business with one or more of these types of firms as follows: | |
| | [Describe additional efforts here] | |
| COMPETITION | | |
| | Procurement did not include any of the following conditions that are restrictive of competition: | 2 CFR 200.319(b) |
| | -Submission of bid from contractors who were involved in development of specifications or other procurement solicitation documents | |
| | -Placing unreasonable requirements on firms in order for them to qualify to do business | |
| | -Requiring unnecessary experience and excessive bonding | |
| | -Noncompetitive pricing practices between firms or between affiliated companies | |
| | -Noncompetitive contracts to consultants that are on retainer contracts | |
| | -Organizational conflicts of interest | |
| | -Specifying only a "brand name" product instead of allowing "an equal" product to be offered | |
| | -Any arbitrary action in the procurement process | |
| | Procurement did not impose geographic preferences except where required by federal statute | 2 CFR 200.319(c) |
| | If a pre-qualified list was used, the list was current and included enough qualified sources to ensure maximum open and free competition | 2 CFR 200.319(e) |
| PRE-PROCUREMENT REVIEW | | |
| | Pre-procurement review requested by HUD (or pass-through entity as applicable) on: | 2 CFR 200.325 |
| | [Enter date pre-procurement review was requested] | |
| | Procurement solicitation documents provided to HUD (or pass-through entity as applicable) on: | 2 CFR 200.325 |
| | [Enter date procurement solicitation documents were provided] | |
| | Results of pre-procurement review: (select one) | |
| | -No changes required | |
| | -Changes were required and have been implemented | |

PROCUREMENT OF CONSTRUCTION OR PERSONAL PROPERTY OVER \$60,000

Complete the checklist in Column A by selecting from the dropdown menus. Type information into the yellow cells in Columns B and C if applicable.

IMPORTANT NOTE: Design-build contracts are prohibited by 2 CFR 200.319(b).

| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
|--|--|----------------------------|
| GENERAL REQUIREMENTS FOR PROCUREMENT OF CONSTRUCTION OR PERSONAL PROPERTY OVER \$60K | | |
| | Project owner is following documented procurement procedures | 2 CFR 200.320(b) |
| | The project meets all of the following conditions for sealed bids. If it does not meet all three, check if it meets the methods for professional services. | 2 CFR 200.320(b)(1)(i) |
| | -A complete, adequate, and realistic specification or purchase description is available | |
| | -Two or more responsible bidders are willing and able to compete effectively for the business | |
| | -The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price | |
| PROCESS STEPS FOR PROCUREMENT OF CONSTRUCTION OR PROPERTY OVER \$60K | | |
| | Clear scope of work or specifications developed to ensure consistent evaluation of bids | 2 CFR 200.319(d)(1) |
| | Lease vs. purchase or other analysis was conducted to ensure the most economical approach to procurement | 2 CFR 200.318(d) |
| | Independent cost estimate performed on scope of work or specifications | 2 CFR 200.318(i) |
| | Environmental clearance (Authority to Use Grant Funds) obtained or project converted to Exempt under 24 CFR 58.34 | 24 CFR 58.22 |
| | Bid package assembled: | 2 CFR 200.319(d)(1) |
| | -Invitation for bid that includes notice of funding source requirements and time and place of bid opening | |
| | -Specifications or scope of work (do not include cost estimate or other budget information) | |
| | -Sample federal, state and/or local contract terms as applicable. | |
| | -Bonding and insurance requirements | 2 CFR 200.326 |
| | -Construction over \$2K in federal funds (based on estimate): Federal Labor Standards (HUD-4010), applicable federal and state wage determinations* | |
| | *Davis Bacon does not apply to demolition without an end use or projects involving at least 8 (CDBG) or 12 (HOME) residential units | |
| | -Construction over \$200K in HUD funds (based on estimate): Section 3 contract clause, certification, and reporting form templates** | |
| | **Section 3 applies to new construction, rehab or demolition of housing, public facilities and/or infrastructure | |
| | Invitation for Bid publicly advertised | 2 CFR 200.320(b) |
| | Bidders were provided sufficient response time prior to the date set for opening the bids | 2 CFR 200.320(b)(1)(ii)(A) |
| | Public bid opening held at time and place advertised | 2 CFR 200.320(b)(1)(ii)(C) |
| | At least two bids received from qualified vendors (if only one bid was obtained, follow checklist for Noncompetitive Procurement) | |
| | Bids are tabulated and verified, taking into account factors such as discounts, transportation cost, and life cycle costs if specified in bid documents | 2 CFR 200.320(b)(1)(ii)(D) |
| | Domestic preference applied for items produced in the United States | 2 CFR 200.322 |
| | Procurements over \$10K involving "designated" items under 40 CFR 247: Percentage of recovered materials evaluated in compliance with Section 6002 of the Solid Waste Disposal Act | 2 CFR 200.323 |
| | Cost reasonableness documented by performing price analysis of all qualified bids | 2 CFR 200.403(a) |
| | Conflict of interest disclosure and certification obtained from selected vendor | 2 CFR 200.319(c) |
| | Federal and state debarment checks performed and qualifications verified for selected vendor | 2 CFR 200.318(h) |
| | Governing body approval obtained (if over required state or local threshold) | [State or local citation] |
| | Bonds and insurance obtained from vendor, if applicable | 2 CFR 200.326 |
| | Firm fixed price contract awarded to the lowest responsible and responsive bidder | 2 CFR 200.320(b)(1)(ii)(D) |
| | Contract includes applicable provisions of 2 CFR 200, Appendix II | 2 CFR 200.327 |
| CONTRACTING WITH SMALL, MINORITY AND/OR WOMEN'S BUSINESS ENTERPRISE OR LABOR SURPLUS AREA FIRMS | | |
| | This product or service was purchased from a small, minority or women's business enterprise or labor surplus area firm (place documentation in file) OR | 2 CFR 200.321(b)(1-6) |
| | The following effort(s) were made to contract with small, minority and/or women's business enterprises or labor surplus area firms for this purchase: | 2 CFR 200.321(b)(1-6) |
| | -Prices were sought from one or more of these types of firms for this purchase | |
| | -Total purchase requirements were divided into smaller tasks or quantities to permit maximum participation by these firms | |

PROCUREMENT OF CONSTRUCTION OR PERSONAL PROPERTY OVER \$60,000

Complete the checklist in Column A by selecting from the dropdown menus. Type information into the yellow cells in Columns B and C if applicable.

IMPORTANT NOTE: Design-build contracts are prohibited by 2 CFR 200.319(b).

| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
|------------------------------------|--|---------------------|
| | -Delivery schedules were coordinated to encourage participation by small and minority businesses, and women's business enterprises | |
| | -A request for quote was distributed to a M/W/DBE listserv or other distribution list | |
| | -Other efforts were made to do business with one or more of these types of firms as follows: | |
| | <i>[Describe additional efforts here]</i> | |
| COMPETITION | | |
| | This procurement did not include any of the following conditions that are restrictive of competition: | 2 CFR 200.319(b) |
| | -Submission of bid from contractors who were involved in development of specifications or other procurement solicitation documents | |
| | -Placing unreasonable requirements on firms in order for them to qualify to do business | |
| | -Requiring unnecessary experience and excessive bonding | |
| | -Noncompetitive pricing practices between firms or between affiliated companies | |
| | -Noncompetitive contracts to consultants that are on retainer contracts | |
| | -Organizational conflicts of interest | |
| | -Specifying only a "brand name" product instead of allowing "an equal" product to be offered | |
| | -Any arbitrary action in the procurement process | |
| | This procurement did not impose geographic preferences except where required by federal statute | 2 CFR 200.319(c) |
| | If a pre-qualified list was used, the list was current and included enough qualified sources to ensure maximum open and free competition | 2 CFR 200.319(e) |

PROCUREMENT OF CONSTRUCTION OR PERSONAL PROPERTY OVER \$60,000

Complete the checklist in Column A by selecting from the dropdown menus. Type information into the yellow cells in Columns B and C if applicable.

IMPORTANT NOTE: Design-build contracts are prohibited by 2 CFR 200.319(b).

| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
|------------------------------------|---|---------------------|
| PRE-PROCUREMENT REVIEW | | |
| | Pre-procurement review requested by HUD (or pass-through entity as applicable) on: | 2 CFR 200.325 |
| | <i>[Enter date pre-procurement review was requested]</i> | |
| | Procurement solicitation documents provided to HUD (or pass-through entity as applicable) on: | 2 CFR 200.325 |
| | <i>[Enter date procurement solicitation documents were provided]</i> | |
| | Results of pre-procurement review: (select one) | |
| | -No changes required | |
| | -Changes were required and have been implemented | |

PROCUREMENT OF NON-A&E SERVICES OVER \$60,000

Complete the checklist in Column A by selecting from the dropdown menus. Type information into the yellow cells in Columns B and C if applicable.

IMPORTANT NOTE: Design-build contracts are prohibited by 2 CFR 200.319(b).

| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
|--|---|----------------------------|
| GENERAL REQUIREMENTS FOR NON-A&E SERVICES PROCUREMENT OVER \$60K | | |
| | Project owner is following documented procurement procedures that include a written method for evaluating proposals and making selections | 2 CFR 200.320(b) |
| | The project does NOT meet the conditions for sealed bid procurement: | 2 CFR 200.320(b)(2) |
| | -A complete, adequate, and realistic specification or purchase description is available | |
| | -Two or more responsible bidders are willing and able to compete effectively for the business | |
| | -The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price | |
| PROCESS STEPS FOR NON-A&E SERVICES PROCUREMENT OVER \$60K | | |
| | Clear scope of services developed to ensure consistent evaluation of proposals | 2 CFR 200.319(d)(1) |
| | Lease vs. purchase or other analysis was conducted to ensure the most economical approach to procurement | 2 CFR 200.318(d) |
| | Independent cost estimate performed on scope of services | 2 CFR 200.318(i) |
| | Proposal solicitation package assembled: | |
| | -Request for Proposals that includes notice of funding source requirements | |
| | -Specifications or scope of services (do not include cost estimate or other budget information) | |
| | -Sample federal, state and/or local contract terms as applicable | |
| | -Proposal evaluation factors and their relative importance | 2 CFR 200.320(b)(2)(iii) |
| | Request for Proposals publicly advertised | 2 CFR 200.320(b)(2)(i) |
| | At least two proposals received from qualified vendors (if only one bid was obtained, follow checklist for Noncompetitive Procurement) | |
| | Proposals evaluated and ranked according to the published rubric | 2 CFR 200.320(b)(1)(ii)(D) |
| | Best and Final Offers obtained according to state or local requirements | [State or local citation] |
| | Cost reasonableness documented by performing cost analysis on the winning proposal | 2 CFR 200.403(a) |
| | Conflict of interest disclosure and certification obtained from selected vendor | 2 CFR 200.319(c) |
| | Federal and state debarment checks performed and qualifications verified for selected vendor | 2 CFR 200.318(h) |
| | Governing body approval obtained (if over required state or local threshold) | [State or local citation] |
| | Contract awarded to the responsible vendor whose proposal is most advantageous with price and other factors considered | 2 CFR 200.320(b)(2)(iii) |
| | Contract includes applicable provisions of 2 CFR 200, Appendix II | 2 CFR 200.327 |
| CONTRACTING WITH SMALL, MINORITY AND/OR WOMEN'S BUSINESS ENTERPRISE OR LABOR SURPLUS AREA FIRMS | | |
| | This product or service was purchased from a small, minority or women's business enterprise or labor surplus area firm (place documentation in file) OR | 2 CFR 200.321(b)(1-6) |
| | The following effort(s) were made to contract with small, minority and/or women's business enterprises or labor surplus area firms for this purchase: | 2 CFR 200.321(b)(1-6) |
| | -Prices were sought from one or more of these types of firms for this purchase | |
| | -Total purchase requirements were divided into smaller tasks or quantities to permit maximum participation by these firms | |
| | -Delivery schedules were coordinated to encourage participation by small and minority businesses, and women's business enterprises | |
| | -A request for quote was distributed to a M/W/DBE listserv or other distribution list | |
| | -Other efforts were made to do business with one or more of these types of firms as follows: | |
| | [Describe additional efforts here] | |
| COMPETITION | | |
| | This procurement did not include any of the following conditions that are restrictive of competition: | 2 CFR 200.319(b) |
| | -Submission of bid from contractors who were involved in development of specifications or other procurement solicitation documents | |
| | -Placing unreasonable requirements on firms in order for them to qualify to do business | |
| | -Requiring unnecessary experience and excessive bonding | |
| | -Noncompetitive pricing practices between firms or between affiliated companies | |

PROCUREMENT OF NON-A&E SERVICES OVER \$60,000

Complete the checklist in Column A by selecting from the dropdown menus. Type information into the yellow cells in Columns B and C if applicable.

IMPORTANT NOTE: Design-build contracts are prohibited by 2 CFR 200.319(b).

| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
|------------------------------------|--|---------------------|
| | -Noncompetitive contracts to consultants that are on retainer contracts | |
| | -Organizational conflicts of interest | |
| | -Specifying only a "brand name" product instead of allowing "an equal" product to be offered | |
| | -Any arbitrary action in the procurement process | |
| | This procurement did not impose geographic preferences except where required by federal statute | 2 CFR 200.319(c) |
| | If a pre-qualified list was used, the list was current and included enough qualified sources to ensure maximum open and free competition | 2 CFR 200.319(e) |
| PRE-PROCUREMENT REVIEW | | |
| | Pre-procurement review requested by HUD (or pass-through entity as applicable) on: | 2 CFR 200.325 |
| | <i>[Enter date pre-procurement review was requested]</i> | |
| | Procurement solicitation documents provided to HUD (or pass-through entity as applicable) on: | 2 CFR 200.325 |
| | <i>[Enter date procurement solicitation documents were provided]</i> | |
| | Results of pre-procurement review: (select one) | |
| | -No changes required | |
| | -Changes were required and have been implemented | |

PROCUREMENT OF ARCHITECTURAL & ENGINEERING (A&E) SERVICES OVER \$60,000

Complete the checklist in Column A by selecting from the dropdown menus. Type information into the yellow cells in Columns B and C if applicable.

IMPORTANT NOTE: Design-build contracts are prohibited by 2 CFR 200.319(b).

| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
|--|---|----------------------------|
| GENERAL REQUIREMENTS FOR A&E SERVICES PROCUREMENT OVER \$60K | | |
| | Project owner is following documented procurement procedures that include a written method for evaluating proposals and making selections | 2 CFR 200.320(b) |
| | The project consists of architectural and engineering services and does NOT meet the conditions for sealed bid procurement: | 2 CFR 200.320(b)(2) |
| | -A complete, adequate, and realistic specification or purchase description is available | |
| | -Two or more responsible bidders are willing and able to compete effectively for the business | |
| | -The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price | |
| PROCESS STEPS FOR A&E SERVICES PROCUREMENT OVER \$60K | | |
| | Clear scope of services developed to ensure consistent evaluation of qualifications | 2 CFR 200.319(d)(1) |
| | Lease vs. purchase or other analysis was conducted to ensure the most economical approach to procurement | 2 CFR 200.318(d) |
| | Independent cost estimate performed on scope of services | 2 CFR 200.318(i) |
| | Qualifications solicitation package assembled: | |
| | -Request for Qualifications that includes notice of funding source requirements | |
| | -Specifications or scope of services (do not include cost estimate or other budget information) | |
| | -Sample federal, state and/or local contract terms as applicable | |
| | -Qualifications evaluation factors and their relative importance | 2 CFR 200.320(b)(2)(iii) |
| | -Price submitted separately if required by state or local code | [State or local citation] |
| | Request for Qualifications publicly advertised | 2 CFR 200.320(b)(2)(i) |
| | Qualifications evaluated and ranked according to the published rubric | 2 CFR 200.320(b)(1)(ii)(D) |
| | Fair and reasonable compensation negotiated with vendors in order of most to least qualified | [State or local citation] |
| | Cost reasonableness documented by performing cost analysis on the selected vendor's pricing proposal | 2 CFR 200.403(a) |
| | Conflict of interest disclosure and certification obtained from selected vendor | 2 CFR 200.319(c) |
| | Federal and state debarment checks performed and qualifications verified for selected vendor | 2 CFR 200.318(h) |
| | Governing body approval obtained (if over required state or local threshold) | [State or local citation] |
| | Contract awarded to the most qualified vendor whose costs are fair and reasonable | 2 CFR 200.320(b)(2)(iii) |
| | Contract includes applicable provisions of 2 CFR 200, Appendix II | 2 CFR 200.327 |
| CONTRACTING WITH SMALL, MINORITY AND/OR WOMEN'S BUSINESS ENTERPRISE OR LABOR SURPLUS AREA FIRMS | | |
| | This product or service was purchased from a small, minority or women's business enterprise or labor surplus area firm (place documentation in file) OR | 2 CFR 200.321(b)(1-6) |
| | The following effort(s) were made to contract with small, minority and/or women's business enterprises or labor surplus area firms for this purchase: | 2 CFR 200.321(b)(1-6) |
| | -Prices were sought from one or more of these types of firms for this purchase | |
| | -Total purchase requirements were divided into smaller tasks or quantities to permit maximum participation by these firms | |
| | -Delivery schedules were coordinated to encourage participation by small and minority businesses, and women's business enterprises | |
| | -A request for quote was distributed to a M/W/DBE listserv or other distribution list | |
| | -Other efforts were made to do business with one or more of these types of firms as follows: | |
| | [Describe additional efforts here] | |
| COMPETITION | | |
| | This procurement did not include any of the following conditions that are restrictive of competition: | 2 CFR 200.319(b) |
| | -Submission of bid from contractors who were involved in development of specifications or other procurement solicitation documents | |
| | -Placing unreasonable requirements on firms in order for them to qualify to do business | |
| | -Requiring unnecessary experience and excessive bonding | |
| | -Noncompetitive pricing practices between firms or between affiliated companies | |

PROCUREMENT OF ARCHITECTURAL & ENGINEERING (A&E) SERVICES OVER \$60,000

Complete the checklist in Column A by selecting from the dropdown menus. Type information into the yellow cells in Columns B and C if applicable.

IMPORTANT NOTE: Design-build contracts are prohibited by 2 CFR 200.319(b).

| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
|------------------------------------|--|---------------------|
| | -Noncompetitive contracts to consultants that are on retainer contracts | |
| | -Organizational conflicts of interest | |
| | -Specifying only a "brand name" product instead of allowing "an equal" product to be offered | |
| | -Any arbitrary action in the procurement process | |
| | If geographic preferences were a factor in the evaluation of proposals, these preferences did not result in inadequate competition. | 2 CFR 200.319(c) |
| | If a pre-qualified list was used, the list was current and included enough qualified sources to ensure maximum open and free competition | 2 CFR 200.319(e) |
| PRE-PROCUREMENT REVIEW | | |
| | Pre-procurement review requested by HUD (or pass-through entity as applicable) on: | 2 CFR 200.325 |
| | <i>[Enter date pre-procurement review was requested]</i> | |
| | Procurement solicitation documents provided to HUD (or pass-through entity as applicable) on: | 2 CFR 200.325 |
| | <i>[Enter date procurement solicitation documents were provided]</i> | |
| | Results of pre-procurement review: (select one) | |
| | -No changes required | |
| | -Changes were required and have been implemented | |

NONCOMPETITIVE PROCUREMENT OVER THE MICROPURCHASE THRESHOLD

Complete the checklist in Column A by selecting from the dropdown menus. Type information into the yellow cells in Columns B and C if applicable.

IMPORTANT NOTE: Design-build contracts are prohibited by 2 CFR 200.319(b).

| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
|--|---|---------------------------|
| GENERAL REQUIREMENTS FOR NONCOMPETITIVE PROCUREMENT | | |
| | This procurement is noncompetitive due to one or more of the following circumstances: <i>(Check all that apply)</i> | 2 CFR 200.320(c) |
| | -The item is available only from a single source | |
| | -Public exigency or emergency will not permit a delay resulting from publicizing a competitive solicitation | |
| | -Written permission from HUD (or the State if project owner is a state subrecipient) has been obtained | |
| | -After solicitation of a number of sources, competition is determined inadequate | |
| NONCOMPETITIVE PROCUREMENT PROCESS | | |
| | Cost reasonableness documented by performing cost analysis on the vendor's pricing proposal | 2 CFR 200.403(a) |
| | Conflict of interest disclosure and certification obtained from selected vendor | 2 CFR 200.319(c) |
| | Profit negotiated as a separate element of the price based on the following factors: | 2 CFR 200.324(b) |
| | -The complexity of the work to be performed | |
| | -The risk borne by the contractor | |
| | -The contractor's investment | |
| | -The amount of work to be subcontracted | |
| | -Contractor's past record of performance | |
| | -Industry profit rates in the surrounding geographical area for similar work | |
| | Federal and state debarment checks performed and qualifications verified for vendor | 2 CFR 200.318(h) |
| | Governing body approval obtained (if over required state or local threshold) | [State or local citation] |
| | Bonds and insurance obtained from vendor, if applicable | 2 CFR 200.326 |
| | Contract awarded to the vendor | 2 CFR 200.320(b)(2)(iii) |
| | Contract includes applicable provisions of 2 CFR 200, Appendix II | 2 CFR 200.327 |
| CONTRACTING WITH SMALL, MINORITY AND/OR WOMEN'S BUSINESS ENTERPRISE OR LABOR SURPLUS AREA FIRMS | | |
| | This product or service was purchased from a small, minority or women's business enterprise or labor surplus area firm (place documentation in file) OR | 2 CFR 200.321(b)(1-6) |
| | The following effort(s) were made to contract with small, minority and/or women's business enterprises or labor surplus area firms for this purchase: | 2 CFR 200.321(b)(1-6) |
| | -Prices were sought from one or more of these types of firms for this purchase | |
| | -Total purchase requirements were divided into smaller tasks or quantities to permit maximum participation by these firms | |
| | -Delivery schedules were coordinated to encourage participation by small and minority businesses, and women's business enterprises | |
| | -A request for quote was distributed to a M/W/DBE listserv or other distribution list | |
| | -Other efforts were made to do business with one or more of these types of firms as follows: | |
| | <i>[Describe additional efforts here]</i> | |
| COMPETITION | | |
| | This procurement did not include any of the following conditions that are restrictive of competition: | 2 CFR 200.319(b) |
| | -Submission of bid from contractors who were involved in development of specifications or other procurement solicitation documents | |
| | -Placing unreasonable requirements on firms in order for them to qualify to do business | |
| | -Requiring unnecessary experience and excessive bonding | |
| | -Noncompetitive pricing practices between firms or between affiliated companies | |
| | -Noncompetitive contracts to consultants that are on retainer contracts | |
| | -Organizational conflicts of interest | |
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NONCOMPETITIVE PROCUREMENT OVER THE MICROPURCHASE THRESHOLD

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| Requirement Satisfied & Documented | Requirement | Regulatory Citation |
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| | This procurement did not impose geographic preferences except where required by federal statute | 2 CFR 200.319(c) |
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