

CALIFORNIA STATE REQUIREMENTS

Nondiscriminatory Practices:

The City of Oceanside Affirmative Action Plan requires contractors who are awarded contracts for construction, alteration, maintenance or demolition, their Subcontractors and suppliers, to take affirmative action to improve employment of racial and ethnic minorities in the construction industry, in accordance with Executive Order 11246. To comply, each contractor awarded a construction contract by the City of Oceanside shall agree, and by signing and submitting, a proposal for this contract does certify, to comply with mandated regulations as set forth by Executive Order 11246.

The Contractor shall not willfully discriminate against any employee or applicant for employment, and all applicants for employment and current employees shall be treated equally without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation of such persons.

The Contractor shall advise unions and other organizations, which represent employees of the provisions of this Agreement and post in a conspicuous place to the unions an equal employment opportunity sign to be furnished by the Owner.

Violation by the Contractor of this Article or the State Fair Employment Practice Act shall be cause to terminate this Contract.

None of the provisions of the Contract shall be used to preclude the Owner from pursuing other remedies available under law for noncompliance with these provisions.

The provisions of this paragraph 16.1 apply to each and every Subcontractor hired by, or under contract with the Contractor.

Apprentices:

Attention is directed to Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code and Title 8, California Administrative Code Section 200 et seq. To insure compliance and complete understanding of the law regarding apprentices, and specifically the required ration thereunder, the Contractor (and Subcontractors) should, where some question exists, contact the Division of Apprenticeship Standards prior to commencement of the work. Responsibility for compliance with this Paragraph 16.2 lies with the Contractor. The Owner's policy is to encourage the employment and training of apprentices on its construction contracts as may be permitted under local apprenticeship standards.

Prevailing Wage Rates:

As required by Sections 1770 and following, of the California Labor Code, the Contractor (and Subcontractors) shall pay no less than the prevailing wage per diem wages as determined by the Director of the California Department of Industrial Relations. Copies of such prevailing rate of per diem wages are on file at the office of the Owner, which copies shall be made available to any interested party on request. The Contractor shall post a copy of such determination at each job site.

The Contractor (and Subcontractors) shall, as a penalty to the Owner, forfeit not more than \$50.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director for such work or craft in which such worker is employed for any public work done under the contract by it or by any Subcontractor under it. The amount of this penalty shall be determined by the Labor Commissioner.

Payroll Records; Retention; Inspection; Noncompliance Penalties; Rules and Regulations:

Each Contractor and Subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall

contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

The information contained in the payroll record is true and correct.

The Contractor or Subcontractor has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by its employees on the public works project.

The payroll records enumerated under Paragraph 16.5 shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

A certified copy of employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

A certified copy of all payroll records enumerated in Paragraph 16.5 shall be made available for inspection or furnished upon request to a representative of the Owner, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

A certified copy of all payroll records enumerated in Paragraph 16.5 shall be made available upon request by the public for inspection or copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to Paragraph 16.6.2 the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the Contractor, Subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the Contractor.

The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.

The Contractor or Subcontractor shall file a certified copy of the records, enumerated in Paragraph 16.5 with the entity that requested the records within 10 days after receipt of a written request.

Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor awarded the contract or performing the contract shall not be marked or obliterated.

The Contractor shall inform the body awarding the contract of the location of the records enumerated under Paragraph 16.5 including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.

The Contractor or Subcontractor shall have 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in paragraph 16.5. In the event that the Contractor or Subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the Owner, forfeit twenty-five dollars (\$25.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. The Contractor is not subject to a penalty assessment pursuant to this section due to the failure of a Subcontractor to comply with this section.

FEDERAL REQUIREMENTS

During the performance of this contract, the contractor agrees as follows:

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 by the contracting officer setting forth the provisions of this nondiscrimination clause.

The contractor will, in all solicitations or advancements 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.

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.

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 by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

The contractor will furnish all information and reports required by Executive Order No. 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 contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The contractor will include the provisions of paragraphs (17.1) through (17.8) 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 No. 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 may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance:

Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

SPECIAL CONDITIONS

FEDERAL LABOR STANDARDS PROVISIONS

Provisions of Federal Labor Standards Provisions (HUD 4010), a copy of which is attached hereto, are applicable to this contract.

EMPLOYMENT RECORDS

The contractor is to furnish certified payrolls for all labor on a weekly basis to the Project Manager via email, indicating payment of the appropriate Prevailing Wage Rates for each craft.

17. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

In accordance with 2 CFR § 200.321, Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms, the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

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

2 CFR PART 200 – UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

In addition to the requirements set forth in this specification, the successful vendor shall be required to take cognizance of and comply with all requirements set forth in the Federal Requirements, attached hereto as Appendix A - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, and incorporated herein by this reference.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Vendor shall comply with the provisions of Title VII of the Civil Rights Act of 1964 in that it will not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment nor shall Contractor discriminate in any way that would deprive or intend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, handicap, medical condition, sexual orientation or marital status.

CONFLICTS OF INTEREST

Vendor presently has no interest, including but not limited to other projects or independent agreements, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Vendor shall not employ any person having any such interest in the performance

of this Agreement. Vendor shall not hire City's employees to perform any portion of the work or services provided for herein including secretarial, clerical and similar incidental services.

SYSTEM FOR AWARD MANAGEMENT (FAR 52.204-7)

(a) Definitions. As used in this provision—

"Electronic Funds Transfer (EFT) indicator means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see subpart 32.11) for the same entity.

Registered in the System for Award Management (SAM) means that—

(1) The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14) into SAM.

(2) The offeror has completed the Core, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in SAM;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and the Government has marked the record "Active".

Unique entity identifier means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.

(b) (1) An Offeror is required to be registered in SAM when submitting an offer or quotation, and shall continue to be registered until time of award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable. The unique entity identifier will be used by the Contracting Officer to verify that the Offeror is registered in the SAM.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

(1) Company legal business name.

(2) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(3) Company physical street address, city, state, and Zip Code.

(4) Company mailing address, city, state and Zip Code (if separate from physical).

(5) Company telephone number.

(6) Date the company was started.

(7) Number of employees at your location.

(8) Chief executive officer/key manager.

(9) Line of business (industry).

(10) Company headquarters name and address (reporting relationship within your entity).

(d) Processing time should be taken into consideration when registering. Offerors who are not registered in SAM should consider applying for registration immediately upon receipt of this solicitation. See <https://www.sam.gov> for information on registration.

SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (FAR 52.204.13)

(a) Definitions. As used in this clause—

Electronic Funds Transfer (EFT) indicator means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management (SAM) records for identifying

Registered in the System for Award Management (SAM) means that—

(1) The Contractor has entered all mandatory information, including the unique entity

identifier and the EFT indicator (if applicable), the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see [subpart 4.14](#)), into SAM;

(2) The Contractor has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in SAM;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The Contractor will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record "Active".

System for Award Management (SAM) means the primary Government repository for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes. It includes—

(1) Data collected from prospective Federal awardees required for the conduct of business with the Government;

(2) Prospective contractor-submitted annual representations and certifications in accordance with FAR [subpart 4.12](#); and

(3) Identification of those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

Unique entity identifier means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.

(b) If the solicitation for this contract contained the provision [52.204-7](#) with its Alternate I, and the Contractor was unable to register prior to award, the Contractor shall be registered in SAM within 30 days after award or before three days prior to submission of the first invoice, whichever occurs first.

(c) The Contractor shall maintain registration in SAM during contract performance and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement. The Contractor is responsible for the currency, accuracy and completeness of the data within SAM, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in SAM after the initial registration, the Contractor is required to review and update on an annual basis, from the date of initial registration or subsequent updates, its information in SAM to ensure it is current, accurate and complete. Updating information in SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(d)(1) (i) If a Contractor has legally changed its business name or "doing business as" name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in [subpart 42.12](#), the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to—

(A) Change the name in SAM;

(B) Comply with the requirements of [subpart 42.12](#) of the FAR; and

(C) Agree in writing to the timeline and procedures specified by the responsible

Contracting Officer. The Contractor shall provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (d)(1)(i) of this clause, or fails to perform the agreement at paragraph (d)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in SAM record to reflect an assignee for the purpose of assignment of claims (see FAR [subpart 32.8](#), Assignment of Claims). Assignees shall be separately registered in the SAM. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the EFT clause of this contract.

(3) The Contractor shall ensure that the unique entity identifier is maintained with the entity designated at www.sam.gov for establishment of the unique entity identifier throughout the life of the contract. The Contractor shall communicate any change to the unique entity identifier to the Contracting Officer within 30 days after the change, so an appropriate modification can be issued to update the data on the contract. A change in the unique entity identifier does not necessarily require a novation be accomplished.

(e) Contractors may obtain additional information on registration and annual confirmation requirements at <https://www.sam.gov>.

CHECK LIST

THE FOLLOWING DOCUMENTS MUST BE SUBMITTED TO COMPRISE A COMPLETE BID

- _____ Section 3 Implementation Plan: Bidder's Section 3 Project Implementation Plan; Bidder's Section 3 Business Concern Utilization Plan; Bidders' Section 3 Worker Utilization Plan
- _____ Copy of the Bidder's Section 3 Outreach/Good Faith Effort Plan (there is no form for this plan)
- _____ Certification for Contracts: HUD Section 3 Regulations (signed and notarized)
- _____ HUD List of Subcontractors/Information Regarding Subcontractors (must include subcontractor(s) license number and DIR contractor registration number)
- _____ Information Regarding Vendors
- _____ Certification of Section 3 Business Concern
- _____ Acknowledgement of System for Award Management (SAM) Requirement
- _____ Proof of System for Award Management (SAM) Registration
- _____ Certification of Non-Debarred Status
- _____ Anti-Lobbying Certification

**ACKNOWLEDGEMENT OF SYSTEM FOR AWARD MANAGEMENT (SAM)
REQUIREMENT**

*****to be submitted by ALL BIDDERS*****

The undersigned acknowledges the following:

This project is federally funded by the Community Development Block Grant (CDBG). A requirement for the use of federal funds is that **prime contractors** be actively registered with the federal System for Award Management (SAM). Registration with SAM is free at www.sam.gov. The following information is required to register your business with SAM:

- ☐ Your Unique Entity ID (UEI) can be obtained at <http://sam.gov/content/entity-registration>.
- ☐ Your Taxpayer Identification Number and the name associated with that TIN (from your W-2 or W-9)
- ☐ Your Contractor and Government Entity (CAGE) Code, if you already have one (if you don't, one will be assigned to you during registration)

All prime contractors will be verified for SAM registration upon bid evaluation. Bids received without active SAM registration for the list contractors and/or subcontractors may be rejected.

	Company Name	UEI Number
Prime		

Attach proof of "active" SAM.gov registration for prime contractor.

Signature _____

Name (Print or Type) _____

Title _____

Date _____

CERTIFICATION OF NON-DEBARRED STATUS

*****to be submitted by ALL BIDDERS*****

The undersigned acknowledges and certifies that they are in compliance with 24 CFR Part 5 (specifically section 5.105(c)), 2 CFR Part 180, 24 CFR Part 2424 and 24 CFR Part 570.609, which bar the use of debarred, suspended or ineligible contractors by, or subrecipients of, participants in HUD programs including Community Development Block Grant programs. Assistance under these parts shall not be used directly or indirectly to employ award contracts to, or otherwise engage the services of, or fund any contractor, subcontractor or subrecipient during any period of debarment, or placement in ineligibility status under the provision of 24 CFR Part 24. Further, in the case of construction projects, the prime contractor certifies same for self and all subcontractors on any federally funded project.

Signature _____

Name (Print or Type) _____

Title _____

Date _____

ANTI-LOBBYING CERTIFICATION
*****to be submitted by ALL BIDDERS*****

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 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 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 of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents of all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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, United States 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.

Organization: _____

Street address: _____

City, State, Zip: _____

Printed Name of Person Signing for Organization: _____

Title of Person Signing for Organization: _____

Signature of Person Signing for Organization: _____

CONTRACTOR CHECKLIST

*****to be submitted by AWARDED BIDDER*****

CONTRACTOR: _____

START DATE: _____

HUD Labor Forms

- Certified Payrolls

1 2 3 4 5 6 7 8 9 10
- "Certification for Applicable Fringe Benefit Payments"
- Certification of Understanding and Authorization
- Weekly Report of Subcontractors on Site

1 2 3 4 5 6 7 8 9 10
- Report of Additional Classification and Rate
- Request for Apprentice Certification
- Contractors certification concerning Labor standards and Prevailing Wages
- HUD-11 Interviews

City

- Request for taxpayer I.D. number and certification
- City of Oceanside Business License
- Critical Path Schedule
- List of all subcontractors, including: Name, Trade, Address, Phone, Payroll Contact, Site Contact

Posting of Notices

- Equal Employment is the Law
- Job Safety and Health Protection
- NOTICE TO ALL EMPLOYEES (Davis Bacon Wages)
- Section 3 Preference
- Jobsite Conduct

Disadvantaged Business

- Affirmative Action Plan

Section 3

- Section 3 Certification
- Self-Certification of Eligibility for Section 3 Worker or Targeted Section 3 Worker Status (to be retained in Contractor's Section 3 file, and submitted for review upon City's request)
- Section 3 Monthly Labor Hours Report (form #2)

1 2 3 4 5 6

1 2 3 4 5 6

**APPENDIX A – 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 currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(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) §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.

(K) §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](#).

(L) § 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.

(M) 2 CFR § 184 and 2 CFR § 200.1 Build America, Buy America (BABA)

BUILD AMERICA, BUY AMERICA ACT (BABAA) - This Project is funded, in whole or in part, with CDBG funding from the U.S. Department of Housing and Urban Development, a federal agency (Federal Agency). The Project will require work to construct, alter, maintain, or repair infrastructure in the United States subject to the domestic preference requirement in the Build America, Buy America Act (BABAA). Contractors and their subcontractors who bid for an award for the Project shall file the required certification to the City, as a non-federal entity, with each bid or offer involving work subject to BABAA unless a domestic preference requirement is waived by the Federal Agency. The required certification shall require contractors and subcontractors to acknowledge that no federal financial assistance funding for infrastructure projects will be provided unless all the iron and steel, manufactured products, and construction materials used in the project are produced in the United States. BABAA, Pub. L. No. 117-58, §§ 70901-52, and certify their compliance with BABAA for the Project. Alternatively, the certification will must disclose that the bid does not ensure compliance with BABAA domestic preference requirement, and that a waiver from the Federal Agency is a condition of the bid. Such disclosures shall be forwarded to the City who, in turn, will forward the disclosures to the Federal Agency.

The City of Oceanside must comply with the requirements of the Build America, Buy

America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

Effective May 14, 2022, the Buy America Preference (BAP) applies to infrastructure spending unless an agency issues a waiver in three limited situations:

1. When applying the domestic content procurement preference would be inconsistent with the public interest,
2. When types of iron, steel, manufactured products or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality, or
3. Where the inclusion of those products and materials will increase the cost of the overall project by more than 25 percent. Before issuing a waiver, under Section 70914(c), the head of a Federal agency, including HUD, must make publicly available a detailed written explanation for the proposed determination to issue the waiver and provide a period of not less than 15 days for public comment on the proposed waiver. Additional details on waivers can be found in Section IV>

The Term "iron and steel products" is defined 2 CFR 184.3 and means an article, material, or supply that consists wholly or predominantly of iron or steel, or a combination of both.

Predominantly of iron or steel or a combination of both is defined in 2 CFR 184.3 and means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

Specifically, listed construction materials. The term "specifically listed construction materials" for HUD programs includes:

- a. Non-ferrous metals;
- b. Lumber;
- c. Composite building materials;
- d. Plastic and polymer-based pipe and tube (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- e. Glass (including optic glass);
- f. Fiber optic cable (including drop cable);
- g. Optical fiber;
- h. Lumber;
- i. Engineered wood, and
- j. Drywall.

Manufactured Products is defined in 2 CFR 184.3 and means:

- (1) Articles, materials, or supplies that have been:
 - (i) Processed into a specific form and shape; or
 - (ii) Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.

(2) If an item is classified as an iron or steel product, a construction material, or a section 70917(c) material under 2 CFR 184.4(e) and the definitions set forth in this section, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under 2 CFR 184.4(e) and paragraph (1) of this definition may include components that are construction materials, iron or steel products, or section 70917(c) materials.

Not Listed Construction Materials. The term "not listed construction materials" refers to the

category of construction materials that are subject to the BAP, but not included in HUD's specifically listed construction materials, as defined in the Phased Implementation Waiver.

This includes:

1. Plastic and polymer-based products other than composite building materials or plastic and polymer-based pipe or tube;
2. Glass (including optic glass); and
3. Drywall.

Produced in the United States is defined in 2 CFR 184.3 and means:

- i. In the case of iron or steel products, all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- ii. In the case of manufactured products:
 1. The product was manufactured in the United States; and
 2. The cost of components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product. See 2 CFR 184.2(a). The costs of components of a manufactured product are determined according to 2 CFR 184.5.
- iii. In the case of construction materials, all manufacturing processes for the construction material occurred in the United States. See 2 CFR 184.6 for more information on the meaning of "all manufacturing processes" for specific construction materials.

HUD has issued guidance on the applicability of BABAA at the following link: https://www.hud.gov/program_offices/general_counsel/BABA

CERTIFICATION OF BUILD AMERICA, BUY AMERICA ACT (BABAA) COMPLIANCE

*****to be submitted by ALL BIDDERS*****

Contractors and subcontractors must sign and submit the following certification to the next tier (e.g., subcontractors submit to the contractor; contractors submit to the non-federal entity) each bid or offer for an infrastructure project that has not received a Build America, Buy America Act waiver from [insert the federal awarding agency]:

The undersigned certifies, to the best of their knowledge and belief, that:

The Build America, Buy America Act (BABAA) requires that no federal financial assistance for “infrastructure” projects is provided unless all of the iron and steel, manufactured products, and construction materials used in the project are produced in the United States. Section 70914 of Public Law No. 117-58, §§ 70901-52.

The undersigned certifies that (Check appropriate box):

I have consulted with the City of El Cajon Housing Division and a HUD Waiver exist or BABAA does not apply to my specific project. Enclosed is a copy of the determination letter. Please sign and date the form below:

If a HUD waiver or exemption does not exist, please answer the following questions:

in its bid for the _____, (Project Name and Location), that the iron, steel, manufactured products, and construction materials used in the contract are in full compliance with the BABAA requirements including:

1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
2. All manufactured products purchased with federal financial assistance must be produced in the United States. For a manufactured product to be considered produced in the United States, the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
3. All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

OR:

in its bid for the _____, (Project Name and Location), that the iron, steel, manufactured products, and construction materials used in the contract are not in full compliance with the BABAA requirements for the reasons set forth in Attachment A to this certificate.

If this box was selected, please complete Attachment A and submit with your bid.

[Signatures on Following Page]

The [Contractor or Subcontractor], _____, further certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the [Contractor or Subcontractor] 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 or Subcontractor’s] Authorized Representative

Name & Title of [Contractor’s or Subcontractor’s] Authorized Representative

Date