



**GREATER NAPLES FIRE RESCUE DISTRICT
ADMINISTRATIVE HEADQUARTERS**

14575 Collier Boulevard • Naples, FL 34119
Phone: (239)348-7540 Fax: (239)348-7546

Kingman Schuldt, Fire Chief

INVITATION TO BID (ITB)

Date: June 18, 2020

From: Scott Johnson, Logistics Procurement
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To: Prospective Vendors

Subject: **Solicitation: 20-103R Grant Funded Generator Replacement at Station 21**

As requested by the Logistics Section the Board of Fire Commissioners Greater Naples Fire Rescue District has issued this ITB for the purpose of obtaining fair and competitive responses.

Please refer to the Public Notice included in this document for the opening date and time and any applicable pre-ITB conference.

All questions regarding this ITB must be submitted in writing to the Fire District, c/o Scott Johnson Logistics Procurement

The District looks forward to your participation in Greater Naples Fire Rescue Districts competitive procurement process.

Thank You,

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Public Notice

The Greater Naples Fire Rescue District – Logistics Section is requesting Bid responses from interested and qualified firms to supply/provide Generator Replacement

A Non-Mandatory Pre-Bid meeting will be held June 25, 2020 at 9:00 AM at the project location.

Your quotation response is due in written form no later than 1:30 P.M. on July 1, 2020 in the GNFD Fire Headquarters 14575 Collier BLVD Naples, FL 34119. The District will not accept any quotation responses later than the noted time and date. No late quotation responses will be accepted.

All quotation responses should be made only upon the Greater Naples Fire Rescue District Official response form(s) available only from the Greater Naples Fire Rescue District.

Any firm who is a recipient of District funds, or who proposes to perform any work or furnish any goods under this ITB shall not discriminate against any worker, employee or applicant or any member of the public based on age, race, color, sex, religion, national origin, disability or marital status, nor otherwise commit an unfair employment practice.

GREATER NAPLES FIRE RESCUE
BOARD OF FIRE COMMISSIONERS
COLLIER COUNTY, FLORIDA

BY: /S/ Tara Bishop.

Greater Naples Fire Rescue District

This Public Notice was sent electronically on June 18, 2020

Detailed Scope of Work

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STATION 21- PACKAGED ENGINE GENERATOR SYSTEMS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

Bidders shall comply with all requirements of this specification and N.E.C. If there is a conflict between documents, the highest standard shall be used.

1.2 SUMMARY

- A. This Section includes a packaged diesel engine generator system including engine generator set, engine generator enclosure, cooling system, fuel system, combustion air intake and engine exhaust systems, starting system, accessories, connections, fuel, permits, automatic transfer switch and all related work and accessories required for a complete and proper assembly.

1.3 DEFINITIONS

- A. Standby Rating: Power output rating equal to the power the generator set delivers continuously under normally varying load factors for the duration of a power outage.
- B. Operational Bandwidth: The total variation from the lowest to the highest value of a parameter over the range of conditions indicated, expressed as a percentage of the nominal value of the parameter.
- C. Power Output Rating: Gross electrical power output of generator set minus total power requirements of electric motor-driven accessories normally constituting part of the engine assembly.
- D. Steady-State Voltage Modulation: The uniform cyclical variation of voltage within the operational bandwidth, expressed in Hz or cycles per second.

1.4 SYSTEM DESCRIPTION

- A. System Includes: Standby-rated, automatically started diesel engine coupled to an A/C generator unit. Engine and generator are factory-mounted and aligned on a structural steel skid. Subsystems and auxiliary components and equipment are as indicated.
- B. Functional Description: When the mode selector switch on the control and monitoring panel is in the "automatic" position, remote control contacts in one or more separate automatic transfer switches initiate the starting and stopping of the generator set. When the mode selector switch is placed in the "on" position, the generator set starts manually. The "off" position of the same switch initiates shutdown of the generator set. When the unit is running, specified system or equipment failures or derangements automatically shut the unit down and initiate alarms. Operation of a remote emergency stop switch also shuts down the unit. Automatic Transfer switches shall interface with generator controls and be sized and rated per N.E.C and U.L. for service entrance conductors. It is the

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responsibility of the bidding contractor to properly size, design, and install the ATS/generator set to meet all State and local codes.

1.5 SUBMITTALS

- A. General: Submit the following according to Conditions of Contract.
- B. Product data for products specified in this Section. Include data on features, components, ratings, and performance. Include dimensioned outline plan and elevation drawings of engine generator set and other system components.
- C. Maintenance data for system and components for inclusion in Operating and Maintenance Manual specified include the following:
- D. Detailed Operating Instructions: Cover operation under both normal and abnormal conditions.
- E. Shop Drawings: Detail fabrication, piping, wiring, and installation of the field installed portions of the system. Include general arrangement drawings showing locations of auxiliary components in relation to the engine generator set and duct, piping, and wiring connections between the generator set and the auxiliary equipment. Show connections, mounting, and support provisions and access and working space requirements.
- F. Wiring Diagrams for System: Show power and control connections and distinguish between factory-installed and field-installed wiring.
- G. Certified Test Reports of Components and Accessories: Submit for devices that are equivalent, but not identical, to those tested on prototype unit.
 - 1. Exhaust Emissions Test Report.
 - Muffler Sound Report.
- K. Certification of Torsional Vibration Compatibility: Conform to NFPA 110.

1.6 QUALITY ASSURANCE

- A. Manufacturer Qualifications: Firms experienced in manufacturing equipment of the types and capacities indicated that have a record of successful in-service performance.
- B. Emergency Service: System manufacturer maintains a service center capable of providing training, parts, and emergency maintenance and repairs at the Project site with 4 hours' maximum response time.
- C. Comply with NFPA 70, "National Electrical Code."
- D. Comply with NFPA 110, "Standard for Emergency and Standby Power Systems," for requirements for a Level 2 emergency power supply system.

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- E. NRTL Listing: System components of types and ratings for which NRTL listing or labeling service is established and components are listed and labeled.
- F. The Terms "Listed" and "Labeled": As defined in the "National Electrical Code"
- G. Listing and Labeling Agency Qualifications: A "Nationally Recognized Testing Laboratory" (NRTL) as defined in OSHA Regulation 1910.7.
- H. Engine Exhaust Emissions: Comply with applicable Federal, State, and local government requirements.
- 1. Single-Source Responsibility: Obtain engine generator system components from a single manufacturer with responsibility for the entire system. Unit shall be a representative product built from components that have proven compatibility and reliability and are coordinated to operate as a unit as evidenced by records of prototype testing.

1.7 DELIVERY, STORAGE, AND HANDLING

- A. Deliver engine generator set and system components to their final locations in protective wrappings, containers, and other protection that will exclude dirt and moisture and prevent damage from construction operations. Remove protection only after equipment is made safe from such hazards.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Manufacturers: Subject to compliance with requirements, provide products by one of the following:
 - 1. Engine Generator Sets:
 - Cummins/Onan Caterpillar, Inc.
 - Generac
 - Kohler Co.
 - 2. Storage Batteries:
 - Interstate Systems. Exide Corp. Kohler co.
 - Onan Corp.

2.2 SYSTEM SERVICE CONDITIONS

- A. Environmental Conditions: Engine generator system withstands the following environmental conditions without mechanical or electrical damage or degradation of performance capability:
 - 1. Ambient Temperature: Minus 15 deg C to plus 40 deg C.

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2. Relative Humidity: 0 to 95 percent.
3. Altitude: Sea level to 1000 feet (300 m).

2.3 ENGINE GENERATOR SYSTEM

- A. General: System is a coordinated assembly of compatible components.
- B. Ratings: as required.
- C. Output Connections: as required.
- D. Safety Standard: Comply with ASME B 15.1, "Safety Standard for Mechanical Power Transmission Apparatus. "
- E. Nameplates: Each major system component is equipped with a conspicuous nameplate of the component manufacturer. Nameplate identifies manufacturer of origin and address, and the model and serial number of the item.

Limiting dimensions indicated for system components are not exceeded.

2.4 SYSTEM PERFORMANCE

- A. Steady-State Voltage Operational Bandwidth: 4 percent of rated output voltage from no load to full load.
- B. Steady-State Voltage Modulation: Less than 1Hz.
- C. Transient Voltage Performance: Not more than 10 percent variation for 50 percent step-load increase or decrease. Voltage recovers to remain within the steady-state operating band within 2 seconds.
- D. Steady-State Frequency Operational Bandwidth: 0.5 percent of rated frequency from no load to full load.
- E. Steady-State Frequency Stability: When the system is operating at any constant load within the rated load, there are no random speed variations outside the steady-state operational band and no regular or cyclical hunting or surging of speed.

Transient Frequency Performance: Less than 3 Hz variation for a 50 percent step load increase or decrease. Frequency recovers to remain within the steady-state operating band within 3 seconds.

- G. Output Waveform: At no load, the harmonic content measured line-to-line or line-to-neutral does not exceed 5 percent total and 3 percent for single harmonics. The telephone influence factor determined according to NEMA MG 1, "Motors and Generators," does not exceed 50.
- H. Sustained Short-Circuit Current: For a 1-phase bolted short circuit at the system output terminals, the system will supply a minimum of 250 percent of rated full load current for not less than 10 seconds and then clear the fault automatically, without damage to any generator system component.

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- I. Temperature Rise of Generator: Within acceptable limits for insulation systems used according to NEMA MG1 when operating continuously at standby rating conditions
- J. Nonlinear Load Performance: System performance is not degraded from that specified in this Article by continuous operation, with the load current having a minimum total harmonic content of 15 percent rms, and minimum single harmonic content of 10 percent rms.
- K. Starting Time: Maximum total time period for a cold start, with ambient temperature at the low end of the specified range, is 5 seconds. Time period includes output voltage and frequency settlement within specified steady-state bands.

2.5 ENGINE GENERATOR SET

- A. Power Output Rating: Nominal ratings as indicated on Drawings.
- B. Skid: Adequate strength and rigidity to maintain alignment of the mounted components without dependence on a concrete foundation. Skid is free from sharp edges and corners. Lifting attachments are arranged to facilitate lifting with slings without damaging any components. Provide vibration isolators between engine-generator and steel base or steel base and mounting pad.
- C. Rigging Diagram: Inscribed on a metal plate permanently attached to the skid. Diagram indicates location and lifting capacity of each lifting attachment and location of the center of gravity.

2.6 ENGINE

- A. Comply with NFPA 37, "Stationary Combustion Engines and Gas Turbines."
- B. Fuel: Diesel fuel oil grade DF-2.
- C. Lubrication System: Pressurized by a positive displacement pump driven from the engine crankshaft. The following items are mounted on the engine or skid:
- D. Filter and Strainer: Rated to remove 90 percent of particles 5 microns and smaller while passing full flow.
- E. Oil Cooler: Maintains lubricating oil at the manufacturer's recommended optimum temperature throughout 2 hours of operation of the generator set at 110 percent of system power output rating.
- F. Thermostatic Control Valve: Controls flow in the system to maintain optimum oil temperature. Unit is capable of full flow and is designed to be fail-safe.
- G. Crankcase Drain: Arranged for complete gravity drainage to an easily removable container with no disassembly and without the use of pumps or siphons or special tools or appliances.

- H. Engine Fuel System: Comply with NFPA 30, "Flammable and Combustible Liquids." System includes:
 - 1. Integral Injection Pumps: Driven by the engine camshaft. Pumps are adjustable for timing and cylinder pressure balancing.
Main Fuel Pump: Mounted on the engine. Pump ensures adequate primary fuel flow under starting and load conditions.
- K. Parallel Fuel Oil Filters: Ahead of the injection pumps. Changeover valves allow independent use of either filter.
- L. Relief/Bypass Valve: Automatically regulates pressure in the fuel line and returns excess fuel to the source.
- M. Jacket Coolant Heater: Electric immersion type, factory-installed in the jacket coolant system. Unit is rated and thermostatically controlled to maintain an engine temperature of 25 deg C at the low end of the ambient temperature range specified under "Environmental Conditions" above.
- N. Speed Governor: Adjustable isochronous type, with speed sensing.

2.7 ENGINE COOLING SYSTEM

- A. Description: Closed-loop, liquid-cooled, with radiator factory-mounted on engine generator set skid and integral engine-driven coolant pumping.
- B. Radiator: Factory-piped and -rated for specified coolant.
- C. Coolant: Solution of 50 percent ethylene glycol and 50 percent water.
- D. Temperature Control: Self-contained thermostatic control valve modulates coolant flow automatically to maintain optimum constant coolant temperature as recommended by the engine manufacturer. Features include:
 - E. Thermostatic Elements: Interchangeable and nonadjustable.
 - F. Actuator Design: Normally-open valves to return to open position when actuator fails.
 - G. Coolant Hose: Flexible assembly with nonporous rubber inside surface and aging, ultraviolet, and abrasion-resistant fabric outer covering.
- H. Rating: 50 psi (345 kPa) maximum working pressure with 180 deg F (82 deg C) coolant, and non-collapsible under vacuum.
 - 1. End Fittings: Flanges or steel pipe nipples with clamps to suit piping and equipment

Connections.

Coolant piping external to engine generator set is as specified in Division 15 Section "Hydronic Piping."

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2.8 ENGINE GENERATOR ENCLOSURE

- A. Provide a weatherproof insulated enclosure designed to withstand pressured developed by wind speeds of 130mph.
- B. The enclosure shall be impact resistant.
- C. Provide sound attenuation insulation.
- D. Enclosure and Mounting: NEMA Class I wall-mounted cabinet.

2.9 FUEL SUPPLY SYSTEM

- A. System complies with NFPA 30, "Flammable and Combustible Liquids Code," and NFPA 37, "Standard for Stationary Combustion Engines and Gas Turbines."
- B. Pump Capacity: Exceeds the maximum flow of fuel drawn by the engine mounted fuel supply pump at 110 percent of rated capacity, including fuel returned from the engine.
- C. Unit, Including Alarm Contacts: Complies with UL 142, "Steel Aboveground Tanks for Flammable and Combustible Liquids."
- D. Low-Level Alarm Sensor: Separate device operates alarm contacts at 75 percent of normal fuel level.
- E. Piping Connections: Include fuel suction and return lines to fuel storage tank, fuel supply, and return lines to engine, local fuel fill, vent line, overflow line, and tank drain line complete with shutoff valve.

Skid Oil Tank: 400 gallons, built to UL standards, double wall, and pressure tested after final installation.

2.10 ENGINE EXHAUST SYSTEM

- A. Muffler: Critical-type, sized as recommended by the engine manufacturer.

Measured sound level, according to the "DEMA Test Code for the Measurement of Sound from Heavy-Duty Reciprocating Engines" at a distance of 10 feet from the exhaust discharge, is 85 dB "A" or less.
- B. Connections from Engine to Exhaust System: Flexible section of corrugated stainless steel pipe.
- C. Connection from Exhaust Pipe to Muffler: Stainless-steel expansion joint with liners.
- D. Insulation for Mufflers and Indoor Exhaust Piping: As specified in Division 15 Section "Pipe Insulation."

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- E. Supports for Muffler and Exhaust Piping: Vibration isolating-type specified in Division 15 Section "Vibration Control."
- F. Thimbles for Exhaust Piping: Conform to NFPA 211, "Chimneys, Fireplaces, Vents, and Solid-Fuel Burning Appliances. "

2.11 COMBUSTION AIR-INTAKE SYSTEM

- A. Air-Intake Silencer: Filter-type providing filtration as recommended by the engine manufacturer.
- B. Mounting: Factory-installed on engine generator set at a location readily accessible for servicing.
- C. Supports for Air-Intake Piping and Filter-Silencer: Vibration isolation-type as specified in Division 15 Section "Vibration Control."

2.12 STARTING SYSTEM

- A. Description: 24 V electric with negative ground and including the following items:
- B. Components: Sized so they will not be damaged during a full engine-cranking cycle with the ambient temperature at the maximum specified in paragraph "Environmental Conditions. "
- C. Cranking Motor: Heavy-duty unit that automatically engages and releases from the engine flywheel without binding.
- D. Cranking Cycle: As required by NFPA 110 for system level specified.
- E. Battery complies with SAE J537, "Storage Batteries," and has adequate capacity within the ambient temperature range specified in paragraph "Environmental Conditions" to provide the specified cranking cycle series at least twice without recharging.

Battery Cable: Size as recommended by the generator set manufacturer for the cable length indicated. Include required interconnecting conductors and connection accessories.

- G. Battery Compartment: Factory-fabricated of metal with acid-resistant finish and thermal insulation. Include accessories required to support and fasten batteries in place.
- H. Battery-Charging Alternator: Factory-mounted on engine with solid-state voltage-regulation and 35 ampere minimum continuous rating.
- 1. Battery Charger: Current limiting, automatic equalizing and float charging-type designed for operation from a 120 V 60 Hz supply source. Unit complies with UL 508, "Electrical Industrial Control Equipment," and includes the following features:

Operation: Equalizing charging rate of 10 amperes is initiated automatically after the battery has lost charge until an adjustable equalizing voltage is achieved at

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the battery terminals. The unit then automatically switches to a lower float-charging mode, and continues operating in that mode until the battery is discharged again.

Automatic Temperature Compensation: Adjusts the float and equalizes voltages for variations in the ambient temperature from minus 40 deg C to plus 60 deg C to prevent overcharging at high temperatures and undercharging at low temperatures.

- L. Automatic Voltage Regulation: Maintains output voltage constant regardless of input voltage variations up to plus or minus 10 percent.
- M. Ammeter and Voltmeter: Flush mounted in door. Meters indicate charging rates.
- N. Safety Functions: Include sensing of abnormally low battery voltage arranged to close contacts providing "low battery voltage" indication on control and monitoring panel. Also, include sensing of high battery voltage and loss of a.c. input or d.c. output of battery charger. Either of these conditions closes contacts that provide "battery charger malfunction" indication at system control and monitoring panel.

2.13 CONTROL AND MONITORING

- A. Configuration: Operating and safety indications, protective devices, basic system controls, and engine gages are grouped on a common control and monitoring panel mounted on the generator set. Mounting method isolates the control panel from generator set vibrations. Include (1) annunciator panel located in the main office.
- B. Generator Circuit Breaker: Molded case type with solid state LSGI adjustable trip setting.
- C. Shunt Trip Device: For generator breaker, connected to trip breaker when generator set is shut down by protective devices.
- D. Current and Potential Transformers: Instrument accuracy class.
- E. Indicating and Protective Devices, and Controls: Include those required by NFPA 110 for a Level 2 system plus the following:

Supporting Items: Include sensors, transducers, terminals, relays, and other devices, and wiring required to support specified items. Locate sensors and other supporting items on engine, generator, or elsewhere as indicated. Where not indicated, locate to suit manufacturer's standard.
- G. Connection to Data Link: A separate terminal block factory-wired to Form C dry contacts for each alarm and status indication is reserved for connection for transmission of indications by data link to remote data terminals. Data system connections to terminals are covered in another Section.

2.14 GENERATOR, EXCITER, AND VOLTAGE REGULATOR

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- A. Comply with NEMA MG 1, "Motors and Generators," and specified performance requirements.
- B. Drive: Generator shaft is directly connected to the engine shaft. Exciter is rotated integrally with generator rotor.
- C. Electrical Insulation: Class H or Class F.
- D. Station Winding Leads: Brought out to terminal box to permit future reconnection for other voltages if required.
- E. Construction permits mechanical, electrical, and thermal damage due to vibration, overspeed up to 125 percent of rating, and heat during operation at 110 percent of rated capacity.

Excitation uses no-slip or collector rings, or brushes, and is arranged to sustain generator output under short circuit conditions as specified.
- G. Enclosure: Drip-proof.
- H. Instrument Transformers: Mounted within generator enclosure.
- 1. Voltage Regulator: Solid-state-type, separate from exciter, providing performance as specified.

Adjusting rheostat on control and monitoring panel provides plus or minus 5 percent adjustment of output voltage operating band.

2.15 ELECTRIC MOTORS

- A. Comply with UL, NEC, and referenced standards.

2.16 FINISHES

- A. Indoor Enclosures and Components: Manufacturer's standard enamel over corrosion-resistant pretreatment and primer.

2.17 QUALITY CONTROL:

- A. Tests: Conform to those required for Level I energy converters in paragraphs 3.2.1, 3.2.1.1, and 3.2.1.2 of NFPA 110.
- B. Components and Accessories: Items furnished with installed unit that are not identical to those on tested prototype have been acceptably tested to demonstrate compatibility and reliability
- C. Prototype Equipment Tests: Test items assembled and connected as a complete system at the factory in a manner equivalent to that required at the Project site. Record and report test data. Conform to SAE 8528, "Engine Power Test Cold Spark Ignition and Diesel," and the following:

- D. Test Equipment: Use instruments calibrated within the previous 12 months and with accuracy directly traceable to the National Institute of Standards and Technology (NIST).
- E. Hydrostatic Test: Perform on radiator, heat exchanger, and engine water jacket.
Generator Tests: Conform to IEEE 115, "Test Procedures for Synchronous Machines. "
- G. Complete System Continuous Operation Test: Includes nonstop operation for a minimum of 8 hours, including at least 1 hour each at 1/2, 3/4, and full load. If unit stops during the 8-hour test, repeat the complete test. Record the following minimum data at the start and end of each load run, at 15-minute intervals between those times, and at 15-minute intervals during the balance of the test:
 - H. Fuel consumption.
 - 1. Exhaust temperature.
 - J. Jacket water temperature.
 - K. Lubricating oil temperature and pressure.
 - L. Generator load current and voltage, each phase.
 - M. Generator system gross and net output kW.
- N. Complete System Performance Tests: Include the following to demonstrate conformance to specified performance requirements:
 - O. Single-step load pickup.
Transient and steady-state governing.
 - Q. Transient and steady-state voltage performance.
 - R. Safety shutdown devices.
- S. Observation of Test: Provide 2-week advance notice of tests and opportunity for observation of test by Owner's representatives.
- T. Report test results within 10 days of completion of test.

2.18 WEATHERPROOF ENCLOSURE:

- A. Provide impact-rated drip-proof enclosure with removable hinged doors custom made to house the skid mounted tank and generator.
- B. Enclosure shall be designed to withstand pressures developed by 130 mph wind, and shall be insulated with thermal and acoustic insulation.
- C. Provide all materials and accessories required for a complete and proper assembly.

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PART 3 - EXECUTION

3.1 1 INSTALLATION

- A. Anchor generator set and other system components on concrete bases conforming to manufacturers recommendations. The concrete pad will be a minimum 10" thick and extend a minimum of 12" outside the foot print of the generator base on all sides, and be elevated a minimum of 6" above surrounding grade. Provide anchorage according to manufacturer's recommendations.
- B. Exhaust Pipe Installation: Conform to NFPA 21 1, "Chimneys, Fireplaces, Vents, and Solid-Fuel Burning Appliances. "Use thimbles where indicated.
- C. Maintain minimum working space around components according to manufacturer's shop drawings and NEC.
- D. Manufacturer's Field Services: Arrange and pay for the services of a factory authorized service representative to supervise the installing, connecting, testing, and adjusting of the unit.
- E. Generator pad concrete base must be provided by the installer. Present pad may be use if pad specifications can be met for new generator set.

3.2 IDENTIFICATION

- A. Identify all system components per owners specified designation.

3.3 FIELD QUALITY CONTROL

- A. Battery Test: Measure charging voltage and voltages between available battery terminals for full-charging and float-charging conditions. Check electrolyte level and specific gravity under both conditions. Test for contact integrity of all connectors. Perform an integrity load test and a capacity load test for the battery. Verify acceptance of charge for each element of battery after discharge. Verify measurements are within manufacturer's specifications.
- B. Battery Charger Tests: Verify specified rates of charge for both equalizing and float-charging conditions.
- C. System Integrity Tests: Methodically verify proper installation, connection, and integrity of each element of engine generator system before and during system operation. Check for air, exhaust, and fluid leaks.
- D. Simulation of malfunctions to verify proper operation of local and remote protective, alarm, and monitoring devices.
- E. Efficiency Tests: Perform at 50 percent, 75 percent, and 100 percent of rated load.

Retest: Correct deficiencies identified by tests and observations and retest until specified requirements are met.

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3.4 CLEANING

- A. Upon completion of installation, inspect system components. Remove paint splatters and other spots, dirt, and debris. Touch up scratches and mars of finish to match original finish. Clean components internally using methods and materials recommended by manufacturer.

3.5 DEMONSTRATION

- A. Training: Arrange and pay for the services of a factory-authorized service representative to demonstrate adjustment, operation, and maintenance of the system and to train Owner's personnel.
- B. Conduct a minimum of 4 hours of training as specified under Instructions to Owner's Employees in the Project Closeout Section of these Specifications.
- C. Schedule training with at least 7-day advance notice.

3.6 COMMISSIONING

- A. Battery Equalization: Equalize charging of battery cells according to manufacturer's instructions. Record individual cell voltages

Exhibit II: General Bid Instructions

1. Purpose/Objective

As requested by the Greater Naples Fire Districts identified in Exhibit 1, the Greater Naples Fire District Board of Fire Commissioners of the Greater Naples Fire Rescue District Procurement Services Branch (hereinafter, the Fire District) has issued this Invitation to Bid (hereinafter, the "ITB", or "Bid") with the sole purpose and intent of obtaining bid responses from interested and qualified firms in accordance with the terms, conditions, and specifications stated and/or attached herein/hereto. The successful vendor will hereinafter be referred to as the "Vendor"

All bids must be submitted on the Bid form furnished by the Fire District noted in Attachments 2, 3, 4, 5, 6, and 7 of this ITB. No bid will be considered unless the Bid form is properly signed. Vendor is responsible to read and follow the instructions very carefully, as any misinterpretation or failure to comply with these instructions could lead to the bid submitted as being rejected as non-responsive.

2. Pricing

Vendors must provide unit prices using the unit of measured specified by the Fire District. All prices will remain firm for a period of one hundred and eighty (90) calendar days from date of bid opening. After award by the Board of Fire Commissioners of the Greater Naples Fire Rescue District, prices may only be adjusted as outlined in Exhibit I: Term of Contract.

3. Alternate Bid Pricing

In the event that alternate pricing is requested, it is an expressed requirement of the bid to provide pricing for all alternates as listed. The omission of a response or a no-bid or lack of a submitted price will be the basis for the rejection of the submitted bid response. All bids responses received without pricing for all alternates as listed will be considered technically non-responsive and will not be considered for award.

4. NO Equal Product Accepted

Manufacturer's name, brand name and/or model number are used in these specifications for the purpose of establishing minimum requirements of level of quality, standards of performance and/or design required, and is in no way intended to prohibit the bidding of other manufacturer's items of equal or similar material. An equal or similar product may be bid, provided that the product is found to be equal or similar in quality, standard of performance, design, etc. to the item specified.

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Where an equal or similar is bid, the Bid must be accompanied with two (2) complete sets of factory information sheets (specifications, brochures, etc.) and test results, if applicable, of unit bid as equal or similar.

Equal product samples, if required for evaluation, and at no cost to the Fire District, must be submitted with Bid. Unless otherwise directed in the solicitation, the bid will not be considered unless samples are delivered to specified address by bid due date. The Fire District shall be sole judge of equality or similarity, and its decision shall be final in the best interest.

5. **Discounts**

Any discounts or terms must be shown on the Bid form. Such discounts, if any, may be considered in the award of tie bids. In no instance should payment terms less than 30 calendar days be offered.

6. **Exceptions**

Vendors taking exception to any part or section of these specifications shall indicate such exceptions on a separate sheet entitled "EXCEPTIONS TO SPECIFICATIONS." Failure to indicate any exceptions to the specifications shall be interpreted as the Vendors intent to fully comply with the specifications as written. The Fire District, at its sole discretion, shall determine if the exceptions are material in nature, and if the Vendor's exceptions may be declared grounds for rejection of bid proposal.

7. **Addenda**

The Fire District reserves the right to formally amend and/or clarify the requirements of the bid specifications where it deems necessary. Any such addendum/clarification shall be in writing and shall be distributed electronically to all parties who received the original bid specifications prior to the deadline for submission of Bids. All changes to this ITB will be conveyed electronically through a notice of addendum or questions and answers to all vendors registered under the applicable commodity code(s) at the time when the original ITB was released, as well as those vendors who downloaded the ITB document.

8. **Bid Submission**

All paper bids shall be submitted to the Greater Naples Fire Rescue District, Logistics Section, 14575 Greater Naples Blvd, Naples, FL 34119, by the date and time as stated in the Legal Notice and Clearly Labeled 20-103R Generator Bid for Station 21 The Fire District assumes no responsibility for bid responses received after the due date and time, or at any office or location other than that specified herein, whether due to mail delays, courier

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mistakes, mishandling, inclement weather or any other reason. Late bid responses shall be returned unopened, and shall not be considered for award.

Vendors must submit **one (1) paper copy clearly labeled “Master,” and two (2) compact disks (CD’s) or USB Drive(s) with one copy of the proposal on each in Word, Excel or PDF.** Vendors who wish to receive copies of bids after the bid opening may make a public records request.

9. Questions

If the vendor should be of the opinion that the meaning of any part of the Bid Document is doubtful, obscure or contains errors or omissions it should report such opinion to the District Staff before the bid opening date. Direct questions related to this ITB only to the Logistics Section. Questions will not be answered after the date noted on the ITB.

10. Rejection and Waiver

The Fire District reserves the right to reject any and all bids, to waive defects in the form of bid, also to select the bid that best meets the requirements of the Fire District.

Vendors whose bids, past performance or current status do not reflect the capability, integrity or reliability to fully and in good faith perform the requirements denoted may be rejected as non-responsive. Bids that do not meet all necessary requirements of this solicitation or fail to provide all required information, documents or materials may be rejected as non-responsive.

11. Immigration Affidavit Certification

Statutes and executive orders require employers to abide by the immigration laws of the United States and to employ only individuals who are eligible to work in the United States.

The Employment Eligibility Verification System (E-Verify) operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA), provides an Internet-based means of verifying employment eligibility of workers in the United States; it is not a substitute for any other employment eligibility verification requirements. The program will be used for Greater Naples Fire Rescue District Formal Invitations to Bid (ITB) and Request for Proposals (RFP) including professional services and construction services.

Exceptions to the program:

- Commodity based procurement where no services are provided.
- Where the requirement for the affidavit is waived by the Board of Fire Commissioners of the Greater Naples Fire Rescue District

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Vendors / Bidders are required to enroll in the E-Verify program, and provide acceptable evidence of their enrollment, at the time of the submission of the vendor's/bidder's proposal. Acceptable evidence consists of a copy of the properly completed E-Verify Company Profile page or a copy of the fully executed E-Verify Memorandum of Understanding for the company. Vendors are also required to provide the Logistics Section an executed affidavit certifying they shall comply with the E-Verify Program. The affidavit is attached to the solicitation documents. **If the Bidder/Vendor does not comply with providing both the acceptable E-Verify evidence and the executed affidavit the bidder's / vendor's proposal may be deemed non-responsive.**

Additionally, vendors shall require all subcontracted vendors to use the E-Verify system for all purchases not covered under the "Exceptions to the program" clause above.

For additional information regarding the Employment Eligibility Verification System (E-Verify) program visit the following website: <http://www.dhs.gov/E-Verify>. It shall be the vendor's responsibility to familiarize themselves with all rules and regulations governing this program.

Vendor acknowledges, and without exception or stipulation, any firm(s) receiving an award shall be fully responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 as located at 8 U.S.C. 1324, et seq. and regulations relating thereto, as either may be amended and with the provisions contained within this affidavit. Failure by the awarded firm(s) to comply with the laws referenced herein or the provisions of this affidavit shall constitute a breach of the award agreement and the Fire District shall have the discretion to unilaterally terminate said agreement immediately.

12. Lobbying

All firms are hereby placed on **NOTICE** that the Fire District Commission does not wish to be lobbied either individually or collectively about a project for which a firm has submitted a bid. Firms and their agents are not to contact members of the Fire District Commission for such purposes as meetings of introduction, luncheons, dinners, etc. During the bidding process, from bid opening to final Board approval, no firm or its agent shall contact any other employee of Greater Naples Fire Rescue District with the exception of the Logistics Section

13. Certificate of Authority to Conduct Business in the State of Florida (Florida Statute 607.1501)

In order to be considered for award, firms must be registered with the Florida Department of State Divisions of Corporations in accordance with the requirements of Florida Statute 607.1501 and provide a certificate of authority (www.sunbiz.org/search.html) prior to execution of a contract. A copy of the document may be submitted with the solicitation response and the document number shall be identified. Firms who do not provide the certificate of authority at the time of response shall be required to provide same within five (5) days upon notification of selection for award. If the firm cannot provide the document within the referenced timeframe, the Fire District reserves the right to award to another firm.

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14. **General Information**

When it is deemed by the Fire District that a bid cannot be awarded as originally intended, the Fire District reserves the right to award this bid through an approach which is the best interest of the Fire District.

Alternate bids will not be considered unless authorized by the ITB. In case of identical bids tying as low bid, the Fire District shall ask vendors to submit certification that they have a drug-free workplace in accordance with Section 287.087 Florida Statutes. Should all vendors provide said certification; the Fire District will give local vendor preference.

15. **Bid Award Process**

Award of contract will be made by the Board of Fire Commissioners of the Greater Naples Fire Rescue District in public session.

Award shall be made in a manner consistent with the Districts Purchasing Policy. Award recommendations will be posted on the District website prior to the Fire District Commission meetings.

Any actual or prospective respondent who desires to formally protest the recommended contract award must file a notice of intent to protest with the Procurement Director within two (2) calendar days (excluding weekends and Fire District holidays) of the date that the recommended award is posted. Upon filing of said notice, the protesting party will have five (5) days to file a formal protest and will be given instructions as to the form and content requirements of the formal protest. A copy of the "Protest Policy" is available at the office of the Procurement Director.

18. **Reserved Rights**

Greater Naples Fire Rescue District reserves its right in any solicitation to accept or reject any or all bids, proposals or offers; to waive minor irregularities and technicalities; or to request resubmission. Also, Greater Naples Fire Rescue District reserves the right to accept all or any part of any bid, proposal, or offer, and to increase or decrease quantities to meet the additional or reduced requirements of Greater Naples Fire Rescue District. Greater Naples Fire Rescue District reserves its right to cancel, extend or modify any or all bids, proposals or offers; to award to one or more vendors; to award all or part of a solicitation; and to award by individual line items when it is deemed to be in the best interest of the Fire District. Greater Naples Fire Rescue District reserves its right to reject any sole response.

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Exhibit IV: Additional ITB Terms and Conditions

1. Additional Items and/or Services

During the contract term, Greater Naples Fire Rescue District reserves the right to add related items and/or services upon negotiation of a satisfactory price by the Logistics Section Chief and Vendor.

2. Conflict of Interest

Vendor shall provide a list of any businesses and/or organizations to which the firm has any affiliation or obligations within the past five (5) years; whether paid or donated, which could be construed by the Fire District as a conflict of interest. Disclosure of any potential or actual conflict of interest is subject to Fire District staff review and does not in and of itself disqualify a firm from consideration. These disclosures are intended to identify and or preclude conflict of interest situations during contract selection and execution.

3 Deductions for Non-Performance

The Fire District reserves the right to deduct a portion of any invoice for goods not delivered, or services not performed in accordance with requirements, including required timeframe. The District may also deduct, or chargeback the Vendor the costs necessary to correct the deficiencies directly related to the Vendor's non-performance.

4. Termination

Should the Contractor be found to have failed to perform services in a manner satisfactory to the Fire District may terminate this Agreement immediately for cause; further the Fire District may terminate this Agreement for convenience with a thirty (30) day written notice. The Fire District shall be sole judge of non-performance. In the event that the award of this solicitation is made by the Fire District, the award and any resultant purchase orders may be terminated at any time by the Fire District upon thirty (30) days written notice to the awarded vendor.

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5. Offer Extended to Other Governmental Entities

Greater Naples Fire Rescue District encourages and agrees to the successful vendor extending the pricing, terms and conditions of this solicitation or resultant contract to other governmental entities at the discretion of the successful vendor.

6. Environmental Health and Safety

All Vendors and Sub vendors performing service for Greater Naples Fire Rescue District are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and District Safety and Occupational Health Standards and any other applicable rules and regulations. Vendors and Sub vendors shall be responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site.

Greater Naples Fire Rescue District has authorized OSHA representatives to enter any Greater Naples Fire Rescue District facility, property and/or right-of-way for the purpose of inspection of any Vendor's work operations. This provision is non-negotiable.

All new electrical installations shall incorporate NFPA 70E Short Circuit Protective Device Coordination and Arc Flash Studies where relevant as determined by the engineer.

All electrical installations shall be labeled with appropriate NFPA 70E arch flash boundary and PPE Protective labels.

7. Florida Wood Products

The Vendor/Contractor agrees to comply with Florida Statute 255.20 to provide lumber, timber and other forest products produced and manufactured in the State of Florida as long as the price, fitness and quality are equal.

8. Public Records Compliance

Florida Public Records Law Chapter 119, including specifically those contractual requirements in 119.0701(2)(a)-(b) as follows:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

Director Tara Bishop
14575 Collier BLVD
Naples, FL 34119
239.348.7540

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The Contractor must specifically comply with the Florida Public Records Law to:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

9. Standards of Conduct

The Vendor shall employ people to work on District projects who are neat, clean, well-groomed and courteous. Subject to the American with Disabilities Act, Vendor shall supply competent employees who are physically capable of performing their employment duties. The District may require the Vendor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued relationship on the project is not in the best interest of the Greater Naples Fire Rescue District

10. Licenses N/A

The Vendor is required to possess the correct professional and other licenses, and any other authorizations necessary to perform the required work pursuant to all applicable Federal, State and Local Law, Statute, Ordinances, and rules and regulations of any kind. **Additionally, copies of all the required licenses must be submitted with the bid response indicating that the entity bidding, as well as the team assigned to the District account, is properly licensed to perform the activities or work included in the ITB documents. Failure on the part of any vendor to supply this documentation with their bid response may be grounds for deeming vendor non-responsive.** Questions regarding professional licenses should be directed to Contractor Licensing, Community Development and Environmental Services at (239) 252-2431, 252-2432 or 252-2909. Questions regarding required Business Tax Receipt (formerly known as Occupational Licenses) should be directed to the Tax Collector's Office at (239) 252-2477.

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11. Protection of Property

The Vendor shall ensure that the service is performed in such manner as to not damage any property. In the event damage occurs to any property as a direct result of the Vendor or their Sub vendor in the performance of the required service, the Vendor shall repair/replace, to the Fire Districts satisfaction, damaged property at no additional cost to the Fire District. If the damage caused by the Vendor or their Sub vendor has to be repaired/replaced by the County, the cost of such work will be deducted from the monies due the Vendor.

12. Prohibition of Gifts to Fire District Employees

No organization or individual shall offer or give, either directly or indirectly, any favor, gift, loan, fee, service or other item of value to any Fire District employee, as set forth in Chapter 112, Part III, and Florida Statutes. Violation of this provision may result in one or more of the following consequences: a. Prohibition by the individual, firm, and/or any employee of the firm from contact with Fire District staff for a specified period of time; b. Prohibition by the individual and/or firm from doing business with the Fire District for a specified period of time, including but not limited to: submitting bids, RFP, and/or quotes; and, c. immediate termination of any contract held by the individual and/or firm for cause.

13. Invoice and Payments

The Fire Districts Finance Director reserves the right to establish any one, or a combination of, these industry practices for contracts or purchase orders:

Lump Sum (Fixed Price): a firm fixed total price offering for a project; the risks are transferred from the Fire District to the contractor; and, as a business practice there are no hourly or material invoices presented, rather, the contractor must perform to the satisfaction of the Fire District before payment for the fixed price contract is authorized.

Unit Price: The Fire District agrees to pay a firm total fixed price (inclusive of all costs, including labor, materials, equipment, overhead, etc.) for a repetitive product or service delivered (i.e. installation price per ton, delivery price per package or carton, etc.). The invoice must identify the unit price and the number of units received (no contractor inventory or cost verification required).

Payments are made in accordance with the Local Government Prompt Payment Act, Chapter 218, Florida Statutes. Vendor's invoices must include:

- Purchase Order Number

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- Description and quantities of the goods or services provided per instructions on the County's purchase order or contract.

Invoices shall be sent to:

Board of Fire Commissioners
 Greater Naples Fire Rescue District
 ATTN: Accounts Payable
 14575 Collier BLVD
 Naples FL 34119
 Or emailed to: accountspayable@gnfire.org.

The Fire District, in its sole discretion, will determine the method of payment for goods and/or services as part of this agreement.

Payment methods include:

- Traditional – payment by check, wire transfer or other cash equivalent.

Payments will be made for articles and/or services furnished, delivered, and accepted, upon receipt and approval of invoices submitted on the date of services or within six (6) months after completion of contract. Any untimely submission of invoices beyond the specified deadline period is subject to non-payment under the legal doctrine of “laches” as untimely submitted. Time shall be deemed of the essence with respect to the timely submission of invoices under this agreement.

In instances where the successful contractor may owe debts (including, but not limited to taxes or other fees) to Greater Naples Fire Rescue District and the contractor has not satisfied nor made arrangement to satisfy these debts, the District reserves the right to offset the amount owed to the Fire District by applying the amount owed to the vendor or contractor for services performed or for materials delivered in association with a contract.

Invoices shall not reflect sales tax. After review and approval, the invoice will be transmitted to the Finance Section for payment. Payment will be made upon receipt of proper invoice and in compliance with Chapter 218 Florida Statutes, otherwise known as the “Local Government Prompt Payment Act.” Greater Naples Fire Rescue District reserves the right to withhold and/or reduce an appropriate amount of any payment for work not performed or for unsatisfactory performance of Contractual requirements.

14. Survivability

Bids (ITBs/RFPs): The Consultant/Contractor/Vendor agrees that any Work Order/Purchase Order that extends beyond the expiration date of Solicitation 20-103R resultant of this solicitation will survive and remain subject to the terms and conditions of that Agreement until the completion or termination of any Work Order/Purchase Order.

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15. Insurance Requirements

The Vendor shall at its own expense, carry and maintain insurance coverage from responsible companies duly authorized to do business in the State of Florida as set forth in Insurance and Bonding Requirements Attachment of this solicitation. The Vendor shall procure and maintain property insurance upon the entire project, if required, to the full insurable value of the scope of work.

The Fire District and the Vendor waive against each other and the Fire Districts separate Vendors, Contractors, Design Consultant, Subcontractors agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. The Vendor and Fire District shall, where appropriate, require similar waivers of subrogation from the Fire Districts separate Vendors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts.

Greater Naples Fire Rescue District shall be responsible for purchasing and maintaining, its own liability insurance.

Certificates issued as a result of the award of this solicitation must identify "For any and all work performed on behalf of Greater Naples Fire Rescue District.

The General Liability Policy provided by Vendor to meet the requirements of this solicitation shall name Greater Naples Fire Rescue District as an additional insured as to the operations of Vendor under this solicitation and shall contain a severability of interest's provisions.

Greater Naples Fire Rescue District Board of Fire Commissioners shall be named as the Certificate Holder. The "Certificate Holder" should read as follows:

Greater Naples Fire Rescue District
Naples, Florida

The amounts and types of insurance coverage shall conform to the minimum requirements set forth in the Insurance and Bonding Requirements Attachment, with the use of Insurance Services Office (ISO) forms and endorsements or their equivalents. If Vendor has any self-insured retentions or deductibles under any of the below listed minimum required coverage, Vendor must identify on the Certificate of Insurance the nature and amount of such self-insured retentions or deductibles and provide satisfactory evidence of financial responsibility for such obligations. All self-insured retentions or deductibles will be Vendor's sole responsibility.

Coverage(s) shall be maintained without interruption from the date of commencement of the Work until the date of completion and acceptance of the scope of work by the District or as specified in this solicitation, whichever is longer.

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The Vendor and/or its insurance carrier shall provide 30 days written notice to the Fire District of policy cancellation or non-renewal on the part of the insurance carrier or the Vendor. The Vendor shall also notify the Fire District, in a like manner, within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, non-renewal or material change in coverage or limits received by Vendor from its insurer and nothing contained herein shall relieve Vendor of this requirement to provide notice. In the event of a reduction in the aggregate limit of any policy to be provided by Vendor hereunder, Vendor shall immediately take steps to have the aggregate limit reinstated to the full extent permitted under such policy.

Should at any time the Vendor not maintain the insurance coverage(s) required herein, the District may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverage(s) and charge the Vendor for such coverage(s) purchased. If Vendor fails to reimburse the District for such costs within thirty (30) days after demand, the Fire District has the right to offset these costs from any amount due Vendor under this Agreement or any other agreement between the Fire District and Vendor. The Fire District shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverage(s) purchased or the insurance company or companies used. The decision of the Fire District to purchase such insurance coverage(s) shall in no way be construed to be a waiver of any of its rights under the Contract Documents.

If the initial or any subsequently issued Certificate of Insurance expires prior to the completion of the scope of work, the Vendor shall furnish to the Fire District renewal or replacement Certificate(s) of Insurance not later than ten (10) calendar days after the expiration date on the certificate. Failure of the Vendor to provide the Fire District with such renewal certificate(s) shall be considered justification for the Fire District to terminate any and all contracts.

15. Security and Background Checks N/A

The Contractor is required to comply with Background checks are valid for five (5) years and the Contractor shall be responsible for all associated costs. If required, Contractor shall be responsible for the costs of providing background checks by the Greater Naples Fire Rescue District Finance Section for all employees that shall provide services to the Fire District under this Agreement. This may include, but not be limited to, checking federal, state and local law enforcement records, including a state and FBI fingerprint check, credit reports, education, residence and employment verifications and other related records. Contractor shall be required to maintain records on each employee and make them available to the Fire District for at least four (4) years.

All of Contractor's employees and subcontractors must wear Greater Naples Fire Rescue District Identification badges at all times while performing services on District facilities and properties. Contractor ID badges are valid for one (1) year from the date of issuance and can be renewed each year at no cost to the Contractor during the time period in which their

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background check is valid, as discussed below. All technicians shall have on their shirts the name of the contractor's business.

16. Debris

Vendor shall be responsible for the removal and disposal of all debris from the site and the cleaning of the affected areas. Vendor shall keep the premises free of debris and unusable materials resulting from their work and as work progresses; or upon the request of the County's representative, shall remove and dispose such debris and materials from the property. The Vendor shall leave all affected areas as they were prior to beginning work.

17. Direct Material Purchase

The Fire District reserves the right to require Vendor to assign some or all of its agreements with material suppliers directly to the Fire District. Any such goods and/or materials purchased by the Fire District pursuant to such an assignment of a material supply agreement shall be referred to as "District Furnished Materials" and the responsibilities of both the Fire District and the Vendor relating to said materials shall be governed by the terms and conditions of this solicitation.

Additionally, the Fire District at its sole option may choose to purchase some or all of the goods and/or materials from other suppliers. In either instance the Fire District may require the following information from the Vendor:

- Required quantities of material.
- Specifications relating to goods and/or materials required for job including brand and/or model number or type if applicable
- Pricing and availability of goods and/or materials provided under Vendor's agreements with material suppliers

18. Grant Compliance

The purchase of any goods and/or services that are funded through Federal Grant Appropriations, the State of Florida, or any other public or private foundations shall be subject to the compliance and reporting requirements of the granting agency. The Grant number is 5178-4-R

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19. Equipment

Vendor shall have available and in good working condition, the necessary equipment to perform the required service. If required by the Fire District, the Vendor shall supply a list of equipment and an hourly rate for each. Hourly rates will commence once equipment arrives at the service site, unless otherwise agreed in writing by the Fire District.

All Fire District-purchased equipment must be new and of current manufacture in production at the time of bid opening, and carry industry standard warranties. At the time of delivery, at least two (2) complete shop repair manuals and parts lists must be furnished with each type of equipment. Vendor must service all equipment prior to delivery and/or acceptance by the Fire District.

The scope of these specifications is to ensure the delivery of a complete unit ready for operation. Omission of any essential detail from these specifications does not relieve the Vendor from furnishing a complete unit.

20. Storage Tank Installation and Closure Requirements **N/A**

The contractor shall ensure compliance with all NFPA regulations: specifically, 110 & 30/30A; FDEP chapter 62 regulations: specifically, 761, 762, 777, and 780; 376 & 403 Florida Statutes; and STI, UL, PEI, ASME, NACE, NLPA, NIST & API referenced standards pertaining to the storage of hazardous materials and petroleum products.

The contractor shall notify the Solid & Hazardous Waste Management Department (SHWMD) prior to the installation, removal, or maintenance of any storage tank, including day tanks for generators, storing / will be storing petroleum products or hazardous materials. The contractor shall provide a 10 day and 48-hour notice to SHWMD 239-252-2508 prior to commencement.

The contractor shall provide the plans pertaining to the storage tank systems containing hazardous materials / petroleum products to the SHWMD prior to plans submittal to a permitting entity and then SHWMD must approve the plans prior to contractor's submittal for permitting.

21. 62-761.300 Applicability **N/A**

- 1) General Requirements:
 - a) Underground storage tank systems: The requirements of this Chapter, unless specified otherwise, apply to owners and operators of facilities, or owners and operators of UST systems with individual storage tank capacities greater than 110 gallons that contain or contained:

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- i) Vehicular fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984
 - ii) Pollutants or hazardous substances after December 10, 1990; or
 - iii) Regulated substances in unmaintained storage tank systems.
- b) This rule is applicable to non-residential facilities. Under 40 C.F.R. 280, residential tanks greater than 1100 gallons containing motor fuels are subject to Federal UST rules (advisory information only-not required by this Chapter).

22. 62-762.301, F.A.C. Applicability

- 1) General Requirements:
- a) Aboveground storage tank systems: The requirements of this chapter, unless specified otherwise, apply to owners and operators of facilities, or owners and operators of aboveground stationary storage tank systems with individual storage tank capacities greater than 550 gallons that contain or contained: Vehicular fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984
 - (1) Vehicular fuel, subject to Chapter 17-61, F.A.C., after May 21, 1984;
 - (2) Pollutants after March 12, 1991; or
 - (3) Pollutants in unmaintained storage tank systems.
 - b) Aboveground compression vessels and hazardous substance storage tank systems: Owners and operators of compression vessels and hazardous substance storage tanks with capacities of greater than 110 gallons containing hazardous substances are only required to comply with subsections 62-762.401(1)-(2), F.A.C.
 - c) Aboveground mineral acid storage tank systems: Owners and operators of facilities, or owners and operators of aboveground mineral acid storage tank systems with capacities of greater than 110 gallons containing mineral acids are only required to comply with Rule 62-762.891, F.A.C.

23. Definitions N/A

62-761.200(11) and 62-762.201(16), F.A.C.: **“County”** means a locally administered program under contract with the Department to perform compliance verification activities at facilities with storage tank systems.

62-761.200(48) and 62-762.201(62), F.A.C.: **“Pollutants”** includes any “product” as defined in Section 377.19(11), F.S., pesticides, ammonia, chlorine and derivatives thereof, excluding liquefied petroleum gas.

62-761.200(51) and 62-762.201(65), F.A.C.: **“Product”** as defined in Section 377.19(11), F.S., means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casing head gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, used oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or

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more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

62-761(73) and 62-762(84), F.A.C.: “**Vehicular fuel**” means a petroleum product used to fuel motor vehicles, including aircraft, watercraft and vehicles used on and off roads and rails.

****See attached forms required for submission****

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Attachment 1: Vendor's Non-Response Statement

The sole intent of the Greater Naples Fire Rescue District is to issue solicitations that are clear, concise and openly competitive. Therefore, we are interested in ascertaining reasons why prospective Vendors did not wish to respond to this ITB.

If your firm is not responding to this ITB, please indicate the reason(s) by checking any appropriate item(s) listed below and return this form via email or fax to the Procurement Strategist listed on the first page or mail to: Greater Naples, 14575 Collier BLVD, Naples, Florida 34119.

We are not responding to this ITB for the following reason(s):

Solicitation: 20-103R Grant Funded Generator for Station 21

- Services requested not available through our company.

- Our firm could not meet specifications/scope of work.

- Specifications/scope of work not clearly understood (too vague, rigid, etc.)

- Project is too small.

- Insufficient time allowed for preparation of response.

- Incorrect address used. Please correct mailing address:

- Other reason(s):

Firm's **Complete Legal** Name

Address

City, State, Zip

Telephone Number

FAX Number

Signature / Title

Type Name of Signature

Date:

Attachment 2: Vendor's Check List

IMPORTANT: THIS SHEET MUST BE SIGNED BY VENDOR. Please read carefully, sign in the spaces indicated and return with bid.

Vendor should check off each of the following items as the necessary action is completed:

1. The Bid has been signed.
2. The Bid prices offered have been reviewed.
3. The price extensions and totals have been checked.
4. The payment terms have been indicated.
5. All **granting agency requirements have been met including submittal of required forms.**
6. Any required drawings, descriptive literature, etc. have been included.
7. Any delivery information required is included.
8. If required, the amount of bid bond has been checked, and the bid bond or cashier's check has been included.
9. Addendum have been signed and included, if applicable.
10. Copy of Internet certification that the Vendor is not on the Federal Excluded Parties List System at: www.sam.gov.
11. Immigration Affidavit and a copy of the company's E-Verify profile page or memorandum of understanding.
12. Copies of licenses, equipment lists, subcontractors or any other information as noted in this ITB.

Company Name

Signature & Title

Date

Attachment 3: Vendor Response Form

FROM: _____

Board of Fire Commissioners
Greater Naples Fire Rescue District
Naples, Florida 34119

RE: **Solicitation: 20-103R Grant Funded Generator for Station 21**

Dear Fire Commissioners:

The undersigned, as Vendor, hereby declares that the specifications have been fully examined and the Vendor is fully informed in regard to all conditions pertaining to the work to be performed for as per the scope of work. The Vendor further declares that the only persons, company or parties interested in this Bid or the Contract to be entered into as principals are named herein; that this Bid is made without connection with any other person, company or companies submitting a Bid; and it is all respects fair and in good faith, without collusion or fraud.

The Vendor proposes and agrees if this bid is accepted, to comply with the requirements in full and in accordance with the terms, conditions and specifications denoted herein. The Vendor agrees to provide the following.

*** * * SEE FOLLOWING PAGES * * ***

Any discounts or terms must be shown on the Bid Response Form. Such discounts, if any, will be considered and computed in the tabulation of the bids. In no instance should terms for less than fifteen (15) days payment be offered.

Prompt Payment Terms: _____% _____ Days; Net __ Days

Bid Response Form for turnkey replacement of Generator per specifications \$_____

Note: The undersigned do agree that should this Bid be accepted, to execute a formal contract, if required, and present the formal contract to the Fire District for approval within fifteen (15) days after being notified of an award.

IN WITNESS WHEREOF, WE have hereunto subscribed our names on this _____ day of _____, 201__ in the County of _____, in the State of _____.

Firm's **Complete Legal Name** _____

Firm's Dun and Bradstreet Number (DUNS) _____

(Found at www.dnb.com)

CCR # or CAGE Code _____

(Found at www.ccr.gov)

Florida Certificate of Authority Document Number _____
(<http://www.sunbiz.org>)

Federal Tax Identification Number _____

Address _____

City, State, Zip _____

Telephone Number _____

FAX Number _____

- Check one of the following:
- Sole Proprietorship
 - Corp or P.A. State of _____
 - Limited Partnership
 - General Partnership

Signature / Title _____

Type Name of Signature _____

Date _____

Additional Contact Information

Send Payments To: (REQUIRED ONLY if different from above)

Firm's **Complete Legal** Name _____

Address _____

City, State, Zip _____

Contact Name _____

Telephone Number _____

FAX Number _____

Email Address _____

Attachment 4: Immigration Law Affidavit Certification

Solicitation # and Title : 20-103R Grant Funded Generator for Station 21

This Affidavit is required and should be signed, notarized by an authorized principal of the firm and submitted with formal Invitations to Bid (ITB's) and Request for Proposals (RFP) submittals. Further, Vendors / Bidders are required to enroll in the E-Verify program, and provide acceptable evidence of their enrollment, at the time of the submission of the vendor's/bidder's proposal. Acceptable evidence consists of a copy of the properly completed E-Verify Company Profile page or a copy of the fully executed E-Verify Memorandum of Understanding for the company. **Failure to include this Affidavit and acceptable evidence of enrollment in the E-Verify program, may deem the Vendor / Bidder's proposal as non-responsive.**

Greater Naples Fire District will not intentionally award County contracts to any vendor who knowingly employs unauthorized alien workers, constituting a violation of the employment provision contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act ("INA").

Greater Naples Fire District may consider the employment by any vendor of unauthorized aliens a violation of Section 274A (e) of the INA. Such Violation by the recipient of the Employment Provisions contained in Section 274A (e) of the INA shall be grounds for unilateral termination of the contract by the District.

Vendor attests that they are fully compliant with all applicable immigration laws (specifically to the 1986 Immigration Act and subsequent Amendment(s)) and agrees to comply with the provisions of the Memorandum of Understanding with E-Verify and to provide proof of enrollment in The Employment Eligibility Verification System (E-Verify), operated by the Department of Homeland Security in partnership with the Social Security Administration at the time of submission of the Vendor's / Bidder's proposal.

Company Name _____
Print Name _____ Title _____
Signature _____ Date _____

State of _____

County of _____

The foregoing instrument was signed and acknowledged before me this _____ day of _____, 20____, by

_____ who has produced _____ as identification.
(Print or Type Name) (Type of Identification and Number)

Notary Public Signature

Printed Name of Notary Public

Notary Commission Number/Expiration

The signee of this Affidavit guarantees, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made.

**Attachment 5: Vendor Substitute W – 9
Request for Taxpayer Identification Number and Certification**

In accordance with the Internal Revenue Service regulations, Greater Naples Fire District is required to collect the following information for tax reporting purposes from individuals and companies who do business with the County (including social security numbers if used by the individual or company for tax reporting purposes). Florida Statute

119.071(5) require that the county notify you in writing of the reason for collecting this information, which will be used for no other purpose than herein stated. Please complete all information that applies to your business and return with your quote or proposal.

1. General Information (provide all information)

Taxpayer Name _____ <i>(as shown on income tax return)</i>	
Business Name _____ <i>(if different from taxpayer name)</i>	
Address _____	City _____
State _____	Zip _____
Telephone _____ FAX _____	Email _____

Order Information

Remit / Payment Information

Address _____

Address _____

City _____ State _____ Zip _____

City _____ State _____ Zip _____

FAX _____

FAX _____

Email _____

Email _____

2. Company Status *(check only one)*

<input type="checkbox"/> Individual / Sole Proprietor	<input type="checkbox"/> Corporation	<input type="checkbox"/> Partnership
<input type="checkbox"/> Tax Exempt (Federal income tax-exempt entity under Internal Revenue Service guidelines IRC 501 (c) 3)	<input type="checkbox"/> Limited Liability Company	

3. Taxpayer Identification Number *(for tax reporting purposes only)*

Federal Tax Identification Number (TIN) _____ (Vendors who do not have a TIN, will be required to provide a social security number prior to an award of the contract.)

4. Sign and Date Form

Certification: *Under penalties of perjury, I certify that the information shown on this form is correct to my knowledge.*

Signature _____	Date _____
Title _____	Phone Number _____

Attachment 6: Insurance and Bonding Requirements

Insurance / Bond Type	Required Limits
1. <input checked="" type="checkbox"/> Worker's Compensation	Statutory Limits of Florida Statutes, Chapter 440 and all Federal Government Statutory Limits and Requirements
2. <input checked="" type="checkbox"/> Employer's Liability	<u>\$1,000,000.00</u> single limit per occurrence
3. <input checked="" type="checkbox"/> Commercial General Liability (Occurrence Form) patterned after the current ISO form	<p>Bodily Injury and Property Damage</p> <p><u>\$1,000,000.00</u> single limit per occurrence, \$2,000,000 aggregate for Bodily Injury Liability and Property Damage Liability. This shall include Premises and Operations; Independent Contractors; Products and Completed Operations and Contractual Liability.</p>
4. <input checked="" type="checkbox"/> Indemnification	To the maximum extent permitted by Florida law, the Contractor/Vendor/Consultant shall indemnify and hold harmless Greater Naples Fire Rescue, its officers and employees from any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees and paralegals' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor/Vendor/Consultant or anyone employed or utilized by the Contractor/Vendor/Consultant in the performance of this Agreement.
4. <input checked="" type="checkbox"/> Automobile Liability	<u>\$ 500,000.00</u> Each Occurrence; Bodily Injury & Property Damage, Owned/Non-owned/Hired; Automobile Included
5. <input type="checkbox"/> Other insurance as noted:	<p><input type="checkbox"/> Watercraft Occurrence \$ _____ Per</p> <p><input type="checkbox"/> United States Longshoreman's and Harborworker's Act coverage shall be maintained where applicable to the completion of the work.</p> <p style="text-align: right;">\$ _____ Per</p> <p>Occurrence</p>

Maritime Coverage (Jones Act) shall be maintained where applicable to the completion of the work.

Occurrence \$ _____ Per

Aircraft Liability coverage shall be carried in limits of not less than \$5,000,000 each occurrence if applicable to the completion of the Services under this Agreement.

Occurrence \$ _____ Per

Pollution
Occurrence \$ _____ Per

Professional Liability
claim and in \$ _____ Per
the
aggregate

- \$1,000,000 per claim and in the aggregate
- \$2,000,000 per claim and in the aggregate

Project Professional Liability
Occurrence \$ _____ Per

Valuable Papers Insurance
Occurrence \$ _____ Per

Employee Dishonesty / Crime
Occurrence \$ _____ Per

Including Employee Theft, Funds Transfer Fraud, Include a Joint Loss Payee endorsement naming Greater Naples Fire Rescue.

6. Bid bond
- Shall be submitted with proposal response in the form of certified funds, cashiers' check or an irrevocable letter of credit, a cash bond posted with the Finance Director, or proposal bond in a sum equal to 5% of the cost proposal. All checks shall be made payable to the Greater Naples Fire District on a bank or trust company located in the State of Florida and insured by the Federal Deposit Insurance Corporation.
7. Performance and Payment Bonds
- For projects in excess of \$200,000, bonds shall be submitted with the executed contract by Proposers receiving award, and written for 100% of the Contract award amount, the cost borne by the Proposer receiving an award. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to Owner; provided, however, the surety shall be rated as "A-" or better as to general policy holders rating and Class V or higher rating as to financial size category and the amount required shall not exceed 5% of the reported policy holders' surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038.
8. Vendor shall ensure that all subcontractors comply with the same insurance requirements that he is required to meet. The same Vendor shall provide County with certificates of insurance meeting the required insurance provisions.
9. Greater Naples Fire Rescue must be named as "**ADDITIONAL INSURED**" on the Insurance Certificate for Commercial General Liability where required.
10. The Certificate Holder shall be named as Greater Naples Fire Commissioners, OR, Greater Naples Fire Rescue District, OR Greater Naples Fire. The Certificates of Insurance must state the Contract Number, or Project Number, or specific Project description, or must read: For any and all work performed on behalf of the District.
11. **Thirty (30) Days Cancellation Notice** required.
-

Vendor's Insurance Statement

We understand the insurance requirements of these specifications and that the evidence of insurability may be required within five (5) days of the award of this solicitation.

Name of Firm _____ Date _____

Vendor Signature _____

Print Name _____

Insurance Agency _____

Agent Name _____ Telephone Number _____

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses

Requirements under the Uniform Rules. A non-Federal entity's contracts must contain the applicable contract clauses described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth below. 2 C.F.R. § 200.326. For some of the required clauses we have included sample language or a reference a non-Federal entity can go to in order to find sample language. Please be aware that this is sample language only and that the non-Federal entity alone is responsible ensuring that all language included in their contracts meets the requirements of 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II. We do not include sample language for certain required clauses (remedies, termination for cause and convenience, changes) as these must necessarily be written based on the non-Federal entity's own procedures in that area.

1. Remedies.

- a. Standard: Contracts for more than the simplified acquisition threshold (\$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, ¶ A.
- b. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

2. Termination for Cause and Convenience.

- a. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II, ¶ B.
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. Equal Employment Opportunity.

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, ¶ C.
- b. Key Definitions.

(1) Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(2) Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

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

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

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, 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, 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 considerations for employment without regard to race, color, religion, sex, or national origin.

(3) 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.

(4) 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.

(5) 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.

(6) 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 as 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.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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.”

4. Davis Bacon Act and Copeland Anti-Kickback Act.

- a. Applicability of Davis-Bacon 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.**
- b. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40

U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.

- c. 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.
- d. 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.
- e. In contracts subject to the Davis-Bacon Act, 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 at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.
- f. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the next subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. As such, FEMA requires the following contract clause:

"Compliance with the Copeland "Anti-Kickback" Act.

(1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) 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.”

5. Contract Work Hours and Safety Standards Act.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. 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.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

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

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (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 (1) of this section, in the sum of \$10 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 (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 (2) of this section.

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

6. Rights to Inventions Made Under a Contract or Agreement.

- a. Stafford Act Disaster Grants. 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.”
- b. If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by

FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.

- c. The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

- a. The following provides a sample contract clause concerning compliance for contracts of amounts in excess of \$150,000:

“Clean Air Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal

government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.”

8. Debarment and Suspension.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. 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).
- c. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ I; and Chapter IV, ¶ 6.d and Appendix C, ¶ 2. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; Chapter IV, ¶ 6.d and Appendix C, ¶ 2.
- d. In general, an “excluded” party cannot receive a Federal grant award or a contract within the meaning of a “covered transaction,” to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a “covered transaction,” which is any nonprocurement transaction (unless excepted) at either a “primary” or “secondary” tier. Although “covered transactions” do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS’s implementing regulations, it does include some contracts awarded by recipients and subrecipient.
- e. Specifically, a covered transaction includes the following contracts for goods or services:
 - (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.

- (2) The contract requires the approval of FEMA, regardless of amount.
 - (3) The contract is for federally-required audit services.
 - (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.
- d. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified:

“Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by (insert name of subrecipient). 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 (name of state agency serving as recipient and name of subrecipient), 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.”

9. Byrd Anti-Lobbying Amendment.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ J; 44 C.F.R. Part 18; Chapter IV, 6.c; Appendix C, ¶ 4.
- c. 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. See Chapter IV, ¶ 6.c and Appendix C, ¶ 4.

d. The following provides a Byrd Anti-Lobbying contract clause:

“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.”

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, 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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date"

10. Procurement of Recovered Materials.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. 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, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ K; 2 C.F.R. § 200.322; Chapter V, ¶ 7.
- c. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of

competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

“(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—

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) 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>.”

11. Additional FEMA Requirements.

- a. The Uniform Rules authorize FEMA to require additional provisions for non-Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:
- b. Changes.

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

- c. Access to Records.

All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and

agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).

d. The following provides a contract clause regarding access to records:

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

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”

12. DHS Seal, Logo, and Flags.

- a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v 3.0, ¶ XXV (2013).
- b. The following provides a contract clause regarding 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 FEMA pre-approval.”

13. Compliance with Federal Law, Regulations, and Executive Orders.

- a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- b. The following provides a contract clause regarding Compliance with Federal Law, Regulations, and Executive Orders: “This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor

will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.”

14. No Obligation by Federal Government.

- a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- b. The following provides a contract clause regarding no obligation by the 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.”

15. Program Fraud and False or Fraudulent Statements or Related Acts.

- a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. The following provides a contract clause regarding Fraud and False or Fraudulent 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.”

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses

Requirements under the Uniform Rules. A non-Federal entity's contracts must contain the applicable contract clauses described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth below. 2 C.F.R. § 200.326. For some of the required clauses we have included sample language or a reference a non-Federal entity can go to in order to find sample language. Please be aware that this is sample language only and that the non-Federal entity alone is responsible ensuring that all language included in their contracts meets the requirements of 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II. We do not include sample language for certain required clauses (remedies, termination for cause and convenience, changes) as these must necessarily be written based on the non-Federal entity's own procedures in that area.

1. Remedies.

- a. Standard: Contracts for more than the simplified acquisition threshold (\$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, ¶ A.
- b. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

2. Termination for Cause and Convenience.

- a. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II, ¶ B.
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. Equal Employment Opportunity.

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, ¶ C.
- b. Key Definitions.

(1) Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(2) Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

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

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

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, 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, 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 considerations for employment without regard to race, color, religion, sex, or national origin.

(3) 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.

(4) 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.

(5) 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.

(6) 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 as 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.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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.”

4. Davis Bacon Act and Copeland Anti-Kickback Act.

- a. Applicability of Davis-Bacon 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.**
- b. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40

U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.

- c. 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.
- d. 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.
- e. In contracts subject to the Davis-Bacon Act, 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 at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.
- f. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the next subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. As such, FEMA requires the following contract clause:

“Compliance with the Copeland “Anti-Kickback” Act.

(1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) 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.”

5. Contract Work Hours and Safety Standards Act.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. 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.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

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

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (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 (1) of this section, in the sum of \$10 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 (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 (2) of this section.

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

6. Rights to Inventions Made Under a Contract or Agreement.

- a. Stafford Act Disaster Grants. 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.”
- b. If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by

FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.

- c. The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

- a. The following provides a sample contract clause concerning compliance for contracts of amounts in excess of \$150,000:

“Clean Air Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal

government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.”

8. Debarment and Suspension.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. 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).
- c. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ I; and Chapter IV, ¶ 6.d and Appendix C, ¶ 2. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; Chapter IV, ¶ 6.d and Appendix C, ¶ 2.
- d. In general, an “excluded” party cannot receive a Federal grant award or a contract within the meaning of a “covered transaction,” to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a “covered transaction,” which is any nonprocurement transaction (unless excepted) at either a “primary” or “secondary” tier. Although “covered transactions” do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS’s implementing regulations, it does include some contracts awarded by recipients and subrecipient.
- e. Specifically, a covered transaction includes the following contracts for goods or services:
 - (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.

- (2) The contract requires the approval of FEMA, regardless of amount.
 - (3) The contract is for federally-required audit services.
 - (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.
- d. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified:

“Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by (insert name of subrecipient). 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 (name of state agency serving as recipient and name of subrecipient), 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.”

9. Byrd Anti-Lobbying Amendment.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ J; 44 C.F.R. Part 18; Chapter IV, 6.c; Appendix C, ¶ 4.
- c. 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. See Chapter IV, ¶ 6.c and Appendix C, ¶ 4.

d. The following provides a Byrd Anti-Lobbying contract clause:

“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.”

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, 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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date"

10. Procurement of Recovered Materials.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. 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, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ K; 2 C.F.R. § 200.322; Chapter V, ¶ 7.
- c. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of

competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

“(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—

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) 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>.”

11. Additional FEMA Requirements.

- a. The Uniform Rules authorize FEMA to require additional provisions for non-Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:
- b. Changes.

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

- c. Access to Records.

All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and

agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).

d. The following provides a contract clause regarding access to records:

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

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”

12. DHS Seal, Logo, and Flags.

- a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v 3.0, ¶ XXV (2013).
- b. The following provides a contract clause regarding 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 FEMA pre-approval.”

13. Compliance with Federal Law, Regulations, and Executive Orders.

- a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- b. The following provides a contract clause regarding Compliance with Federal Law, Regulations, and Executive Orders: “This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor

will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.”

14. No Obligation by Federal Government.

- a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- b. The following provides a contract clause regarding no obligation by the 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.”

15. Program Fraud and False or Fraudulent Statements or Related Acts.

- a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. The following provides a contract clause regarding Fraud and False or Fraudulent 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.”