



# Request for Proposal

## PROJECT NAME:

*City of Colfax  
Environmental and Historical Preservation Review (Phase I/II) and  
Program Management for Home Hardening (Phase III)*

## PROJECT SPONSOR:

*The City of Colfax  
33 S. Main Street  
Colfax, California 96713*

## PROJECT CONTACT:

*City of Colfax  
City Manager Ron Walker  
PH: (530) 346-9673  
EMAIL: [city.manager@colfax-ca.gov](mailto:city.manager@colfax-ca.gov)*

## PUBLIC NOTICE POSTED ON:

*November 5, 2024*

# 1.0 Introduction

## 1.1 Summary

The proposed Home-hardening Program is a partnership between the California Office of Emergency Services (Cal OES), Federal Emergency Management Agency (FEMA) California Forest and Fire Protection (CAL FIRE), and the City of Colfax. The program focuses on developing community home hardening programs to retrofit, harden, and create defensible space for homes at high risk from wildfires. This program targets residential uses that are at a high fire risk due to location, vegetation and access.

The intention of this project is to mitigate wildfire risk to residential buildings in the wildland urban interface within the corporate boundaries of the City of Colfax through ignition resistant construction and creation of defensible space around the buildings. The project will identify qualifying properties within the incorporated area and the implementation will be phased as the tasks identified in the scope of work are completed for the two hundred (200) properties that are program eligible.

## 1.2 Background

The City of Colfax (City) is currently working with CAL FIRE to implement measures identified by the City's adopted Home Hardening and Defensible Space program. The program will be funded by a Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant. As a provision of the grant, the homeowner will provide a percentage funding match, as determined by the City's Home Hardening Program (HHP). The Home Hardening initiative aims to perform defensible space and retrofit measures on existing residential homesites to mitigate against wildfire losses. The program proposes to target the one hundred and thirty-seven (137) residential units eligible for home hardening and defensible space improvements. The program has also identified sixty-three (63) units that could implement defensible space improvements. It is anticipated that the analysis necessary to qualify for funding and the improvements will be segmented into multiple phases.

Homeowners within the project area who apply to participate in the program will receive a home assessment by program staff to identify the defensible space and retrofit measures which are recommended to increase protection against wildfires. The program has a defined list of measures that may be implemented on homesites (Exhibit A). Not every home will receive all measures, but no homesite will have measures more extensive than those listed as eligible under the program.

The infusion of federal funds into the program requires compliance with federal and state environmental regulations, including the National Environmental Policy Act (NEPA), the California Environmental Quality Act (CEQA), and Section 106 of the National Historic Preservation Act. As such, the City seeks the professional services of qualified Subject Matter Experts (SME's) to inform the possible environmental impacts of this program in the proposed project areas including biological, archaeological, architectural, and historical research services. Subject Matter Experts in Archaeology or Architectural History shall meet the Secretary of the Interior's Historic Preservation Professional

Qualification Standards in their respective field. Subject Matter Experts in Biology and Botany shall possess at least one year of experience conducting reviews in California and experience with the pertinent species of concern for management areas.

### 1.3 Contact Information

#### **Ron Walker**

City of Colfax, City Manager  
33 S. Main Street  
Colfax, CA 95370

Email: [city.manager@colfax-ca.gov](mailto:city.manager@colfax-ca.gov) Phone: (530) 346-9673

## **2.0 Scope of Services**

### 2.1 Phase I: Environmental and Historic Preservation Reviews and Deliverables

#### **TASK 2.1.1 – Desk Review and Mapping Analysis**

Phase I of the project will involve a review of the project area and a list of specific parcels within the project area. This review will identify those parcels for which the proposed program measures may have little to no environmental impact (referred to as 'No Issue'). This desk review and mapping analysis will involve analyzing the project area and the list of 'No Issue' parcels against maps and databases listed below, and any other available information. The desk review will identify any parcel specific constraints for properties on the draft 'No Issue' list. The firm awarded the contract for this opportunity will provide an excel spreadsheet listing the 'No Issue' parcels which will be reviewed during Phase I. Any parcel determined to be historically or culturally significant should be flagged for removal from the list.

The draft 'No Issue' parcel list excludes parcels with a "year-built date" of 45 years or greater from the date of review, according to local Property Assessors records which has been approved by FEMA as the system of record for the Program. Those excluded parcels will be evaluated in Phase II.

Subject Matter Experts (SME) will evaluate the project area and the list of 'No Issue' parcels, considering the program's eligible hardening measures which may be performed on homesites participating in the program. These reviews should culminate in the production of the materials described below, which will be provided to FEMA for review and any necessary consultations:

#### **TASK 2.1.2- Biology and Botany**

Reviews must be completed by a Biologist and Botanist and must include the following:

- A. Property address and latitude/longitude coordinates for each 'No Issue' parcel.
- B. US Fish and Wildlife Service (USFWS) Information for Planning and

Consultation IPaC) report for the parcel.

C. California Natural Diversity Database report showing that the parcel is not in or adjacent to Federal ESA species sighting polygons. Dated reporting should be provided for the following:

- Species listed or proposed for listing as threatened, rare, or endangered under the federal Endangered Species Act (ESA) or California Endangered Species Act (CESA).
- Species considered as candidates for listing under the ESA or CESA.
- Wildlife species designated by CDFW as Species of Special Concern.
- Animals fully protected under the California Fish and Game Code.
- Plants considered by CDFW to be “rare, threatened, or endangered in California” (California Rare Plant Ranks [CRPR] of 1A, presumed extinct in California and not known to occur elsewhere; 1B, considered rare or endangered in California and elsewhere; 2A, presumed extinct in California, but more common elsewhere and 2B, considered rare or endangered in California but more common elsewhere), and sensitive natural communities, including wetlands under Federal or State jurisdiction, other aquatic resources, riparian habitats, and valley oak (*Quercus lobata*) woodland.
- A community-level map including species occurrences listed in the categories should be provided for a 3-mile buffer around the project area boundaries with a legend symbolizing each species. If possible, display these data and the ‘No Issue’ parcels at a scale of 1:46,000. If unable to distinguish parcels at this scale, divide community-level map(s) into different areas as necessary to show CNDDDB data in relation to the project. If no wildlife or plant occurrences are visible within 3 miles of project area boundaries, extend the buffer further to show the nearest occurrences. Include an assessment of possible impacts and proposed protection measures.
- Map printout of data from the USFWS Environmental Conservation Online System Threatened and Endangered Species Active Critical Habitat Report system showing that the property is not within critical habitat for any ESA species. A community-level map with a 3-mile buffer applied around the project area boundaries showing critical habitat, scaled at 1:75,000 or as appropriate, with species legend should be provided. If no critical habitat is visible within a 3-mile buffer around project area boundaries, extend this buffer to show the nearest critical habitat to the project area boundaries.
- USFWS National Wetland Inventory map showing that the vegetation clearance zone is not within 150 feet of a wetland or waterway. A community level map(s) at an appropriate scale should be provided showing any wetland areas within 3 miles of the project area boundaries. If no occurrences are visible within a 3-mile buffer around the project area boundaries, extend this buffer further to show the nearest wetland or waterway occurrences in relation to project area boundaries. If parcels are spread out or difficult to distinguish in relation to National Wetland Inventory data, provide parcel specific maps for each proposed ‘No Issue’ parcel with 150-foot buffer applied beyond the 100-foot construction/defensible space zone with a legend demonstrating that no wetlands or waterways are present within that area.

- D. A statement indicating that no vegetation clearing work will occur during bird nesting season (February 1 through August 31). If work must occur during this time, for compliance with the Migratory Bird Treaty Act and California Fish and Game Code, nesting bird surveys must be conducted by a qualified USFWS approved avian biologist no more than 7 days prior to planned work to locate nests within and adjacent to (150 feet beyond) the proposed work area. If no protected nesting birds are detected, the work may proceed, however, if construction activities pause for more than 7 days, another nesting bird survey must be conducted before construction can resume. Additional information on specific requirements, if a nest is detected, is detailed in the "CA Home Hardening Phase I Property Conditions" document. Post-clearance prior to or at grant closeout, proof of when vegetation clearing occurred, and the biological survey/monitoring having occurred (if required) will be necessary.
  
- E. A community-level USFS CalVeg Land Cover map with a 1-mile buffer applied beyond the project area boundaries and an assessment/discussion of findings. If these data fail to provide a clear picture of the surrounding land cover, this buffer should be extended to 3 miles or until a sufficient overview of the surrounding land cover is captured.
  
- F. A report on the methodology and findings for each area of assessment above. The report should include a table with data fields for each Federally protected wildlife and plant species by scientific name, common name, ESA status, number of occurrences, growth form, habitat types, blooming period, indication if critical habitat, potential to occur within work area(s), and potential to be impacted by the project. Occurrences in CNDDDB greater than 75 years old may be removed from the analysis. Note on an Excel spreadsheet any parcels that should be removed from the proposed 'No Issue' properties list, noting the factor affecting removal (wetland, presence of critical habitat, etc.). These parcels will undergo additional review during Phase II of the project if the homeowner applies to the program.

### **TASK 2.1.3 - Architectural History**

- A. Certification based on California Historical Resource Information System (CHRIS) records and other available sources of information that the property is not individually listed or eligible for listing in the National Register of Historic Places (NRHP) and not in or adjacent to a National Register of Historic Places (NRHP) listed or NRHP-eligible historic district as verified by CHRIS records.
- B. Property address and parcel number.
- C. Building year of construction.
- D. Source of the information utilized to determine building age.
- E. Provide a report of methodology and findings for each area of assessment. The report should identify the parcel number and address of all properties to be removed from the proposed 'No Issue' list. Also note on an Excel spreadsheet any parcels that should be removed from the proposed 'No Issue' properties list, citing the factor affecting removal (age of building, NRHP status, etc.). These parcels will undergo additional review if the homeowner applies to the program.

#### **TASK 2.1.4 - National Flood Insurance Program (NFIP)**

- A. Verification of National Flood Insurance Program (NFIP) participation if the property address is located within a floodway or the 100-year floodplain as based on the Flood Insurance Rate Map (FIRM). A FIRMette can be utilized, which is a web-based tool that displays the FIRM or flood map index selected for specific areas of interest. If the entire area of assessment is outside of the 100-year floodplain, this may be demonstrated in a community-level map(s) at a scale of 1:45,000 or a scale similar to those provided for the biological review. Parcel-specific maps are requested for those properties inside the 100-year floodplain.

#### **TASK 2.1.5 - Archaeology**

- A. Certification based on CHRIS records, a California Native American Heritage Commission (NAHC) Sacred Lands File search, and other available sources of information that the property does not contain any identified archaeological sites, other recorded cultural resources, or identified tribal cultural resources and is not likely to contain cultural materials on the ground surface in the location where work is proposed.
- B. Results of the California Native NAHC Sacred Lands File search and associated Native American contact list and their responses. The deliverables should include the request for a search of the Sacred Lands File and the NAHC's response and Native American contact list. FEMA will contact the Tribes and individuals identified.
- C. Provide a report of methodology and findings for each area of assessment, noting parcels to be flagged for removed from the draft 'No Issue' list. The report should identify the parcel number and address of all properties to be removed from the proposed 'No Issue' list.

Deliverables: Phase I deliverables should include all reports, mapping and information identified as part of the defined scope for this phase. In addition, the work product will include an Excel spreadsheet flagging the removal of any parcels that should be removed from the 'No Issue' properties list, citing the factor affecting removal (proximity to known archaeological sites, NAHC results, etc.). These parcels will undergo additional review during Phase II if the homeowner applies to the program.

#### 2.2 Phase II: Environmental and Historic Preservation Reviews and Deliverables

##### **TASK 2.2.1 –Environmental Phase II (Issue Parcels/Scope Analysis)**

As homeowners from within the project area apply to the Program and are determined to be eligible (confirmed to be the legal owner who authorizes access to the property), consultant will complete a home assessment and prepare a Scope of Work with proposed defensible space and retrofit measures to harden the homesite against the risk of wildfire. Consultant will determine if the homesite is on the 'No Issue' parcel list approved by FEMA Consultant will be doing assessments for both "issue" parcels (not on the no issue list) and the assessment for all "no issue" parcels. If desired, the Consultant can coordinate an agreement with CAL FIRE to perform assessments for the properties. If an agreement is made with CAL FIRE to perform the assessments, then the Consultant will be responsible for reviewing CAL FIRE's findings and recommendations. The Consultant will present all findings to City staff to ensure compliance with the City's HHP.

Any property that was not identified as a 'No Issue' parcel will be added to the Phase II portion of this analysis. These properties will be referred to SME's for further review and consideration. Additionally, any 'No Issue' property with a Scope of Work Flag that exceeds the property conditions established by FEMA for the program will be referred to the Phase II SMEs for review.

SMEs in the fields of Biology, Botany, Architectural History/Historic Architecture, and Archeology are required to support the program with site specific reviews of the defensible space and retrofit measures to be performed at specific homesites that are determined to be 'Issue' properties and/or that have a Scope of Work Flag.

'Issue' properties are those within the project area that are located on a parcel:

- In a special flood area;
- Within or within 150 feet of Federally designated critical habitat;
- Within or within 150 feet of a California Natural Diversity Database Endangered Species Act (ESA) species observation polygon;
- Containing a wetland or a body of water or are within 150 feet from one;
- With a property that is individually listed or eligible for listing in the National Register of Historic Places (NRHP) or within an NRHP-listed or NRHP-eligible historic district;
- With a Mills Act property or a property in or adjacent to a state or local historic district as verified by County or other local sources.
- With a building or structure that would be subject to home hardening and was
- constructed 45 years ago or greater at the time of application to the program;
- Where the proposed Scope of Work exceeds any of the property conditions on the "Phase I Property Conditions" document.

SMEs will review the property package, which will include the "Site Specific Checklist" (indicating the factors which prevented the parcel from being "No-Issue") and the home assessment report (includes pictures of the parcel that depict the overall home site, structure, and areas where work is proposed, and a summary of the defensible space and retrofit measures proposed to be performed by the program).

### **TASK 2.2.2 - Architectural History**

SME will:

- A. Review the reports prepared during Phase I of the project, as applicable.
- B. Review home assessment report/site specific Scope of Work for homesites with a year- built date of 45 years or greater for which a home hardening retrofit activity is proposed.
- C. Review the home assessment report for any properties that are determined to be of historical or cultural significance due to their listing on a local register, the California Register of Historical Resources (CRHR), or NRHP as an individual property or element of a historic district; their status as indicated in the California Built Environment Resources Directory; their status as a Mills Act property, as verified by County or other local sources; and/or California Historic Resources Information System (CHRIS) records indicating the property is in or adjacent to a state or local historic district.

- D. Review the home hardening retrofit Scope of Work against the Programmatic Allowances in Appendix B of the 2019 Programmatic Agreement among FEMA, Cal OES, and the California State Historic Preservation Officer. If the retrofit does not meet Programmatic Allowances, the SME will evaluate the building or structure for listing in the National Register of Historic Places (NRHP) following significance criteria under 36 CFR 60. The SME also will assess whether the proposed scope would result in an adverse effect to the building or structure per Section 106 of the National Historic Preservation Act.

Participate in consultation(s) with FEMA and other federal, state, or local partners as necessary if the building or structure is determined to be NRHP-eligible to develop and agree upon the scope and materials used. This may require field visits.

Upon review of specific properties and measures proposed to be performed by the program, the SME will provide input regarding whether the project should be approved as proposed with no concerns or will propose alternative methods or materials to best preserve the historical integrity of the property and avoid adverse effects.

Deliverables: Comprehensive Wildfire Management Plan (CWMP) SME Review Form or equivalent.

### **TASK 2.2.3 - Archaeology**

SME will:

- A. Review the reports and maps prepared by SMEs during Phase I of the project, as applicable.
- B. Review the home assessment report/site specific Scope of Work to determine if project activities meet Programmatic Allowances II.F.2.a-d (see Bullet 8 above for definition of 'Issue' properties) for defensible space measures.
- C. Review CHRIS records, NAHC Sacred Lands File search results, and other available sources of information to determine if a property contains any identified archaeological sites, other recorded cultural resources, identified tribal cultural resources, or may possess a high likelihood of containing cultural materials on the ground surface in the location where the work is proposed if the home assessment report/site specific Scope of Work does not meet Allowances II.F.2.a-d.
- D. Participate in consultation(s) with FEMA and other federal, state, or local partners as necessary.
- E. If requested, provide technical expertise and support related to the assessment, NRHP evaluation, and avoidance or mitigation of unexpected discoveries (prehistoric or historic period cultural materials or features).

Upon review of specific properties and measures proposed to be performed by the program, the SME will provide input regarding whether the project should be approved as proposed or will propose alternative methods or mitigation measures to avoid adverse effects to any cultural resources associated with the property.

Deliverables: CWMP SME Review Form or equivalent.



#### **TASK 2.2.4 - Biological & Botany Resources Support**

Reviews must be completed by a Biologist and Botanist with at least one year of experience conducting reviews in California and one year of experience with the pertinent species of concern for the management areas. These SME's will:

- A. Review the reports and maps prepared by Subject Matter Experts during Phase I of the project, as applicable.
- B. Review proposed measures to be performed at homes located within wetland, special flood, or critical habitat areas based upon:
  - US Fish and Wildlife Service (USFWS) Information for Planning and consultation (IPaC) reports and maps of the project area showing critical habitat for any ESA species within the property area or within a 3-mile buffer.
  - California Natural Diversity Database report showing that the property is within or adjacent to ESA species sighting polygons. Occurrences in CNDDDB greater than 75 years old may be removed from the analysis.
  - USFWS National Wetland Inventory map showing that the vegetation clearance zone is within 150 feet of a wetland or waterway.

Upon review of specific properties and measures proposed to be performed by the program, the SME will provide input to either approve those measures as proposed or provide alternative methods or mitigations to best preserve the environmental integrity of the property.

Deliverables: CWMP SME Review Form or equivalent.

In addition to reviewing 'Issue' parcels and those with scope of work flags as previously described, the Biology SME will:

- A. If work must be performed during bird nesting season (Feb 1 – Aug 31), compliance with Migratory Bird Treaty Act and California Fish and Game Code is required. A qualified USFWS-approved avian biologist must perform nesting bird surveys no more than seven days prior to the commencement of site work during Migratory Bird Season (February 1 – August 31) and, if work pauses for more than seven days to locate nests within and adjacent to (150 feet beyond) the proposed work area., perform another nesting bird survey before construction resumes. If no protected nesting birds are detected, the work may proceed, however it must be conducted before construction can resume. If an active nest is detected during the survey, either work must be suspended until the young have fledged OR the following will apply:
  - An exclusionary buffer will be established around the nest. The buffer distance will be determined by the USFWS-approved biologist considering several factors: presence of natural buffers (vegetation/topography), nest height, location of foraging territory, nature of the proposed activities, and baseline levels of noise and human activity. The buffer may range from 50 feet to over 250 feet in width.
  - The biologist must monitor the nest during construction for signs of adverse effects including distress/disturbance (since "take" is not authorized). If adverse effects are detected, then the biologist will have the authority to stop all construction activity in the vicinity of the nest.

- The biologist must continue to monitor the nest and will determine when the young have fledged. Once young have left the nest the buffer and exclusion zone may be removed and construction activities within these areas may resume.
- The survey should extend 150 feet beyond the proposed work area.
- No work will occur within 500 feet of an active Federally protected Threatened or Endangered species nest, for all other species, if an active nest of any bird species is identified, the project biologist will designate a species-specific no equipment/no activity buffer of a minimum of 100 feet (2,640 feet for eagles) around the nest. The biologist will assess each active nest for the species tolerance to human activity, vegetation or other materials that may screen the nest from noise or view of the work, the nature of the work, or other environmental factors.
- Monitor the nest during construction for signs of species disturbance (since “take” is not authorized).
- If adverse effects are detected, request that construction activity in the vicinity of the nest be halted.
- Continue to monitor the nest and determine when young have fledged.
- Once young have left the nest OR the beginning of the nonbreeding season is reached, the exclusionary buffer may be removed and construction activities within these areas may resume.
- Participate in consultation(s) with FEMA and other federal, state, or local partners, as necessary.
- Conduct field visits as required.

Deliverables: After the review of the appropriate reviews as described above, the SME(s) will return the stated deliverables to Ron Walker, City of Colfax City Manager or his assignee. SME’s may use the “CWMP SME Review Form” created for the program (and approved by FEMA) or a similar document containing the same information (indicating: no adverse impact or concerns, alternate methods or materials, or proposed mitigations along with any additional reports prepared by the SME). FEMA will review the property package including the Subject Matter Expert Review and Certification Form. If FEMA has questions regarding the property and requires additional input from the SME or any support with subsequent consultations, this will be communicated through Ron Walker, City of Colfax City Manager or his assignee.

### 2.3 Phase III: Project and Construction Management of the City of Colfax’s Home Hardening Program

#### **TASK 2.3.1 – Project and Construction Management**

The third phase of the proposal is for the consultant to provide project and construction management for the Home Hardening Program for the City of Colfax. As part of this phase of the scope of work the consultant will be responsible for the following duties:

- A. Implement the rules and regulations of the Home Hardening Program.
- B. Provide consultation and technical services to the public regarding the Home Hardening program.
- C. Provide homeowner outreach and program marketing to eligible parties.

- D. To better serve the community, regular office hours at City Hall should be established by the consultant. (approximately 4 to 6 hours per week).
- E. Coordinate right-of-entry for individual properties to fulfill required assessments and evaluations.
- F. Provide case management duties as outlined in sections G-M.
- G. Conduct property inspections, prepare work write-ups and cost estimates; ensure eligibility of work items; evaluate bid responses submitted by contractors; ensure contractor meets all necessary requirements; conduct preconstruction meetings with all parties when required; and provided post construction walk-throughs.
- H. Provide the City of Colfax with documentation that all approved work has been completed, per the approved "Scope of Work" following completion of improvements.
- I. Complete documentation for historical preservation, lead based paint and flood insurance.
- J. Coordinate, monitor and inspect progress of mitigation projects;
- K. Conduct final inspections in conjunction with Building Department (as necessary); obtain copy of City building permits; and process Notice of Completions.
- L. Review each program case file to ensure all documentation is in accordance with regulations for monitoring and auditing.
- M. Coordinate annual monitoring of approved grants.

### **3.0 RFP PROCESS**

#### 3.1 PROPOSAL SUBMISSION

Sealed proposals must be received NO LATER THAN 4:00 PM, PT on January 6, 2025. Proposals shall contain the following:

- One (1) digital copy of the proposal in a PDF format, One (1) original hardcopy and Five (5) hardcopies.
- Address proposals to: Ron Walker, City of Colfax, City Manager.

RFPs submitted following this timeframe and date cannot be considered and will not be accepted.

#### 3.2 SCHEDULE OF EVENTS

The anticipated schedule of events is as follows:

<b>DATE</b>	<b>MILESTONES</b>
November 5, 2024	Request for Proposal Released to Consultants
December 13, 2024	Deadline for City to receive written questions on RFP. Questions to be submitted by 5:00 PM.
December 20, 2024	City to provide written responses for questions received on the RFP. Questions to be submitted by 5:00 PM as stated above.

DATE	MILESTONES
January 6, 2025	Deadline for Consultant RFP Submittal – A digital PDF copy, One (1) Original and Five (5) copies of Proposals must be received by 4 p.m.
January 23, 2025	Notice of contract award (Tentative)
January 22, 2025	City Council Meeting/Contract execution (Tentative)

### 3.3 QUALIFICATIONS

Consultant shall include the firm’s qualifications and experience in performing environmental assessment and historical preservation in compliance with Federal and State regulations associated with Home Hardening Programs (HHP’s), or similar Federally sponsored programs. Qualifications and experience will also state the Consultant’s qualifications and experience in working on HHP’s or similar housing rehabilitation services, including the review and evaluation of contractor bid submittals, working with contractors, and conducting property inspections.

### 3.4 CLIENT REFERENCES

Consultant shall submit three (3) references regarding their Environmental and Historical assessment abilities. The references shall identify the client, a contact name, telephone number, description of the service provided, and the location where the service was performed.

### 3.5 FORMAT FOR PROPOSALS

Consultant shall provide the following information:

- Letter of transmittal signed by an individual authorized to bind the proposing entity.
- General information about the consultant (i.e., location of office(s), years in business, organization chart, number and position titles of staff).
- Qualifications of staff proposed for the assignment.
- Detailed description of the consultant’s understanding of the City’s needs and a detailed plan demonstrating how the consultant will satisfy these needs, including proposed office hours spent at City Hall.
- Description of the services the consultant proposes to provide.
- Compensation schedule.

Consultant submitting a proposal that includes the use of subcontractors shall provide the information identified above for each subcontractor.

### 3.6 EVALUATION PROCESS AND SELECTION CRITERIA

Evaluation of the proposals will be based upon a competitive selection process. It will not, however, be limited to price alone. The City staff will review all statements or proposals received by the stated deadline. The candidates will be evaluated on the following criteria and scored as follows:

<b>Points</b>	<b>Assessment of RFP Response</b>
15	General firm experience in the same or similar scope :
10	Ability to understand and perform the Program tasks efficiently and in accordance with the requirements of State and Federal regulations:
25	Specific experience as it pertains to the Scope of Work above;
15	Capacity to perform the Scope of Work and ability to conclude the work in a timely manner:
15	Quality of staff and their availability:
5	Overall timeline for completion of deliverables in item 2.1.1-2.1.5
15	Cost of Services
<b>100</b>	<b>TOTAL</b>

Additional questions may be asked of those submitting a proposal and formal interviews may be conducted as well. Respondents will be notified of any additional required information or interviews after written proposals have been evaluated.

Consultant must satisfy the City of its ability to perform the services required. Consultant must demonstrate and document a history of timely and satisfactory performance of similar projects in a manner that addresses the stated evaluation criteria. Consultant shall be responsible for the accuracy of the information supplied concerning references.

In addition, the City may consider evidence of untimely and unsatisfactory performance on prior similar projects or litigation by the Consultant on previous contracts to disqualify any Consultant.

### 3.7 PROPOSAL TERMS AND CONDITIONS

It is the responsibility of each proposer to be familiar with all of the terms and conditions of the RFP. By the submission of a proposal, the proposer certifies that if awarded a contract, the proposer will make no claim against the City based upon ignorance or misunderstanding of the specifications.

By submitting a proposal, each proposer certifies that all statements in this proposal are true. This constitutes a warranty, the falsity of which shall include the right, at the City's option, of declaring any contract made, as a result thereof, null and void. Proposals shall be completed, executed, and submitted in accordance with the instructions of this RFP. If a proposal is not submitted in the format specified in this RFP, it may be rejected, unless the City determines that the nonconformity is either a minor irregularity or that the defect or variation in the proposal is immaterial or inconsequential. The City may give the proposer an opportunity to cure any deficiency resulting from a minor irregularity or an immaterial or inconsequential defect, or the City may waive such deficiency, whichever is most advantageous to the City.

The City cannot accept proposals from any individual who is currently employed with the City of Colfax (California Government Code §29708).

### 3.8 COST OF PROPOSED SERVICES

Describe your proposed basis for determining the cost of the requested consulting services, including fee schedules, for the term of the contract. Fee schedules should

reflect the three (3) phases of this scope: Phase I – Environmental and Historical Review and Deliverables; Phase II -Environmental and Historical Review and Deliverables; and Phase III – Management of the HHP. The work will be issued via task order. Not all tasks will start immediately upon contract award. The City has attached a standard pricing template to this RFP (Exhibit D). The template is required as a submittal component of this RFP and an electronic version is available by accessing the following link: <https://colfax-ca.gov/>. A hardcopy is required to be completed and submitted as part of each proposer's response. Firms that do not comply with this requirement will be eliminated from consideration of this RFP.

## **4.0 OTHER REQUIREMENTS**

### 4.1 ADDENDA

If any person contemplating submitting a proposal for the Environmental and Historical Evaluation, Project and Construction Management is in doubt as to the true meaning of any part of this Request for Proposal, that person may submit to the City Manager, or his assignee, a written request for an interpretation or correction.

Any interpretation or correction of the specifications will be made only by addendum issued by the City Manager or his assignee. Copies of addenda will be mailed, emailed or delivered to those persons who have received an RFP.

### 4.2 SPECIFICATIONS NOT CONTRACTUAL

Nothing contained in this Request for Proposal shall create any contractual relationship between the Consultant and the City. The City accepts no financial responsibility for costs incurred by any Consultant regarding this RFP.

### 4.3 PROOF OF AUTHORITY

If the Consultant is a corporation, formal proof of the authority of the officer signing the proposal to bind the corporation must be submitted with said proposal. A copy of the corporate resolution, or minutes or letter may be adequate proof.

### 4.4 RESERVATIONS

The City reserves the right to reject any and all proposals, and to waive any nonconformity of proposals with this RFP, whether of a technical or substantive nature, as the interest of the City may require.

### 4.5 WITHDRAWAL OF PROPOSAL

Consultant may withdraw its proposal, either personally or by calling the Colfax City Manager or written request. This should be done prior to the time set for the opening of proposals.

### 4.6 FIRM COMMITMENT OF AVAILABILITY OF SERVICE

The City shall have two months from the date required for submission of all proposals within which to evaluate the proposals received and to decide which proposal, if any, to accept. During such period, the Consultant shall remain ready, willing, and able to begin work as set forth in the proposal if accepted by the Council.

#### 4.7 INDEPENDENT CONTRACTOR

The Consultant is, as to the City, a wholly independent contractor. The Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City.

#### 4.8 LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of all local, State and Federal laws and regulations, including, but not limited to, those pertaining to conflict of interest, which in any manner affect those employed by it or in any way affect the performance of its housing rehabilitation program administration services. The Consultant shall at all times observe and comply with all such laws and regulations.

#### 4.9 CONSULTANT'S ACCOUNTING RECORDS

Records of Consultant's direct personnel, consultants, and reimbursable expenses pertaining to the work and records of accounts between City and Consultant shall be kept on a generally recognized standard accounting basis and shall be available to City or its authorized representatives at mutually convenient times.

#### 4.10 LIABILITY INSURANCE REQUIREMENTS FOR CONSULTANTS

Please refer to Exhibit B, Draft Agreement with Insurance Requirements, which is attached to this RFP.

#### 4.11 TERM

The term of the services provided will be three (3) years as indicated in the attached Exhibit B. The term for the agreement will expire on **January 22, 2028**. The term of the agreement can be extended upon mutual agreement between the City and the Consultant. All requests for extension shall be submitted in writing to the City 30 days prior to the termination of the agreement. The project can be extended for two (2) one (1) year periods upon City approval.

#### 4.12 NON-DISCRIMINATION

The Contractor selected through this RFP shall provide services without discrimination based on race, creed, color, ethnic or linguistic identification, gender or sexual preference, disability or handicap or any other basis prohibited by law.

#### 4.13 PROTEST/APPEALS PROCESS

The following procedure is provided in the event that a proposer wishes to protest the RFP process or appeal the recommendation to award a contract for Environmental/Historic Preservation (EHP) Review and Administration for the City's Home Hardening Project once the Notices of Award/Non-Award have been issued.

Any protest must be submitted in writing to the City of Colfax, 33 S. Main Street, Colfax, CA, 96713, Attention: Ron Walker, City Manager.

The protest must be submitted before 5:00 p.m. on the tenth (10th) business day following the date of the Notice of Award.

The protest must contain a complete statement of the basis for the protest. The protest must include the name, address, telephone number and e-mail address of the person representing the protesting party.

The procedure and time limits are mandatory and are the proposer's sole and exclusive remedy in the event of a bid protest.

Proposer's failure to comply with these procedures shall constitute a waiver of any right to further pursue the protest, including filing a Government Code claim or legal proceedings.

Upon receipt of written protest/appeal, the City Manager will review and provide an opportunity to settle the protest/appeal by mutual agreement, will schedule a meeting to discuss or issue a written response to advise of an appeal/protest decision within five (5) business days of receipt of the appeal/protest.

#### 4.14 TERMINATION FOR CONVENIENCE

Except as provided in the code federal procurement standard, awards may be terminated in whole or in part only as follows:

- A. By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or
- B. By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either § 600.243 or paragraph (a) of this section.

#### 4.15 TERMINATION FOR CAUSE



If the sponsor or planning agency fails to comply with the conditions of the grant, the FAA may, by written notice to the sponsor or planning agency, terminate the grant in whole, or in part.

The notice of termination will contain—

- (1) The reasons for the termination, and
- (2) The effective date of termination.

After receipt of the notice of termination, the sponsor or planning agency may not incur additional obligations of grant funds.

Payments to be made to the sponsor or planning agency, or recoveries of payments by the FAA, under the grant shall be in accordance with the legal rights and liabilities of the parties.

#### 4.16 FEDERAL REGULATIONS

Proposals and work to be performed shall comply with all relevant federal grant requirements and state specific policies, and procedures. Federal regulations to be conformed with as part of this project have been attached in Exhibit C.

#### **Attachments:**

- Exhibit A – City of Colfax Home Hardening Program
- Exhibit B - Draft Consultant Agreement with Insurance Requirements for the City of Colfax
- Exhibit C – Federal Regulations
- Exhibit D – Pricing Template

**Exhibit A**

City of Colfax Home Hardening Program

# **City of Colfax Community Home Hardening and Defensible Space**

## **Application AP-00866**

### **Scope of Work**

#### **Introduction**

The goal of the City of Colfax's Community Home Hardening and Defensible Space Program is to increase the resilience to wildfire and reduce the threat to life and residential property within City limits. The primary activities and objectives to reach these goals are:

- Provide critical outreach and education to the public about wildfire loss prevention and mitigation opportunities.
- Perform site assessments for identification of wildfire home hardening/retrofit and defensible space projects which may reduce the risk of wildfire ignitions on private residential property.
- Perform home hardening activities on residential structures to mitigate vulnerable building elements that pose a risk for wildfire ignition.
- Perform defensible space measures around residential structures reducing vegetation.

The program will include a rebate program for property owners who implement recommended retrofits or improvements detailed in the assessment reports. There are many strategies that can be implemented to mitigate and reduce the risk of wildfires to private residential structures. For the scope of this program, projects will be limited to strategies that include ignition-resistant construction and defensible space. This project will NOT include Fire Scaping, fire-resistant landscaping, or landscape maintenance.

#### **Program Implementation**

The program will be implemented in two (concurrent) phases as described below.

##### **Phase I**

Phase I will include the development of program documentation, program training, homeowner outreach and education, community workshops, property inspections/assessment, property list development and preparation of FEMA property packages. It is expected that Phase I will extend through months 1-12 of the project timeline, although it is anticipated that completed FEMA property packages will be submitted for approval as often as every three months.

Detailed activities and deliverables for Phase I include:

1. Development of Program Documents – Development and compilation of all program documentation
  - a. Program Guidelines and Information packets
  - b. Homeowner application and verification forms
  - c. Educational materials for training and workshops
2. Education and Outreach
  - a. Program Information workshop for Vendors. Workshop required for contractors to be included on “available” list in information packets

- b. Inspector Training for Home Hardening assessments
- c. Outreach to Homeowners/Participants
- d. Community Workshops
- 3. Inspection and Application
  - a. Defensible Space Inspections/verifications
  - b. Home Hardening Inspections
  - c. Homeowner application intake -
    - i. Contractor estimates – reviewing assessor report and formulating
    - ii. Memorandum of understanding – Homeowner, City, and Contractor agreement (scope of work)
    - iii. Preparation of FEMA property packages
  - d. Initial Environmental Reviews - CEQA/NEPA – data gathering
    - i. Arborist/Biological and Forestry surveys, Botanists, Architectural Historian, Archeologist.
- 4. Submittal to FEMA – Site specific property packages to be submitted to Sales Force to FEMA process/batched.

### **Phase II**

This phase will include the implementation of the physical work.

Detailed activities and deliverables for Phase II include:

- 1. CEQA/FEMA Environmental Support
  - a. Completion of any required environmental work which was not include in Phase i
- 2. Homeowner Contract Signing
  - a. Homeowner/Contractor/City third party agreement
- 3. Permitting
  - a. Local building code process
- 4. Home Hardening and Defensible Space Performance/Inspections
  - a. Contractor Notice to Proceed
  - b. Construction management/Project Manager site visits
  - c. Change order Management
- 5. Final Inspections and property closeout
  - a. Final inspections and Certificate Process
  - b. Closeout packages prepared

### **Eligible Structures**

This program is intended to provide funding for the implementation of defensible space and home hardening projects for residential properties located within Colfax City limits. Residential properties include:

- Single Family residential structures (including rentals)
- Mobile Homes

Structure types above must be located within City limits. Structures served through this program may be stick-built or modular. Structures may be multi-family, such as a duplex or a quadplex, and may also be multi-story. In some instances, based on unique property characteristics, program funds may be used to mitigate the wildfire threat posed by ancillary structures such as storage buildings and detached garages. Properties used as rental (not owner-occupied) may be eligible, but the program will not serve apartment complexes at this time.

### **Number of Structures**

The goal of this home hardening project is to harden 137 residential structures along with performing defensible space measures for majority of the same structures. Note, if defensible space is already performed, pictures will be provided to demonstrate and be provided in the property package.

### **Eligible Activities – Home Hardening**

1. Vents
  - a. Ridge Vent
  - b. Addition of metal baffle
    - i. Replacement of ridge vent w/ metal ridge vent
  - c. Off Ridge
    - i. Replacement with ember and flame-resistant vent
  - d. Gable vent
    - i. Removal of gable vent
    - ii. Replacement of gable vent with ember and flame-resistant vent
  - e. Under eave and any vents in the undereave area on the rake (gable) end of the building
    - i. Replacement with ember and flame-resistant vent, add fire caulking around all blocking
    - ii. Create a soffited eave (horizontal) or closed eave (angled) using non-combustible or ignition-resistant material.
  - f. Crawl space vents
    - i. Replacement with ember and flame-resistant vent
    - ii. Replacement with ember and flame-resistant vent and add moisture barrier (reducing required vent area by 10x)
    - iii. Conversion to unvented crawl space
  - g. Dryer vents
    - i. Installation of a Metal flapper (closed unless in use)
  - h. Makeup air intake
    - i. Replacement with ember and flame-resistant vent
  - i. Other penetrations (electrical, water)
    - i. Closing with fire caulking and inspect during routine maintenance Gutters
2. Doors
  - a. Exterior door (non-sliding)
    - i. Installing metal Jam Door kit and metal threshold, adding metal kick plate and add a metal door bottom

- ii. Replacing with metal door frame and metal threshold, add metal kick plate and add a metal door bottom
    - iii. Installation of Double pane windows (both panes tempered)
  - b. Exterior Door (sliding)
    - i. Replacing with non-wood containing slider with dual pane tempered glass and with a metal screen.
    - ii. Installation of Double pane windows (both panes tempered)
  - c. Wood screen door
    - i. Replacing wooden screen door with metal door and frame
  - d. Plastic screen in screen door
    - i. Replacing with metal screen (1/16 inch<)
  - e. Garage door
    - i. If garage door is not metal, going over with metal flashing around the bottom of the door (both inside and outside for first 6 inches (using a metal "C" channel)
    - ii. Adding metal flashing at base of framing for first 6 inches, going as close to the ground as possible (< 1/4 inch desired, raise wood and extend flushing to lower than bottom of wood)
    - iii. Adding gasketing if gaps are present
- 2. Windows
  - a. Windows Screens
    - i. Adding screen metal on exterior opening windows
    - ii. Screening over entire window(s) (even if window does not open) and other glazed surface. Framing for screens must be of non-combustible material
    - iii. Exposed wooden frame single pane
      - a. Replacement with non-combustible frame and double pane
    - iv. Exposed wooden frame double pane without screen
      - a. Adding a metal screen
      - b. Replacement with non-combustible frame and double pane
- 3. Roofs
  - a. Skylights
    - i. Replacing plastic skylight with multipane option, with tempered glass outer pane. If skylight opens, installation of metal screen on the inside. If screen is non-metal, replacement with metal.
  - b. Roof to Skylight
    - i. Checking for standard metal flashing and that no exposed wood is present, repair as necessary.
  - c. Roof assembly particulars (dormer and other roof-to-wall intersections)
    - i. Installing metal flashing at roof-to-wall – guidance to avoid moisture problems

- ii. If combustible, replace siding with non-combustible in that area only (e.g.: dormer or split-level residence)
  - d. Gutter
    - i. Installation a noncombustible gutter cover.
    - ii. Installation of a metal drip edge
    - iii. Removing the gutter
    - iv. If there is no gutter, adding metal flashing if fascia does not cover roof sheathing
    - v. If a non-combustible gutter cover cannot be installed on combustible gutter, gutter must be replaced with a non-combustible material and fitted with non-combustible cover
    - vi. Roof Covering - old wood shake
      - a. Replacement with Class A with non-combustible bird stopping if bird stopping is needed
    - vii. Roof Covering – Class B
      - a. Replacement with Class A when needed (Guidance needed)
    - viii. Roof Covering – Class C
      - a. Replacement with Class A when needed (Guidance needed)
    - ix. Roof Covering (tile or metal) with openings between roof covering and edge or ridge
      - a. Closing or plugging with non-combustible (discuss non-combustible need and mineral wool option)
- 4. Walls
  - a. Height of wall assembly from the Ground
    - i. Replacement of exterior wall covering with noncombustible for the bottom 2 ft
  - b. Bump Outs
    - i. Adding on top (of existing cladding) or replace with non-combustible cladding. Trim must be non-combustible
    - ii. If exposed framing, enclosing with non-combustible material. If enclosed with combustible material, replacing, or covering with non-combustible material. Trim must be non-combustible and extend (vertically) to account for added material
  - c. Dormer Considerations
    - i. Side
      - Replacement all combustible siding with non-combustible options
    - ii. Undereave
      - Replacement all under eave construction with non-combustible options or cover with non-combustible material
    - iii. Window
      - Replacement with dual pane window with one being tempered
- 5. Attachments to Residences
  - a. Decks, stairs, and landings that attached to residence

- i. Replacement of walking surface deck boards with non-combustible deck board for first 1 ft away from residence
    - ii. Replacement of entire deck with non-combustible option (metal or other option). - Distance guidance needed
  - b. Deck-to-wall intersection
    - i. Installation of 6" flashing at deck-to-wall intersection
    - ii. Replacement of the bottom 6 inches of combustible siding with non-combustible (e.g.: fiber cement)
  - c. Comb. decks with combustibles present in 0-5 ft zone around deck
    - i. Removal of combustibles in 0-5 ft zone around deck
  - d. Fence to residence
    - i. Replacement with non-combustible option (metal or other option). - Distance guidance needed (8' minimum)
  - e. Steps connected to residence
    - i. Introduction of non-combustible barrier/section between steps and house - minimum 12 inches
    - ii. Introduction of non-combustible barrier/section between handrails and residence or replace with non-combustible handrail - minimum 12 inches
  - f. Other Attachments
    - i. Introduction of non-combustible barrier/section between combustible attachment and residence or replace with non-combustible - minimum 12 inches
  - g. Attached Retaining Wall
    - i. Replacing the first 5' with non-combustible components
  - h. Combustible exterior furniture
    - i. Advising the homeowner to replace furniture with noncombustible framing materials or move away 5' ft (place cushions inside residence before egress)
  - i. Pergola/Trellis
    - i. Removing vegetation from pergola(s)/trellis(es), detach them from the residence, and have 2 ft open space/separation from residence
- 6. Between Deck Boards
  - i. Insertion of metal flashing between deck boards at joists
- 7. Mobile Homes
  - i. Skirting
    - a. Installation of mobile home non-combustible skirting on all sides
  - ii. Crawl Space vents
    - a. Installation of ember and flame-resistant vents if venting is required

### **Eligible Activities – Defensible Space**

1. Zone 0 and 1



- a. Removal of all branches within 10 feet (or more if local ordinance is more stringent) of any chimney or stovepipe outlet
  - b. Removal of leaves, needles, cones, bark, etc. from roofs, gutters, decks, porches, stairways, etc.
  - c. Removal of dead and dying trees, branches and shrubs or other plants adjacent to or overhanging buildings.
    - i. If this includes the removal of conifer trees, ensure the procedures for obtaining a timber harvest exemption are followed (if applicable).
  - d. Removal of dead and dying grass, plants, shrubs, trees, branches, leaves, weeds and needles within <the distance provided by state or local ordinance>of the home.
  - e. If this includes the removal of conifer trees, the subrecipient will ensure the procedures for obtaining a timber harvest exemption are followed (if applicable).
  - f. Creation of appropriate separation of <the distance provided by state or local ordinance> between shrubs and live flammable ground cover and all structures.
  - g. If this includes the removal of conifer trees, ensure the procedures for obtaining a timber harvest exemption are followed (if applicable).
  - h. Removal of any flammable vegetation or items that could catch fire that are adjacent to or below combustible decks, balconies, and stairs.
  - i. If this includes the removal of conifer trees, the subrecipient will ensure the procedures for obtaining a timber harvest exemption are followed (if applicable).
  - j. Relocation of firewood and lumber not completely covered in fire-resistant material to Zone 2 or distance established by local ordinance if more stringent
  - k. Installation of hardscape like gravel, pavers, concrete and other non-combustible mulch materials. No combustible bark or mulch
  - l. Replacement of combustible fencing, gates, and arbors attached to the residence with non-combustible alternatives
2. Zone 2
- a. Removal or cut annual grass and forbs\* that exceed <the height provided by state or local ordinance>.
  - b. Trimming or removal of any tree branches that are at least <the distance provided by state or local ordinance> from the ground.
  - c. Creation of vertical space (3 times the height of shrub) between grass, shrubs and trees.
  - d. Creation of effective horizontal space between shrubs and trees.
  - e. If this includes the removal of conifer trees, ensure the procedures for obtaining a timber harvest exemption are followed (if applicable).
  - f. If woodpile(s) are exposed, creation of a minimum of 10 feet of clearance, down to bare mineral soil, in all directions.
  - g. Removal of any dead and dying woody surface and aerial fuels.
  - h. Removal of fallen leaves, needles, twigs, bark, cones, and small branches. However, they may be permitted to a depth of 3 inches.
  - i. Removal of logs or stumps embedded in the soil that are close to other vegetation.
3. Other

- a. Ensuring 10 feet of clearance to the bare mineral soil and no flammable vegetation for an additional 10 feet around their exterior.
- b. Relocate propane tank if necessary
- c. Replacing address numbers displayed in contrasting colors (4" min. size) and place where readable from the street or access road.
- d. Covering the chimney and/or stovepipe openings with a metal screen mesh with a minimum of 38-inch opening minimum opening 3/8- and 1/2-inch metal screen mesh.

Defensible space activities must accompany the home hardening activities or must have already been completed. As the parcels may vary, the defensible space will be completed under this project or pictures will be gathered at time of assessment documenting the defensible space has already been completed. Note, the homeowners will be required to maintain the defensible space in line with the HMA guidance and local/State regulations.

**Exhibit B**

City of Colfax Consultant Agreement

## **AGREEMENT FOR CONSULTANT SERVICES**

THIS AGREEMENT is made and entered into on this \_\_\_day of \_\_\_\_\_by and between the City of Colfax, a municipal corporation of the State of California ("City") and \_\_\_\_\_("Consultant").

### **RECITALS**

- A. The City desires to retain Consultant to provide the Services set forth in detail in Exhibit A hereto (the "Services") subject to the terms and conditions of this Agreement.
- B. Consultant is duly licensed and sufficiently experienced to undertake and perform the Services in a skilled and workmanlike manner and desires to do so in accordance with the terms and conditions of this Agreement.

Now, therefore, in consideration of the mutual covenants, promises and conditions set forth in this Agreement, the City and Consultant agree as follows:

### **Section 1. Services**

Subject to the terms and conditions set forth in this Agreement, Consultant shall furnish and perform all of the Services described in detail in Exhibit A hereto and incorporated herein by this reference (the "Services") to the satisfaction of the City. Consultant shall not perform any work exceeding the scope of the Services described in Exhibit A without prior written authorization from the City.

### **Section 2. Time of Completion.**

Consultant's schedule for performance of the Services is set forth in Exhibit A hereto which is incorporated herein by this reference. Consultant shall commence performance of the Services promptly upon receipt of written notice from the City to proceed. Performance of the Services shall progress and conclude in accordance with the schedule set forth in Exhibit A. During the performance of the Services, Consultant shall provide the City with written progress reports at least once each month and at such additional intervals as City may from time to time request.

### **Section 3. Compensation.**

- A. Except as may otherwise be provided in Exhibit A or elsewhere in this Agreement or its exhibits, Consultant shall invoice City once each month for the Services performed during the preceding month. Such invoices shall itemize all charges in such detail as may reasonably be required by City in the usual course of City business but shall include at least:
  - i. the date of performance of each of the Services,

- ii. identification of the person who performed the Services,
- iii. a detailed description of the Services performed on each date,
- iv. the hourly rate at which the Services on each date are charged,
- v. an itemization of all costs incurred and
- vi. the total charges for the Services for the month invoiced.

As long as the Consultant performs the Services to the satisfaction of the City, the City shall pay the Consultant an all-inclusive compensation that shall not exceed the amount as detailed in Exhibit A except pursuant to an authorized written change order issued pursuant to Section 15 of this Agreement before the Services requiring additional compensation are performed. City shall pay Consultant no later than thirty (30) days after approval of the monthly invoice by City's staff.

- B. The Consultant's compensation for the Services shall be full compensation for all indirect and direct personnel, materials, supplies, equipment, and services incurred by the Consultant and used in carrying out or completing the Services. Payments shall be in accordance with the payment schedule established in Exhibit A or elsewhere in this Agreement or its exhibits.
- C. The City shall have the right to receive, upon request, documentation substantiating charges billed to the City pursuant to this Agreement. The City shall have the right to perform an audit of the Consultant's relevant records pertaining to the charges.
- D. Any Services performed more than sixty (60) days prior to the date upon which they are invoiced to the City shall not be compensable.

#### **Section 4. Professional Ability; Standard of Quality.**

City has relied upon the professional training and ability of Consultant to perform the Services described in Exhibit A as a material inducement to enter into this Agreement. Consultant shall therefore provide properly skilled professional and technical personnel to perform all Services under this Agreement. All Services performed by Consultant under this Agreement shall be in a skillful, workmanlike manner in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

#### **Section 5. Indemnification.**

Consultant shall hold harmless and indemnify, including without limitation the cost to defend, the City and its officers, officials, employees, and volunteers from and against any and all claims, demands, damages, costs or liability that arise out of, or pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant, any sub-consultant, anyone directly or indirectly employed by them, or anyone they control in the performance of the Services. This indemnity does not apply to liability for damages or loss, arising from the sole negligence, active negligence, or willful misconduct or material defects in design by

the City or its agents, servants, employees or independent contractors other than Consultant who are directly responsible to the City, or arising from the passive negligence of the City, its officers, agents, employees or volunteers, unless caused in part by Consultant. City agrees that in no event shall the cost to defend charged to Consultant exceed Consultant's proportionate percentage of fault unless otherwise allowed by California Civil Code Section 2782.8, as amended.

### **Section 6. Insurance.**

Without limiting Consultant's indemnification obligations provided for above, Consultant shall take out before beginning performance of the Services and maintain at all times during the life of this Agreement policies of insurance at least as broad as the following, with insurers possessing a Best rating of not less than A. Consultant shall not allow any subcontractor, professional or otherwise, to commence work on any subcontract until all insurance required of the Consultant has also been obtained by the subcontractor.

- A. Workers' Compensation Coverage. Workers' Compensation insurance as required by the State of California, with statutory limits, and Employer's Liability Insurance with limits of no less than \$1,000,000.00 per accident for bodily injury or disease. In the alternative, Consultant may rely on a self-insurance program to meet its legal requirements as long as the program of self-insurance complies fully with the provisions of the California Labor Code. Consultant shall also require all subcontractors, if such are authorized by the City, to similarly provide Workers' Compensation insurance as required by the Labor Code of the State of California for all of the subcontractor's employees. All Workers' Compensation policies shall be endorsed with the provision that the insurance shall not be suspended, voided, or cancelled until thirty (30) days prior written notice has been provided to City by the insurer. The Workers' Compensation insurance shall also contain a provision whereby the insurance company agrees to waive all rights of subrogation against the City and its elected or appointed officials, officers, agents, and employees for losses paid under the terms of such policy which arise from the Services performed by the insured for the City.
- B. Commercial General Liability Coverage (CGL). Commercial general liability insurance covering CGL on an "occurrence" basis, including products and completed operations, bodily injury, personal injury and advertising injury, and property damage insurance for all activities of the Consultant and its subcontractors, if such are authorized by the City, arising out of or in connection with the Services. The insurance shall be written on the most recent Insurance Services Office (ISO) form and include a broad form comprehensive general liability endorsement. The insurance shall be in an amount of not less than \$1,000,000.00 per occurrence. General liability coverage written on a claims-made basis shall not be acceptable absent prior written authorization from the City.
- C. Automobile Liability Coverage. Automobile liability insurance written on the most

recent Insurance Services Office (ISO) form covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than \$1,000,000.00 combined single limit for each occurrence.

D. Policy Endorsements. Each general liability and automobile liability insurance policy shall be endorsed with the following provisions:

1. The City, and its elected or appointed officials, employees and agents shall be named as insureds or additional insureds with regard to damages and defenses of claims arising from activities performed by or on behalf of the Consultant.
2. The insurance afforded by each policy shall apply separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limits of liability.
3. The insurance shall be primary insurance as respects the City and its elected or appointed officers, officials, employees and agents. Any other insurance maintained by the City or its elected or appointed officers, officials, employees, agents or volunteers shall be in excess of this insurance and shall not contribute with it.
4. The insurance shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been provided to the City.
5. Any failure to comply with the reporting requirements of any policy shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, or agents.

E. Professional Liability Coverage. If required by the City, Consultant shall also take out and maintain professional liability, errors and omissions insurance in an amount not less than \$1,000,000.00. The professional liability insurance policy shall be endorsed with a provision stating that it shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after thirty (30) days written notice has been provided to the City.

F. Insurance Certificates and Endorsements. Prior to commencing the Services under this Agreement, Consultant shall submit to the City documentation evidencing the required insurance signed by the insurance agent and the companies named. This documentation shall be on forms which are acceptable to the City and shall include all required endorsements and verify that coverage is actually in effect. This Agreement shall not be effective until the required insurance forms and endorsements are submitted to and approved by the City. Failure to provide these forms within the time period specified by City may result in the award of this

Agreement to another Consultant should the City, in its sole discretion, decide to do so. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.

- G. Deductible and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City.
- H. Termination of Insurance. If the City receives notification that Consultant's insurance will be suspended, voided, cancelled or reduced in coverage or in limits, and if the Consultant does not provide for either the reinstatement of that insurance or for the furnishing of alternate insurance containing all of the terms and provisions specified above prior to the termination of that insurance, City may either terminate this Agreement for that breach, or City may secure the required insurance to satisfy the conditions of this Agreement and deduct the cost thereof from compensation which would otherwise be due and payable to the Consultant for Services rendered under the terms of this Agreement.

### **Section 7. Subcontracts.**

Consultant may not subcontract any portion of the Services without the written authorization of City. If City consents to a subcontract, Consultant shall be fully responsible to the City and third parties for all acts or omissions of the subcontractor to which the Services or any portion thereof are subcontracted. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor, nor shall it create any obligation on the part of the City to pay or cause the payment of any monies due to any such subcontractor except as otherwise is required by law.

### **Section 8. Assignment.**

Consultant shall not assign any right or obligation under this Agreement without the City's prior written consent. Any attempted assignment of any right or obligation under this Agreement without the City's prior written consent shall be void.

### **Section 9. Entire Agreement.**

This Agreement represents the entire understanding of City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing signed by both parties.

### **Section 10. Jurisdiction.**

This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction over any litigation arising from this Agreement shall be in the Superior Court of the State of California with venue in Placer County, California.



### **Section 11. Suspension of Services.**

Upon written request by Consultant, City may suspend, in writing, all or any portion of the Services if unforeseen circumstances beyond the control of the City and Consultant make normal progress of the Services impossible, impractical, or infeasible. Upon written City approval to suspend performance of the Services, the time for completion of the Services shall be extended by the number of days performance of the Services is suspended.

### **Section 12. Termination of Services.**

City may at any time, at its sole discretion, terminate all or any portion of the Services and this Agreement upon seven (7) days written notice to Consultant. Upon receipt of notice of termination, Consultant shall stop performance of the Services at the stage directed by City. Consultant shall be entitled to payment within thirty (30) days for Services performed up to the effective date of termination. Consultant shall not be entitled to payment for any Services performed after the receipt of the notice of termination unless such payment is authorized in advance in writing by the City.

Should Consultant fail to perform any of the obligations required of Consultant within the time and in the manner provided for under the terms of this Agreement, or should Consultant violate any of the terms and conditions of this Agreement, City may terminate this Agreement by providing Consultant with seven (7) days written notice of such termination. The Consultant shall be compensated for all Services performed prior to the date of receipt of the notice of termination. However, the City may deduct from the compensation which may be owed to Consultant the amount of damage sustained or estimated by City resulting from Consultant's breach of this Agreement.

Consultant's obligations pursuant to Sections 5 and 6 of this Agreement shall survive termination and continue in effect for as long as necessary to fulfill the purposes of Sections 5 and 6.

### **Section 13. Independent Contractor.**

Consultant shall in all respects be an independent contractor and not an agent or employee of City. Consultant has and shall retain the right to exercise full control and supervision of the means and methods of performing the Services. Consultant shall receive no premium or enhanced pay for Services normally understood as overtime; nor shall Consultant receive holiday pay, sick leave, administrative leave or pay for any other time not actually expended in the performance of the Services. It is intended by the parties that Consultant shall not be eligible for benefits and shall receive no compensation from the City, except as expressly set forth in this Agreement. Consultant shall submit completed W-9 and Report of Independent Contractor forms upon execution of this Agreement and prior to the payment of any compensation hereunder.

#### **Section 14. Ownership of Documents.**

Within thirty (30) days after the Consultant substantially completes performance of the Services, or within thirty (30) days after the termination of this Agreement, the Consultant shall deliver to the City all files, records, materials and documents drafted or prepared by Consultant's in the performance of the Services. It is expressly understood and agreed that all such files, records, materials, and documents are the property of the City and not the property of the Consultant. All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Consultant, its officers, employees and agents in the course of performing the Services shall become the sole property of the City upon payment to Consultant for the Services, and the City shall have the exclusive right to use such materials in its sole discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and writings to City or any party the City may designate, upon written request. Consultant may keep file copies of all documents prepared for City. Use of any such documents by the City for projects that are not the subject of this Agreement or for purposes beyond the scope of the Services shall be at the City's sole risk without legal liability or expense to Consultant.

#### **Section 15. Changes and/or Extra Work.**

Only the City Council may authorize extra and/or changed Services, modification of the time of completion of the Services, or additional compensation for the tasks to be performed by Consultant. Consultant expressly recognizes that other City personnel are without authorization to order extra and/or changed Services or to obligate the City to the payment of additional compensation. The failure of Consultant to secure the prior written authorization for such extra and/or changed Services shall constitute a waiver of any and all right to adjustment in the contract price due to such unauthorized Services, and Consultant thereafter shall not be entitled to any compensation whatsoever for the performance of such extra or changed Services. In the event Consultant and City agree that extra and/or changed Services are required, or that additional compensation shall be awarded to Consultant for performance of the Services under this Agreement, a supplemental agreement providing for such compensation shall be prepared and shall be executed by the Consultant and the necessary City officials before the extra and/or changed Services are provided.

#### **Section 16. Compliance with Federal, State and Local Laws.**

Consultant shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules and regulations affecting the Services, including without limitation laws requiring licensing and prohibiting discrimination in employment because of race, creed, color, sex, age, marital status, physical or mental disability, national origin or other prohibited bases. City shall not be responsible or liable for Consultant's failure to comply with applicable laws, statutes, ordinances, rules, or regulations.

## **Section 17. Retention of Records.**

Consultant and any subconsultants authorized by the terms of this Agreement shall keep and maintain full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to the Services, and Consultant shall make such documents available for review and/or audit by City and City's representatives at all reasonable times during performance of the Services and for at least four (4) years after completion of the Services and/or termination of this Agreement.

## **Section 18. Alternative Dispute Resolution**

- A. Before resorting to mediation, arbitration or other legal process, the primary contacts of the parties shall meet and confer and attempt to amicably resolve any dispute arising from or relating to this Agreement subject to the following provisions. Any party desiring to meet and confer shall so advise the other party pursuant to a written notice. Within 15 days after provision of that written notice by the party desiring to meet and confer, the primary contacts for each party shall meet in person and attempt to amicably resolve their dispute. Each primary contact, or the person acting in their absence with full authority to resolve the dispute, shall attend the meeting and shall be prepared to devote an entire day thereto. If any dispute remains unresolved at the end of the meeting, any party to this Agreement shall have the right to invoke the mediation process provided for in the subparagraph B below.
- B. Subject to the provisions of subparagraph A, any dispute that remains unresolved after the meet and confer shall immediately be submitted to non-binding neutral mediation, before a mutually acceptable, neutral retired judge or justice at the Sacramento Office of the Judicial Arbitration and Mediation Service ("JAMS"). If within five days after the meet and confer the parties are unable to agree upon the selection of a neutral mediator, then the first available retired judge or justice at the Sacramento office of JAMS shall serve as the neutral mediator. The parties agree to commit to at least one full day to the mediation process. Additionally, to expedite the resolution of any dispute that is not resolved by mediation, the parties agree to each bring to the neutral mediation a list of at least five neutral arbitrators, including their resumes, whose availability for an arbitration hearing within 30 days after the mediation has been confirmed.
- C. If mediation is unsuccessful, before the mediation concludes, the parties shall mediate the selection of a neutral arbitrator to assist in the resolution of their dispute. If the parties are unable to agree on an arbitrator, the parties agree to submit selection of an arbitrator to the mediator, whose decision shall be binding on the parties. In that case, the mediator shall select a neutral arbitrator from the then active list of retired judges or justices at the Sacramento Office of the JAMS. The arbitration shall be conducted pursuant to the provisions of the California Arbitration Act, sections 1280-1294.2 of the California Code of Civil Procedure. In

such case, the provisions of Code of Civil Procedure Section 1283.05 and 1283.1 shall apply and are hereby incorporated into this Agreement.

- D. This section 18 shall survive the termination or expiration of this Agreement. If there is no Sacramento office of JAMS, then the office of JAMS closest to the City shall be used instead of a Sacramento office.

**Section 19. Severability.**

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by an arbitrator or by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect unless amended or modified by the mutual written consent of the parties.

**Section 20. Entire Agreement; Amendment.**

This Agreement, including all exhibits hereto, constitutes the complete and exclusive expression of the understanding and agreement between the parties with respect to the subject matter hereof. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement. This Agreement may be amended or extended from time to time only by written agreement of the parties hereto.

**Section 21. Time of the Essence.**

Time is of the essence in the performance of the Services. The Consultant will perform its Services with due and reasonable diligence consistent with sound professional practices and shall devote such time to the performance of the Services as may be necessary for their timely completion.

**Section 22. Written Notification.**

Except as otherwise specified in this Agreement, any notice, demand, request, consent, approval or communications that either party desires or is required to give to the other party shall be in writing and either served personally or sent by first class mail, postage prepaid and addressed as follows. Either party may change its address by notifying the other party in writing of the change of address. Notice shall be deemed communicated within two business days from the time of mailing if mailed within the State of California as provided in this Section.

If to City:                      City of Colfax  
    33 S. Main Street  
    Colfax, CA 95713

If to Consultant:

**Section 23. Execution.**

This Agreement may be executed in original counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one original counterpart is signed by both parties hereto. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart. In accordance with applicable law, the Parties may execute this Agreement by electronic signature and, if they do so, an electronic signature and this Agreement will have same legal validity and enforceability as a manually executed signature and agreement.

**Section 24. Successors.**

This Agreement shall be binding on and inure to the benefit of the respective parties hereto except to the extent of any contrary provision in this Agreement.

**Section 25. Attorney's Fees.**

If any party to this Agreement commences legal proceedings to enforce any of its terms or to recover damages for its breach, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs, and the expenses of expert witnesses, including any such fees costs and expenses incurred on appeal.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement on the day first above written:

CITY

CONSULTANT

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**Exhibit C**

Federal Regulations

# Contract Provisions Guide

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

Procurement Disaster Assistance Team (PDAT)

June 2021

*(FI-207-21-0001)*



**FEMA**

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# Introduction

FEMA grant recipients and subrecipients (also known as non-federal entities or NFEs)<sup>1</sup> will often use contractors to help them carry out work under their awards. These contracts are a commercial transaction between the NFE and its contractor, and FEMA has no contractual relationship with NFEs' contractors. Although FEMA is not a party to the contract, if an NFE is using federal funding to pay for the contract, the NFE must comply with federal laws, including the [federal procurement standards](#).

This Guide is applicable to *all* NFEs purchasing in support of declarations and FEMA awards issued on or after November 12, 2020 and reflects [Office of Management and Budget \(OMB\) revisions](#) to the federal procurement standards.

For FEMA declarations and awards issued between December 26, 2014 and November 11, 2020 please refer to the [Contract Provisions Template](#). While the *Contract Provisions Template* is only directly applicable to FEMA's Public Assistance (PA) Program, all FEMA grant recipients and subrecipients are encouraged to review this resource since it provides guidance on the federal procurement under grants regulations.

The federal procurement standards for NFEs are described in Title 2 of the Code of Federal Regulations (C.F.R.), Part 200, sections 200.317-200.327. [2 C.F.R. § 200.327](#) states that “the non-federal entity's contracts *must contain the applicable provisions* described in [Appendix II to this part](#)” (emphasis added).

This Guide is designed to help FEMA grant recipients and subrecipients navigate Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, including providing mandatory language and/or suggested language for each required contract provision. This Guide also describes contract clauses that FEMA *recommends* in addition to those required by 2 C.F.R. Part 200.

This Guide provides:

- Sample language or references to find sample language for some of the federally required clauses.
- Required language for clauses that require exact language.

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<sup>1</sup> Non-federal entity is defined as a state, local government, Indian tribe, institution of higher education, or nonprofit organization carrying out a federal award as a recipient or subrecipient. 2 C.F.R. § 200.1. State is defined as “any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.” 2 C.F.R. § 200.1. The term “non-state entity” therefore refers to a non-federal entity other than a state, which includes local and tribal governments as well as nonprofit organizations.

- Sample language for some of the federally recommended clauses.

This Guide does *not* provide:

- Sample language for certain federally required or recommended clauses that must be included in accordance with the NFE's applicable laws, rules, and procedures.
- Provisions required by applicable state, tribal, or local laws or rules separate from the federal provisions.

Many of the provisions described in this Guide only apply when certain circumstances are present, such as the type of work being procured, the dollar amount, or the date when it is procured. Each section will describe the applicable requirements.

**NOTE:** The NFE is solely responsible for ensuring that all language included in its contracts meets the requirements of 2 C.F.R. Part 200, including 2 C.F.R. § 200.327 and Appendix II. While the Contract Provisions Guide provides general guidance, NFEs should reach out to their applicable [FEMA grant program representative\(s\)](#) if they have specific questions on the applicability of the contract provisions to a particular FEMA grant program. NFEs are encouraged to visit [www.fema.gov](http://www.fema.gov) for additional information regarding FEMA grant programs and [www.fema.gov/grants/procurement](http://www.fema.gov/grants/procurement) for procurement under grants reference material.

## Summary of Applicable Federal Procurement Standards

For the NFE to determine which federal procurement rules to follow, it must first determine whether it is a state entity or a non-state entity. Below are the federal procurement rules applicable to state and non-state entities effective November 12, 2020:

- [State entities](#)<sup>2</sup>, including their agencies and instrumentalities, must follow their own documented procurement policies and procedures when purchasing under a FEMA award pursuant to 2 C.F.R. § 200.317. These entities must also comply with socioeconomic affirmative steps (2 C.F.R. § 200.321), requirement for domestic preferences for procurement (2 C.F.R. § 200.322), the requirements for procurement of recovered materials (2 C.F.R. § 200.323) and ensure that all necessary contract provisions are included in their contracts (2 C.F.R. § 200.327).
- NFEs other than states (collectively referred to as non-state entities<sup>3</sup>), which include local governments, tribes and eligible private nonprofit organizations, must have documented procurement policies and procedures, which reflect applicable local, state or tribal law, and ensure compliance with the federal requirements listed at 2 C.F.R. §§ 200.318 – 200.327.

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<sup>2</sup> A state entity is “any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.” 2 C.F.R. § 200.1

<sup>3</sup> A non-state entity is any non-federal entity (as defined above) other than a state (as defined above).

In the case of noncompliance with the federal procurement rules, FEMA may apply a remedy, as appropriate, in accordance with its authorities found at 2 C.F.R. § 200.339 *Remedies for Noncompliance*.

## **Policy and Guidance Document(s) Incorporated and Superseded**

This Guide supersedes the [Contract Provisions Template](#) and other provisions pertaining to the procurement under grants process in policy or guidance circulated prior to the publication date of the Contract Provisions Guide. This Guide provides the most updated and authoritative information regarding required provisions under Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards and FEMA-recommended contract provisions.

## **Document Management and Maintenance**

FEMA Policy FI-207-21-0001, Contract Provisions Guide, will be reviewed, reissued, revised, and/or rescinded within four years for the issue date. The Procurement Disaster Assistance Team (PDAT), a subcomponent of FEMA's Grant Programs Directorate's (GPD) Policy Division, developed this Guide to provide accurate and updated information to assist both FEMA staff and FEMA award recipients and subrecipients navigate Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. PDAT is responsible for the management and maintenance of this Guide. Comments and feedback from FEMA personnel and stakeholders regarding this Guide should be directed to the Grants Program Directorate Policy Division at FEMA headquarters (HQ) at [FEMA-GPD-Policy@fema.dhs.gov](mailto:FEMA-GPD-Policy@fema.dhs.gov).

## Contract Provisions Quick Reference Guide

Tables A and B are designed to help FEMA grant recipients and subrecipients conduct a quick reference of the applicability of a specific contract provision and whether sample contract language is included within this Guide to incorporate within the NFE’s contract.

The Tables are divided between the required contract provisions set forth under 2 C.F.R. Part 200 Appendix II and those that FEMA *recommends* in addition to those required by 2 C.F.R. Part 200.

**Table A: Required Contract Provisions** *(continued next page)*

	Provision (Appendix II Section)	Applicability	Sample Contract Language Included
1	<a href="#">Legal/contractual/administrative remedies for breach of contract</a>	Greater than Simplified Acquisition Threshold (SAT)- \$250,000	No. It is based on NFE’s procedures.
2	<a href="#">Termination for cause and convenience</a>	Greater than \$10,000	No. It is based on NFE’s procedures.
3	<a href="#">Equal Employment Opportunity</a>	Construction work	Yes. Exact language from 41 C.F.R. § 60-1.4(b) included.
4	<a href="#">Davis-Bacon Act</a>	Construction work	Yes, via reference to required language at 29 C.F.R. § 5.5(a).
5	<a href="#">Copeland “Anti-Kickback” Act</a>	Construction work greater than \$2,000	Yes.
6	<a href="#">Contract Work Hours and Safety Standards Act</a>	Greater than \$100,000 + mechanics or laborers	Yes. Exact language required from 29 C.F.R. § 5.5(b).
7	<a href="#">Rights to inventions made under a contract or agreement</a>	Funding agreement	Yes.
8	<a href="#">Clean Air Act and federal Water Pollution Control Act</a>	Greater than \$150,000	Yes.
9	<a href="#">Debarment and Suspension</a>	Greater than \$25,000	Yes.
10	<a href="#">Byrd Anti-Lobbying Amendment</a>	Greater than \$100,000; and Certification required for all contracts greater than \$100,000	Yes. Clause and certification.

	Provision (Appendix II Section)	Applicability	Sample Contract Language Included
11	<a href="#">Procurement of Recovered Materials</a>	NFE is a state or political subdivision of a state. Work involves the use of materials and the contract is for more than \$10,000.	Yes.
12	<a href="#">Prohibition on Contracting for Covered Telecommunications Equipment or Services</a>	All FEMA declarations and awards issued on or after November 12, 2020.	Yes.
13	<a href="#">Domestic Preferences for Procurements</a>	All FEMA declarations and awards issued on or after November 12, 2020.	Yes.

**Table B: Recommended Contract Provisions**

	Provision	Applicability	Sample Contract Language Included
1	<a href="#">Access to Records</a>	All	Yes.
2	<a href="#">Contract Changes or Modifications</a>	All	No. It depends on nature of contract and end-item procured.
3	<a href="#">DHS Seal, Logo, and Flags</a>	All	Yes.
4	<a href="#">Compliance with federal Law, Regulations and Executive Orders</a>	All	Yes.
5	<a href="#">No Obligation by Federal Government</a>	All	Yes.
6	<a href="#">Program Fraud and False or Fraudulent Statements or Related Acts</a>	All	Yes.
7	<a href="#">Affirmative Socioeconomic Steps</a>	State entities: all FEMA declarations and awards issued on or after November 12, 2020. Non-state entities: all procurements	Yes.
8	<a href="#">Copyright</a>	All procurements that may involve creation of copyrightable material.	Yes.



# Required Contract Provisions

## 1. Remedies

Contracts for more than the federal simplified acquisition threshold (SAT), the dollar amount below which an NFE may purchase property or services using small purchase methods, currently set at \$250,000 for procurements made on or after June 20, 2018,<sup>4</sup> must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and must provide for sanctions and penalties as appropriate.<sup>5</sup>

### 1.1 Applicability

This contract provision is required for contracts over the SAT, currently set at \$250,000 for procurements made on or after June 20, 2018. Although not required for contracts at or below the SAT, FEMA suggests including a remedies provision.

### 1.2 Additional Considerations

For FEMA's Assistance to Firefighters Grant (AFG) Program, recipients must include a penalty clause in all contracts for any AFG-funded vehicle, regardless of dollar amount. In that situation, the contract must include a clause addressing that non-delivery by the contract's specified date or other vendor nonperformance will require a penalty of no less than \$100 per day until such time that the vehicle, compliant with the terms of the contract, has been accepted by the recipient. This penalty clause should, however, account for *force majeure* or acts of god. AFG recipients should refer to the applicable year's Notice of Funding Opportunity (NOFO) for additional information, which can be accessed at [FEMA.gov](https://www.fema.gov).

## 2. Termination for Cause and Convenience

Contracts for more than \$10,000 must address termination for cause and for convenience by the non-federal entity, including how it will be carried out and the basis for settlement.<sup>6</sup>

### 2.1 Applicability

This contract provision is required for procurements exceeding \$10,000. FEMA suggests including a termination for cause and for convenience in all contracts even when not required.

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<sup>4</sup> See FEMA Grant Programs Directorate Information Bulletin No. 434, Increases and Changes to the Micro-Purchase and Simplified Acquisition Thresholds (Aug. 28, 2018), [https://www.fema.gov/sites/default/files/2020-08/ib\\_434\\_changes\\_micro\\_purch\\_simp\\_acquisition\\_thresholds.pdf](https://www.fema.gov/sites/default/files/2020-08/ib_434_changes_micro_purch_simp_acquisition_thresholds.pdf). For procurements subject to 2 C.F.R. Part 200 that were made before June 20, 2018, the SAT was \$150,000.

<sup>5</sup> 2 C.F.R. Part 200, Appendix II, § A.

<sup>6</sup> See 2 C.F.R. Part 200, Appendix II, § B.

## 3. Equal Employment Opportunity

Any contract that uses federal funds to pay for construction work is a “federally assisted construction contract” and must include the equal opportunity clause found in 2 C.F.R. Part 200, unless otherwise stated in 41 C.F.R. Part 60.<sup>7</sup>

### 3.1 Applicability

This contract provision is required for all procurements that meet the definition of a “federally assisted construction contract.”

### 3.2 Key Definitions

- *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.”
- *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.”
- *Contract:* The regulation at 41 C.F.R. § 60-1.3 defines *contract* as “any Government contract or subcontract or any federally assisted construction contract or subcontract.”
- Additional definitions pertaining to this contract provision can be found at 41 C.F.R. § 60-1.3.

### 3.3 Required Language

The regulation at 41 C.F.R. § 60-1.4(b) requires, except as otherwise provided or exempted in 41 C.F.R. Part 60, 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, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual

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<sup>7</sup> See 2 C.F.R. Part 200, Appendix II, § C.

orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

**(2)** The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

**(3)** The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

**(4)** The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

**(5)** The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

**(6)** The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

**(7)** In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other

sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

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

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.”

## 4. Davis-Bacon Act

This statute requires that contractors must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in the Secretary of Labor's wage determination. Additionally, contractors are required to pay wages at least once per week.<sup>8</sup> Additional requirements are listed below, and relevant definitions are at 29 C.F.R. § 5.2. NFEs should refer to the applicable NOFO or other program guidance or contact their applicable FEMA grant representative for additional information on how to implement this requirement.

### 4.1 Applicability

When required by the federal program legislation, prime construction contracts over \$2,000 awarded by NFEs must include a provision for compliance with the Davis-Bacon Act.<sup>9</sup>

The Davis-Bacon Act only applies to the Emergency Management Performance Grant Program,<sup>10</sup> Homeland Security Grant Program,<sup>11</sup> Nonprofit Security Grant Program,<sup>12</sup> Tribal Homeland Security Grant Program,<sup>13</sup> Port Security Grant Program,<sup>14</sup> Transit Security Grant Program,<sup>15</sup> Intercity Passenger Rail Program,<sup>16</sup> and Rehabilitation of High Hazard Potential Dams Program.<sup>17</sup> Unless otherwise stated in a program's authorizing statute, it *does not* apply to other FEMA grant and cooperative agreement programs, including the PA Program. .

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<sup>8</sup> See *id.*; 40 U.S.C. §§ 3141-3144 and 3146-3148. The Davis-Bacon Act is 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)

<sup>9</sup> 2 C.F.R. Part 200, Appendix II, § D.

<sup>10</sup> See section 611(j)(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Pub. L. No. 93-288 (codified as amended at 42 U.S.C. § 5196(j)(9)).

<sup>11</sup> See section 2008(b)(4)(B)(ii) of the Homeland Security Act of 2002, Pub. L. No. 107-296 (codified as amended at 6 U.S.C. § 609(b)(4)(B)(ii)) (citing to section 611(j)(9) of the Stafford Act).

<sup>12</sup> *Id.* The Davis-Bacon Act only applies to the Nonprofit Security Grant Program (NSGP) where that program is funded as a carve-out of the appropriations for the Homeland Security Grant Program (HSGP). See, e.g., Department of Homeland Security Appropriations Act, 2020, Pub. L. No. 116-93, Title III, Protection, Preparedness, Response, and Recovery, Federal Emergency Management Agency, Federal Assistance §§ 1-2. Compare *id.* with section 2009 of the Homeland Security Act of 2002 (6 U.S.C. § 609a) (authorizing NSPG as a stand-alone program where the Davis-Bacon Act does not apply, but as of the date of publication of this document, NSGP has not been funded as a standalone program).

<sup>13</sup> See section 2008(b)(4)(B)(ii) of the Homeland Security Act of 2002.

<sup>14</sup> See section 102 of the Maritime Transportation Security Act of 2002 (MTSA), Pub. L. No. 107-295 (codified as amended at 46 U.S.C. § 70107); 46 U.S.C. § 70107(b)(2). While the MTSA requires that PSGP construction activities are carried out consistent with section 611(j)(8) of the Stafford Act, a subsequent amendment to the Stafford Act by section 3 of Pub. L. No. 109-308 in 2006 redesignated the text of section 611(j)(8) to 611(j)(9). The cross-reference in the MTSA has not been updated.

<sup>15</sup> See section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Pub. L. No. 110-53 (6 U.S.C. § 1135) (applying the requirements of section 49 U.S.C. § 5307); 49 U.S.C. § 5333 (applying the Davis-Bacon Act to grants provided under 49 U.S.C. § 5307).

<sup>16</sup> See section 1513(h) of the 9/11 Act (6 U.S.C. § 1163(h)) (citing to 49 U.S.C. § 24312, which requires compliance with the Davis-Bacon Act).

<sup>17</sup> See section 8A(d)(2)(E) of the National Dam Safety Program Act (codified as amended at 33 U.S.C. § 467f-2(d)(2)(E)) (requiring compliance with 42 U.S.C. § 5196(j)(9), which is section 611(j)(9) of the Stafford Act that applies the Davis-Bacon Act).

## 4.2 Additional Requirements

If applicable, in addition to the requirements mentioned in the beginning of this section, the NFE must do the following:

- Place a copy of the Department of Labor’s current prevailing wage determination in each solicitation. Contracts or subcontracts must be awarded on the condition that the prevailing wage determination is accepted. The non-federal entity must report all suspected or reported violations to the federal awarding agency.<sup>18</sup>
- Include a provision for compliance with the Copeland “Anti-Kickback” Act for all contracts subject to the Davis-Bacon Act.<sup>19</sup> See Required Contract Provisions, Section 5. Copeland Anti-Kickback Act in this Guide for additional information. According to 29 C.F.R. § 5.5(a)(5), the regulatory requirements for the Copeland “Anti-Kickback” Act are incorporated by reference into the required contract provision, so a separate contract provision is not necessary. However, the NFE may include a separate contract provision specific to the Copeland “Anti-Kickback” Act.
- Per Department of Labor’s implementing regulations for the Davis-Bacon Act, the NFEs contractor and any subcontractors are required to insert, or incorporate by reference, the clauses contained at 29 C.F.R. § 5.5(a)(1)-(10)<sup>20</sup> into any subcontracts.
- Follow the other requirements of the Davis-Bacon Act and implementing regulations.<sup>21</sup>

## 4.3 Required Language<sup>22</sup>

If applicable per the standard described above, the NFE must include the provisions at 29 C.F.R. § 5.5(a)(1)-(10) in full into all applicable contracts, and all applicable contractors must include these provisions in full in any subcontracts.<sup>23</sup>

# 5. Copeland “Anti-Kickback” Act

The Copeland "Anti-Kickback" Act prohibits workers on construction contracts from giving up wages that they are owed.<sup>24</sup> Additional requirements are listed below, and relevant definitions are at 29 C.F.R. § 3.2. The applicable implementing regulations are intended to assist with enforcement of the

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<sup>18</sup> 2 C.F.R. Part 200, Appendix II, § D.

<sup>19</sup> 2 C.F.R. Part 200, Appendix II, § D.

<sup>20</sup> 29 C.F.R. § 5.5(a)(6).

<sup>21</sup> 40 U.S.C. §§ 3141-3144, 3146-3148; 29 C.F.R. Part 5.

<sup>22</sup> 29 C.F.R. § 5.5(a).

<sup>23</sup> 29 C.F.R. § 5.5(a)(1), (6).

<sup>24</sup> See *id.*; 40 U.S.C. § 3145. The Copeland “Anti-Kickback” Act is 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).

Davis-Bacon Act's minimum wage provisions as well as various statutes with similar minimum wage provisions for federally assisted construction.<sup>25</sup>

## 5.1 Applicability

For all prime construction contracts above \$2,000, when the Davis-Bacon Act also applies,<sup>26</sup> NFEs must include a provision in contracts and subcontracts for compliance with the Copeland "Anti-Kickback" Act.<sup>27</sup> This requirement applies to all prime construction contracts above \$2,000 in situations where the Davis-Bacon Act also applies.<sup>28</sup> In situations where the Davis-Bacon Act does not apply, neither does the Copeland "Anti-Kickback" Act. As described in section A.4 regarding the Davis-Bacon Act, this provision only applies to certain FEMA grant and cooperative agreement programs. Please reference that list discussed above. Of note, it does not apply to the PA Program.

## 5.2 Additional Requirements

If applicable, the NFE must do the following:

- Include a provision for compliance with the Copeland "Anti-Kickback" Act.<sup>29</sup> According to the Davis-Bacon Act implementing regulations, the requirements for the Copeland "Anti-Kickback" Act are incorporated into the required contract provision for the Davis-Bacon Act by reference.<sup>30</sup> Therefore, a separate contract provision is not necessary. However, the NFE may include a separate contract provision specific to the Copeland "Anti-Kickback" Act with language suggested below.
- The Copeland "Anti-Kickback Act" prohibits each contractor or subcontractor from any form of persuading a person employed in construction, completion, or repair of public work to give up any part of their rightful compensation. The NFE must report all suspected or reported violations of the Copeland "Anti-Kickback Act" to FEMA.<sup>31</sup>
- Each contractor and subcontractor must provide weekly reports of the wages paid during the prior week's payroll period to each employee covered by the "Copeland Anti-Kickback" Act and the Davis-Bacon Act. The reports must be delivered to a representative of a federal or state agency in charge at the building or work site by the contractor or subcontractor within seven days of the payroll period's payment date.<sup>32</sup>

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<sup>25</sup> See 29 C.F.R. § 3.1.

<sup>26</sup> See 2 C.F.R. Part 200, Appendix II, § D; 29 C.F.R. §§ 3.1, 3.3(c).

<sup>27</sup> 2 C.F.R. Part 200, Appendix II, § D.

<sup>28</sup> See 2 C.F.R. Part 200, Appendix II, § D; 29 C.F.R. § 3.3(c).

<sup>29</sup> See 29 C.F.R. § 3.11.

<sup>30</sup> 29 C.F.R. § 5.5(a)(5).

<sup>31</sup> See 2 C.F.R. Part 200, Appendix II, § D.

<sup>32</sup> See 29 C.F.R. § 3.4.

- Follow the other requirements of the Copeland “Anti-Kickback” Act and implementing regulations.<sup>33</sup>

### 5.3 Suggested Language

The following provides a sample contract clause:

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

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

Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as 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.

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.”

## 6. Contract Work Hours and Safety Standards Act

Where applicable,<sup>34</sup> all contracts awarded by the NFE of more than \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with statutory requirements on work hours and safety standards.<sup>35</sup> Under 40 U.S.C. § 3702, each contractor must base wages for every mechanic and laborer on a standard 40-hour work week. Work over 40 hours is allowed, so long as the worker is paid at least one and a half times the base pay rate for all hours worked over 40 hours in the work week. Additionally, for construction work, under 40 U.S.C. § 3704, work surroundings and conditions for laborers and mechanics must not be unsanitary or unsafe. Relevant definitions are at 40 U.S.C. § 3701 and 29 C.F.R. § 5.2.

### 6.1 Applicability

This required contract provision applies to all procurements over \$100,000 that involve the employment of mechanics, laborers, and construction work.<sup>36</sup> These requirements *do not* apply to

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<sup>33</sup> 18 U.S.C. § 874; 40 U.S.C. § 3145; 29 C.F.R. Part 3.

<sup>34</sup> See 40 U.S.C. §§ 3701-3708.

<sup>35</sup> 40 U.S.C. §§ 3702, 3704. The Contract Work Hours and Safety Standards Act is supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, § E.

<sup>36</sup> 41 C.F.R. Part 60-1.3.



the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.<sup>37</sup>

## 6.2 Additional Requirements

If applicable per the standard described above, the non-federal entity must include the provisions at 29 C.F.R. § 5.5(b)(1)-(4), verbatim, into all applicable contracts, and all applicable contractors must include these provisions, in full, into any subcontracts.<sup>38</sup>

In addition to the required language from 29 C.F.R. § 5.5(b)(1)-(4), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any other statutes cited in 29 C.F.R. § 5.1, the NFE must also insert a clause meeting the requirements of 29 C.F.R. § 5.5(c). Specific language is not required, but FEMA has provided suggested language below.

## 6.3 Required Language

For the required contract provision, the language from 29 C.F.R. § 5.5(b)(1)-(4) is provided here for ease of reference:

“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 (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

**(3) Withholding for unpaid wages and liquidated damages.** The **(insert name of grant recipient or subrecipient)** 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

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<sup>37</sup> 29 C.F.R. Part 200, Appendix II, § E.

<sup>38</sup> 29 C.F.R. § 5.5(b)(1), (4).

federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.”

## 6.4 Suggested Language

For contracts that are only subject to Contract Work Hours and Safety Standards Act and are not subject to the other statutes in 29 C.F.R. § 5.1 where an additional contract provision is required, FEMA suggests including the following language:

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

- (1) The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
- (2) Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.”

## 7. Rights to Inventions Made Under a Contract or Agreement

This contract provision outlines the rules governing the ownership of inventions created using federal funds. If the FEMA award meets the definition of funding agreement<sup>39</sup> and the NFE enters into any contract involving substitution of parties, assignment or performance of experimental, developmental, or research work under that funding agreement, then the NFE must comply with the requirements of 37 C.F.R. Part 401 and any implementing regulations issued by FEMA.

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<sup>39</sup> Funding agreement definition found under 37 C.F.R. § 401.2(a).

## 7.1 Applicability

This provision *does not* apply to all FEMA grant and cooperative agreement programs. NFEs should refer to applicable NOFO or other program guidance or contact their applicable FEMA grant representative to determine if this provision is required for the procurement. However, the Rights to Inventions Made Under a Contract or Agreement clause is not required for procurements under FEMA's PA Program.

## 7.2 Key Definitions

*Funding Agreements:* The regulation at 37 C.F.R. § 401.2(a) 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.”

# 8. Clean Air Act and Federal Water Pollution Control Act

For contracts over \$150,000, contracts must contain a provision requiring contractors to comply with the Clean Air Act<sup>40</sup> and the Federal Water Pollution Control Act.<sup>41</sup> Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency (EPA).<sup>42</sup>

## 8.1 Applicability

This contract provision is required for all procurements over \$150,000.

## 8.2 Suggested Language

The following provides a sample contract clause:

“Clean Air Act”

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.*

The contractor agrees to report each violation to the **(insert name of non-federal entity entering into the contract)** and understands and agrees that the **(insert name of the non-federal entity entering into the contract)** will, in turn, report each violation as required to

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<sup>40</sup> 42 U.S.C. §§ 7401-7671q. This also includes all applicable standards, orders, or regulations issued pursuant to the Clean Air Act.

<sup>41</sup> 33 U.S.C. §§ 1251-1387, as amended.

<sup>42</sup> 2 C.F.R. Part 200, Appendix II, § G.

assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate [Environmental Protection Agency Regional Office](#).

The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.

“Federal Water Pollution Control Act”

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.*

The contractor agrees to report each violation to the ([insert name of the non-federal entity entering into the contract](#)) and understands and agrees that the ([insert name of the non-federal entity entering into the contract](#)) will, in turn, report each violation as required to assure notification to the ([insert name of the pass-through entity, if applicable](#)), Federal Emergency Management Agency (FEMA), and the appropriate [Environmental Protection Agency Regional Office](#).

The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.”

## 9. Debarment and Suspension

NFEs contractors and subcontractors are subject to debarment and suspension regulations.<sup>43</sup> Applicable contracts and subcontracts must include a provision requiring compliance with debarment and suspension regulations.<sup>44</sup>

### 9.1 Applicability

The debarment and suspension clause is required for all contracts and subcontracts for \$25,000 or more, all contracts that require the consent of an official of a federal agency, and all contracts for federally required audit services.<sup>45</sup>

NFEs, even for procurements under \$25,000, must also comply with the regulation requiring non-state entities to only award contracts to responsible vendors.<sup>46</sup>

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<sup>43</sup> 2 C.F.R. Part 180 (implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989)); 2 C.F.R. Part 3000 (Department of Homeland Security regulations for Nonprocurement Debarment and Suspension, implementing 2 C.F.R. Part 180).

<sup>44</sup> 2 C.F.R. § 180; 2 C.F.R. Part 200, Appendix II, § H; 2 C.F.R. § 3000.332.

<sup>45</sup> 2 C.F.R. § 180.220(b); 2 C.F.R. § 3000.220.

<sup>46</sup> 2 C.F.R. § 200.318(h). For contracts and subcontracts under \$25,000, a contract provision is only required if those contracts or subcontracts are for federally required audit services or require the consent of a federal agency. However, even where a contract provision is not required, non-state entities must still ensure they are only awarding contracts to responsible vendors.

## 9.2 Additional Requirements

The debarment and suspension regulations restrict awards, subawards, contracts, and subcontracts with parties that are debarred, suspended, or otherwise excluded, or declared ineligible for participation in federal assistance programs and activities.<sup>47</sup>

If applicable, a contract or subcontract must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM). SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties that are debarred, suspended, or otherwise excluded, or declared ineligible under statutory or regulatory authority other than Executive Order 12549.<sup>48</sup> SAM Exclusions can be accessed at [www.sam.gov](http://www.sam.gov).<sup>49</sup>

In general, an “excluded” party cannot receive a federal grant award or a contract considered to be a “covered transaction,” which includes parties that receive federal funding indirectly such as subawards and subcontracts. The key to the exclusion is whether there is a covered transaction. A covered transaction is a nonprocurement transaction at either a primary or secondary tier.<sup>50</sup>

Specifically, a covered transaction includes the following contracts for goods or services under FEMA grant and cooperative agreement programs:

- The contract is at least \$25,000.
- The contract requires the approval of FEMA, regardless of amount.
- The contract is for federally required audit services.
- It is a subcontract for \$25,000 or more.<sup>51</sup>

## 9.3 Suggested Language

The following provides a debarment and suspension clause. It also incorporates an optional method of verifying that contractors are not excluded or disqualified<sup>52</sup>:

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<sup>47</sup> See 2 C.F.R. Part 200, Appendix II, § H; 2 C.F.R. § 200.213. See also 2 C.F.R. Parts 180, 3000.

<sup>48</sup> See 2 C.F.R. Part 200, Appendix II, § H.

<sup>49</sup> 2 C.F.R. § 180.530.

<sup>50</sup> The regulations at 2 C.F.R. Parts 180 and 3000 are titled “nonprocurement” because they do not apply to procurements by the federal government but rather to federal financial assistance. There are separate debarment and suspension regulations covering procurements by the federal government. However, although the term “covered transactions” under 2 C.F.R. Parts 180 and 3000 *does not* include contracts awarded by the federal government, it *does* include some contracts awarded by recipients and subrecipients.

<sup>51</sup> See 2 C.F.R. §§ 180.220, 3000.220.

<sup>52</sup> Per 2 C.F.R. § 180.300, non-federal entity about to enter into an applicable contract, or a contractor about to enter into an applicable subcontract, must verify that the contractor or subcontractor is not excluded or disqualified by doing one of three things: 1) check SAM Exclusions; 2) collect a certification from the contractor or subcontractor; or 3) add a clause or condition to the contract or subcontract. The additional suggested language in this sample clause is for purposes of this requirement.

#### “Suspension and Debarment

This contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the contractor is required to verify that none of the contractor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The contractor must comply with 2 C.F.R. Part 180, subpart C and 2C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by **(insert name of recipient/subrecipient/applicant)**. If it is later determined that the contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to **(insert name of recipient/subrecipient/applicant)**, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 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.”

## 10. Byrd Anti-Lobbying Amendment

NFEs who intend to award contracts of more than \$100,000, and their contractors who intend to award subcontracts of more than \$100,000, must include a contract provision prohibiting the use of federal appropriated funds to influence officers or employees of the federal government. Contractors that apply or bid for a contract for more than \$100,000 must also file the required certification regarding lobbying.<sup>53</sup>

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 employee of a federal agency, a Member of Congress, an employee of Congress, or an employee of a Member of Congress in connection with receiving any federal contract, grant, or other award covered by 31 U.S.C. § 1352.

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<sup>53</sup> See 2 C.F.R. Part 200, Appendix II, § I (citing 31 U.S.C. § 1352); 44 C.F.R. § 18.110.

The required certification form is found in FEMA regulations.<sup>54</sup> Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal funding. These disclosures are forwarded from tier to tier, all the way up to the federal awarding agency.<sup>55</sup>

## 10.1 Applicability

The Byrd Anti-Lobbying Amendment clause and certification are required for contracts of more than \$100,000, and for subcontracts of more than \$100,000.

## 10.2 Suggested Language

The following provides a sample contract clause:

“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.”

## 10.3 Required Certification

### 10.3.1 REQUIRED CERTIFICATION LANGUAGE

If applicable, contractors must sign and submit the following certification to the NFE with each bid or offer exceeding \$100,000:

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

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee

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<sup>54</sup> See 44 C.F.R. §§ 18.100, 18.110; 44 C.F.R. Part 18, Appendix A. FEMA’s regulations at 44 C.F.R. Part 18 implement the requirements of 31 U.S.C. § 1352 and provides, in Appendix A to Part 18, a copy of the certification that is required to be completed by each entity as described in 31 U.S.C. § 1352.

<sup>55</sup> See 44 C.F.R. §§ 18.100, 18.110; 44 C.F.R. Part 18, Appendix B. The specific form for disclosures is referenced in Appendix B to 44 C.F.R. Part 18 and is SF-LLL, also available at <https://www.grants.gov/web/grants/forms/sf-424-family.html>.

of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S.C. 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."

### 10.3.2 RECOMMENDED SIGNATURE LINE:

At the end of the certification language, FEMA recommends including the following signature line.

"The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

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Signature of Contractor's Authorized Official

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Name and Title of Contractor's Authorized Official

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Date"



## 11. Procurement of Recovered Materials

An NFE that is a state agency or an agency of a political subdivision of a state, and the NFE's contractors must comply with Section 6002 of the Solid Waste Disposal Act.<sup>56</sup> Applicable NFEs must include a contract provision requiring compliance with this requirement.<sup>57</sup> This includes contracts awarded by a state agency or political subdivision of a state and its contractors for certain items, as designated by the EPA, with a purchase price greater than \$10,000.<sup>58</sup> Indian Tribal Governments and nonprofit organizations are not required to comply with this provision. Additional requirements are listed below.

### 11.1 Applicability

This required contract provision applies to all procurements over \$10,000 made by a state agency or an agency of a political subdivision of a state and its contractors.

### 11.2 Additional Requirements

The requirements include:

- Procuring only items designated in EPA guidelines<sup>59</sup> that contain the highest practical percentage of recovered materials consistent with maintaining competition, where the purchase price of the item is greater than \$10,000, or the value of the amount of items purchased in the preceding fiscal year was greater than \$10,000;
- Procuring solid waste management services in a way that maximizes energy and resource recovery; and
- Establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.<sup>60</sup>

### 11.3 Suggested Language

The following provides a sample contract clause:

“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—

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<sup>56</sup> Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). 2 C.F.R. § 200.323.

<sup>57</sup> See 2 C.F.R. Part 200, Appendix II, § J (citing 2 C.F.R. § 200.323).

<sup>58</sup> See 2 C.F.R. Part 200, Appendix II, § J; 2 C.F.R. § 200.323; 40 C.F.R. Part 247.

<sup>59</sup> 40 C.F.R. Part 247.

<sup>60</sup> 42 U.S.C. § 6962; 2 C.F.R. § 200.323.

Competitively within a timeframe providing for compliance with the contract performance schedule;

Meeting contract performance requirements; or

At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage:

<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

## 12. Prohibition on Contracting for Covered Telecommunications Equipment or Services

Section 889(b)(1) of the [John S. McCain National Defense Authorization Act for Fiscal Year 2019 \(FY2019 NDAA\)](#) and 2 C.F.R. § 200.216, as implemented by [FEMA Policy 405-143-1](#), Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), prohibit the obligation or expending of federal award funds on certain telecommunication products or from certain entities for national security reasons. Effective August 13, 2020, FEMA recipients and subrecipients, as well as their contractors and subcontractors, *may not* obligate or expend any FEMA award funds to:

- a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; or
- c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

### 12.1 Applicability

For purchases in support of FEMA declarations and awards issued on or after November 12, 2020, all FEMA recipients and subrecipients, and their contractors and subcontractors, are required to include this contract provision in all FEMA-funded contracts and subcontracts, including any purchase orders.<sup>61</sup> FEMA strongly encourages the use of this contract clause for any contracts where

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<sup>61</sup> 2 C.F.R. Part 200, Appendix II, § K (citing 2 C.F.R. § 200.216).

FEMA funding will be used regardless of whether the funding is from FEMA declarations or awards issued on or after November 12, 2020.

## 12.2 Suggested Language

The following provides a sample contract clause:

### “Prohibition on Contracting for Covered Telecommunications Equipment or Services

- (a) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—
- (b) *Prohibitions.*
  - (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
  - (2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
    - (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
    - (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
    - (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
    - (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
- (c) *Exceptions.*
  - (1) This clause does not prohibit contractors from providing—
    - (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

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

## 13. Domestic Preferences for Procurements

As appropriate, and to the extent consistent with law, NFEs should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products.<sup>62</sup>

### 13.1 Applicability

For purchases in support of FEMA declarations and awards issued on or after November 12, 2020, all FEMA recipients and subrecipients are required to include in all contracts and purchase orders for work or products a contract provision encouraging domestic preference for procurements.<sup>63</sup>

### 13.2 Suggested Language

The following provides a sample contract clause:

“Domestic Preference for Procurements

As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

*Produced in the United States* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

*Manufactured products* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.”

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<sup>62</sup> See 2 C.F.R. § 200.322.

<sup>63</sup> 2 C.F.R. Part 200, Appendix II, § L (citing 2 C.F.R. § 200.322). The requirements of 2 C.F.R. § 200.322 must also be included in all subawards.

# FEMA Recommended Contract Provisions

Appendix II to Part 200 authorizes FEMA to require or recommend additional provisions for NFE contracts. Therefore, FEMA recommends the following:

## 1. Access to Records

NFEs and their contractors and subcontractors must give the Department of Homeland Security (DHS) and FEMA access to records associated with their awards during the federally required record retention period and as long as the records are retained.<sup>64</sup> All parties agree to comply with DHS provisions about accessing people, places, and things related to the federal financial award as necessary or as required by DHS regulations or other applicable laws and policies.<sup>65</sup> Additionally, for contracts entered into after August 1, 2017, under a major disaster or emergency declaration under Titles IV or V of the Robert T. Stafford Disaster Relief Act, FEMA is prohibited from funding any contracts that prevent audits or internal reviews by the FEMA Administrator or Comptroller General.<sup>66</sup>

### 1.1 Suggested Language for All Procurements

The following provides a sample contract clause:

“The Contractor agrees to provide **(insert non-federal entity), (insert name of pass-through entity, if applicable)**, 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.

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.

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.

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<sup>64</sup> 2 C.F.R. §§ 200.334, 200.337.

<sup>65</sup> See DHS Standard Terms and Conditions, available at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

<sup>66</sup> See Sections 1202 and 1225 of the Disaster Recovery Reform Act of 2018, Pub. L. No. 115-254.

## 1.2 Additional Suggested Language Applicable to Contracts Entered into After August 1, 2017 Under a Major Disaster or Emergency Declaration

The following provides a sample contract clause:

In compliance with section 1225 of the Disaster Recovery Reform Act of 2018, the **(insert name of the non-federal entity)** and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.”

## 2. Changes

To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable.<sup>67</sup>

### 2.1 Applicability

FEMA recommends that all contracts include a changes clause 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 depend on the nature of the contract and the procured item(s) or service(s). The NFE should also consult their servicing legal counsel to determine whether and how contract changes are permissible under applicable state, local, or tribal laws or regulations.

## 3. DHS Seal, Logo, and Flags

Recipients must obtain permission before using the DHS seal(s), logos, crests, reproductions of flags, or likenesses of DHS agency officials.<sup>68</sup>

### 3.1 Applicability

FEMA recommends that all NFEs include in their contracts a statement that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without FEMA's pre-approval.

### 3.2 Suggested Language

The following provides a sample contract clause:

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<sup>67</sup> See 2 C.F.R. § 200.403.

<sup>68</sup> See DHS Standard Terms and Conditions, available at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

“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. The contractor shall include this provision in any subcontracts.”

## 4. Compliance with Federal Law, Regulations, And Executive Orders and Acknowledgement of Federal Funding

The NFEs and its contractors are required to comply with all federal laws, regulations, and executive orders. Additionally, recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.<sup>69</sup>

### 4.1 Applicability

FEMA recommends that all NFEs include in their contracts a statement acknowledging that FEMA funding will be used in the contract, as well as a requirement that contractors will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

### 4.2 Suggested Language

The following provides a sample contract clause:

“This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.”

## 5. No Obligation by Federal Government

FEMA is not a party to any transaction between a NFE and its contractor. Therefore, FEMA is not subject to any obligations or liable to any party for any matter relating to the contract between an NFE and its contractor.<sup>70</sup>

### 5.1 Applicability

FEMA recommends that the NFE include a statement in its contract that the federal government *is not* a party to the contract and, thus, *is not* subject to any obligations or liabilities to any party resulting from the contract.

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<sup>69</sup> See DHS Standard Terms and Conditions, available at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

<sup>70</sup> See, e.g., 2 C.F.R. § 200.318(k) (stating that the NFE alone is responsible for the settlement of all contractual and administrative issues arising out of procurements).



## 5.2 Suggested Language

The following provides a sample contract clause:

“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.”

## 6. Program Fraud and False or Fraudulent Statements or Related Acts

NFEs must comply with the requirements of the False Claims Act which prohibits submitting false or fraudulent claims for payment to the federal government.<sup>71</sup> As a part of the contract with a NFE, contractors must acknowledge that 31 U.S.C. Chap. 38, regarding administrative remedies for false claims and statements,<sup>72</sup> applies to their actions under their contract.<sup>73</sup>

### 6.1 Applicability

FEMA recommends that contracts include a provision prohibiting making false or fraudulent claims to the federal government.

### 6.2 Suggested Language

The following provides a sample contract clause:

“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.”

## 7. Affirmative Socioeconomic Steps

For procurements under FEMA declarations and awards issued on or after November 12, 2020, all NFEs are required to take the six affirmative steps to ensure use of small and minority businesses, women’s business enterprises, and labor surplus area firms when possible. One of the six steps is to require the prime contractor, if subcontracts are to be let, to take the five other affirmative steps,<sup>74</sup> For procurements under FEMA declarations and awards issued between December 26, 2014, and November 12, 2020, this requirement *only* applies to non-state entities.

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<sup>71</sup>31 U.S.C. §§ 3729-3733.

<sup>72</sup> 31 U.S.C. §§ 3801-3812 (detailing the administrative remedies for false claims and statements made).

<sup>73</sup> See DHS Standard Terms and Conditions, available at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

<sup>74</sup> See 2 C.F.R. § 200.321; compare 2 C.F.R. § 200.317 (2019), with 2 C.F.R. § 200.317 in Office of Management and Budget, Guidance for Grants and Agreements, 85 Fed. Reg. 49,506, 49,552 (Aug. 13, 2020).

## 7.1 Applicability

FEMA recommends that applicable NFEs include in their contracts a statement requiring prime contractors, if subcontracts are to be let, to take the required affirmative socioeconomic steps.

## 7.2 Suggested Language

The following provides a sample contract clause:

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

# 8. Copyright and Data Rights

An NFE is required by 2 C.F.R. § 200.315 to provide certain licenses with respect to copyright and data to the federal awarding agency. 2 C.F.R. § 200.315(b) provides to the federal awarding agency “a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use [any work that is subject to copyright] for federal purposes, and to authorize others to do so.” 2 C.F.R. § 200.315(d) provides to the federal government the rights to “obtain, reproduce, publish, or otherwise use” data produced under a federal award and to authorize others to do the same.

## 8.1 Applicability

When an NFE enters into a contract requiring a contractor or subcontractor to produce copyrightable subject matter and/or data for the NFE under the award, the NFE should include appropriate copyright and data licenses to meet its obligations under 2 C.F.R. § 200.315(b) and (d), respectively. Work that is subject to copyright, or copyrightable subject matter, includes any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works.<sup>75</sup>

## 8.2 Suggested Language

The following provides a sample contract clause:

“License and Delivery of Works Subject to Copyright and Data Rights”

The Contractor grants to the **(insert name of the non-federal entity)**, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify

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<sup>75</sup> See 17 U.S.C. § 102.

such data and grant to the **(insert name of the non-federal entity)** or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the **(insert name of the non-federal entity)** data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the **(insert name of the non-federal entity).**”

# Appendix

## Acronyms

**AFG:** Assistance to Firefighter Grants

**CAGE:** Commercial and Government Entity

**CFR:** Code of Federal Regulations

**DHS:** U.S. Department of Homeland Security

**DRRA:** Disaster Recovery and Reform Act of 2018

**EPA:** U.S. Environmental Protection Agency

**FEMA:** Federal Emergency Management Agency

**GPD:** Grant Programs Directorate

**HQ:** FEMA Headquarters

**NDAA:** National Defense Authorization Act

**NFE:** Non-Federal Entity

**NOFO:** Notice of Funding Opportunity

**OMB:** Office of Management and Budget

**PA:** Public Assistance Program

**PNP:** Private Non-Profit

**PDAT:** Procurement Disaster Assistance Team

**SAM:** System for Award Management

**SAT:** Simplified Acquisition Threshold

**USC:** United States Code

## Definitions

- **Contract:** A legal instrument by which a FEMA award recipient or subrecipient purchases property or services needed to carry out the project or program under a federal award.<sup>76</sup> A contract, for the purposes of this Guide, does not mean a federal award or subaward.
- **Contractor:** *Contractor* means an entity that receives a contract.<sup>77</sup>
- **Cooperative agreement:** A legal instrument of financial assistance between a federal awarding agency or pass-through entity and a non-Federal entity, that is consistent with 31 U.S.C. 6302-6305.<sup>78</sup>
- **Federal awarding agency:** The federal agency that provides a federal award directly to a non-Federal entity (NFE). The federal awarding agency discussed in this Guide is FEMA.
- **Federal Emergency Management Agency (FEMA):** *FEMA's* statutory mission is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.<sup>79</sup> Among other things:
  - FEMA administers its programs and carries out its activities through its headquarters offices in Washington, D.C.; ten Regional Offices; Area Offices for the Pacific, Caribbean, and Alaska; various Recovery Offices; and temporary Joint Field Offices (JFO).
  - FEMA administers numerous assistance programs annually for on a regular basis to increase the Nation's preparedness, readiness and resilience to all hazards. These assistance programs are typically available to NFEs including, but not limited to, states, local governments, Indian Tribes, universities, hospitals, and certain private nonprofit organizations.
  - Each program is governed by the applicable federal law, regulations, executive orders and FEMA program-specific policies. As the Federal awarding agency for these programs, FEMA is responsible for the proper management and administration of these programs as otherwise required by law and enforcing the terms of the agreements it enters with NFEs that receive FEMA financial assistance, consistent with the requirements at 2 C.F.R. Part 200.

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<sup>76</sup> 2 C.F.R. § 200.1 *Contracts*.

<sup>77</sup> 2 C.F.R. § 200.1 *Contractor*.

<sup>78</sup> 2 C.F.R. § 200.1 *Cooperative agreement*.

<sup>79</sup> See Homeland Security Act of 2002, Pub. L. No. 107-296, § 503 (2002) (codified as amended at 6 U.S.C. § 313).

- **Federal award:** The financial assistance that an NFE receives either directly from a Federal awarding agency or indirectly from a pass-through entity.<sup>80</sup> In this Guide, the term is used interchangeably with “FEMA Award,” “grant,” and “financial assistance.”
- **Grant agreement:** A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and an NFE that, consistent with 31 U.S.C. §§ 6302, 6304: Is used to transfer anything of value from the Federal awarding agency or pass-through entity to the NFE to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. § 6101(3)); and does not include an agreement that provides only:
  - Direct United States government cash assistance to an individual;
  - A loan;
  - A loan guarantee; or
  - A subsidy;
  - Insurance.
- **Indian tribe (or “federally recognized Indian tribe”):** *Indian tribe* means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. Chapter 33), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (25 U.S.C. 450b(e)).<sup>81</sup> See annually published [Bureau of Indian Affairs list of Indian Entities Recognized and Eligible to Receive Services](#). For the purposes of this Guide, used interchangeably with “Indian Tribal government”.
- **Local government:** *Local government*<sup>82</sup> means any unit of government within a state, including a:
  - County
  - Borough
  - Municipality
  - City
  - Town
  - Township
  - Parish
  - Special district
  - School District
  - Intrastate district
  - Council of governments, whether incorporated or not as a nonprofit corporation under state law
  - Local public authority, including any public housing agency under the United States Housing Act of 1937
  - Any other agency or instrumentality of a multi-regional, or intra-state or local government

<sup>80</sup> 2 C.F.R. § 200.1 *Federal award*.

<sup>81</sup> 2 C.F.R. § 200.1 *Indian tribe*.

<sup>82</sup> 2 C.F.R. § 200.1 *Local government*.

- **Non-Federal Entity (NFE):** A state, local government, Indian tribe, Institution of Higher Education, or eligible private nonprofit organization that carries out a federal award as a recipient or subrecipient.<sup>83</sup> In this Guide, NFEs include state and non-state entities.
- **Non-State Entity:** A *non-state entity* is an eligible FEMA award recipient or subrecipient that does not meet the definition of a “state under 2 CFR 200.1.
- **Nonprofit organization** (in this Guide, it is used interchangeably with “Private Nonprofit Organization or PNP”): *Nonprofit organization*<sup>84</sup> means any corporation, trust, association, cooperative, or other organization, not including Institutions of Higher Education, that:
- **Recipient:** An NFE that receives a federal award directly from a Federal awarding agency to carry out an activity under a federal program. The term recipient does not include subrecipients.<sup>85</sup> A recipient is responsible for administering the federal award in accordance with applicable federal laws. Examples of recipients include state, Indian tribe, or territorial governments.
- **Pass-through entity:** A recipient that provides a subaward to a subrecipient to carry out part of a federal program is known as the pass-through entity.<sup>86</sup> Pass-through entities are responsible for processing subawards to subrecipients and ensuring subrecipient compliance with the terms and conditions of the FEMA award agreement.
- **Political Subdivision:** A *political subdivision* means the unit of government that the State determines to have met the State’s legislative definition of a political subdivision.<sup>87</sup>
- **Simplified Acquisition Threshold (SAT):** *Simplified acquisition threshold* means the dollar amount below which an NFE may purchase property or services using small purchase methods. NFEs adopt small purchase procedures to expedite the purchase of items costing less than the simplified acquisition threshold. The federal SAT is set by the FAR at 48 C.F.R. Subpart 2.1 (Definitions) and in accordance with [41 U.S.C. 1908](#).<sup>88</sup> As of June 2018, the federal SAT is \$250,000,<sup>89</sup> but is periodically adjusted for inflation.
- **State:** *State* means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.<sup>90</sup> In this Guide, state is used interchangeably with “state entity”.

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<sup>83</sup> 2 C.F.R. § 200.1 *Non-Federal entity*.

<sup>84</sup> 2 C.F.R. § 200.1 *Nonprofit organization*.

<sup>85</sup> 2 C.F.R. § 200.1 *Recipient*.

<sup>86</sup> 2 C.F.R. § 200.1 *Pass-through entity*.

<sup>87</sup> 40 C.F.R. § 35.6015(a) *Political subdivision*

<sup>88</sup> 2 C.F.R. § 200.1 *Simplified acquisition threshold*.

<sup>89</sup> Section 805 codified at 41 U.S.C. § 134; OMB Memo (M-18-18), available at <https://www.whitehouse.gov/wp-content/uploads/2018/06/M-18-18.pdf>.

<sup>90</sup> 2 C.F.R. § 200.1 *State*. Some hospitals and IHEs as defined by 2 C.F.R. § 200.1 *Hospitals* and 2 C.F.R. § 200.1 *Institutions of Higher Education* respectively, may meet the definition of a State.

- **Subaward:** An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.<sup>91</sup> In this Guide, the term is used interchangeably with “subgrant.”
- **Subrecipient:** An NFE that receives a subaward from a pass-through entity to carry out part of a federal program but does not include an individual that is a beneficiary of such program.<sup>92</sup>
- **Uniform Rules:** The series of regulations found at 2 C.F.R. Part 200 that establishes *Uniform Administrative Requirements, Cost Principles, and Audit Requirements* for federal awards to NFEs. The *Uniform Rules* are referred to by several names throughout the remaining portions of this Guide. Some of the names include standards, requirements, rules, and regulations.

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<sup>91</sup> 2 C.F.R. § 200.1 *Subaward*.

<sup>92</sup> 2 C.F.R. § 200.1 *Subrecipient*.



**Exhibit D**

Pricing Template

This Pricing Template has been developed to assist the City in evaluating each proposal on a consistent basis. The positions and the estimated hours are the City's best attempt at identifying the resources and time required to complete each task associated with the Home Hardening Program. Each respondent to the RFP is required to complete this template. The "Positions" noted are open to modification based on each consultant's evaluation of the RFP. This template has been made available on the City's website via access of the following link: <https://colfax-ca.gov/>.

Task	Position	Name	Hourly Rate	Estimated Hours	Total Cost
<b>Phase I, Section 2.1 Environmental and Historical Reviews</b>					
<b>TASK 2.1.1 - Desk Review:</b> Identify "issue" vs. "No Issue" Document and evaluate per task 2.1.1.	Principal		\$ -	0.25	\$ -
	Project Manager		\$ -	2	\$ -
	SME		\$ -	6	\$ -
<b>TASK 2.1.2 - Biological and Botany:</b> Document and evaluate per task 2.1.2. Reviews to be completed per items A-F.	Principal		\$ -	0.25	\$ -
	Project Manager		\$ -	4	\$ -
	SME Biology		\$ -	8	\$ -
	SME Botany		\$ -	8	\$ -
<b>Task 2.1.3 Architectural History:</b> Certify that property is/is not eligible for the National Registrar of Historic Places. Document and evaluate per task 2.1.3.	Principal		\$ -	0.25	\$ -
	Project Manager		\$ -	6	\$ -
	SME Biology		\$ -	12	\$ -
<b>Task 2.1.4 - National Flood Insurance Program:</b> Assess and indicate property status and if the property is in the 100 year floodplain. Document and evaluate per task 2.1.4.	Principal		\$ -	0.25	\$ -
	Project Manager		\$ -	1	\$ -
	SME		\$ -	6	\$ -
<b>Task 2.1.5 -Archeology:</b> Generate and assess architectural relevance. Document and evaluate per task 2.1.5.	Principal		\$ -	0.25	\$ -
	Project Manager		\$ -	4	\$ -
	SME Archeology		\$ -	12	\$ -
<b>PHASE I TOTALS =</b>				<b>70.25</b>	<b>\$ -</b>

Task	Position	Name	Hourly Rate	Estimated Hours	Total Cost
<b>Phase II, Section 2.2 Environmental and Historical Reviews</b>					
<b>TASK 2.2.1 - Individual Property Assessment and Scope of Work:</b> Provide site specific checklist and summary of improvement. Hours reflect cumulative total for 20 residential units based on 2hrs./unit.	Principal		\$ -	0.00	\$ -
	Project Manager		\$ -	10	\$ -
	SME		\$ -	40	\$ -
<b>TASK 2.2.2 - Architectural History:</b> SME review per task 2.2.2 for specific properties. Produce CWMP form or equivalent for individual properties.	Principal		\$ -	0.25	\$ -
	Project Manager		\$ -	2	\$ -
	SME Arch. History		\$ -	8	\$ -
<b>Task 2.2.3- Archeology:</b> SME to perform archaeological assessment for individual sites, as required. Document and evaluate per task 2.2.3. Estimating that 20 residential units may require this evaluation.	Principal		\$ -	0.25	\$ -
	Project Manager		\$ -	4	\$ -
	SME Archeology		\$ -	20	\$ -
<b>Task 2.2.4 - Biological and Botany:</b> SME to perform Biological and Botany assessments for individual sites, as required. Document and evaluate per task 2.2.4. Estimating that 20 residential units may require this evaluation.	Principal		\$ -	0.25	\$ -
	Project Manager		\$ -	1	\$ -
	SME Biology		\$ -	4	\$ -
	SME Botany		\$ -	20	\$ -
<b>PHASE II TOTALS =</b>				<b>109.75</b>	<b>\$ -</b>

Task	Position	Name	Hourly Rate	Estimated Hours	Total Cost
<b>Phase III, Section 2.3 Project and Construction Management</b>					
<b>TASK 2.3.1 - Project and Construction Management:</b> The following reflects the individual expectations as stated in section 2.3 of the RFP. It anticipates the consultant overseeing the implementation of the program. Time estimates are based on the maximum number of units processed in batches of 20.					
Consultation to public via regular office hours one day a week for 6 hrs./1 yr..	General Staffing		\$ -	288	\$ -
Site Inspections (pre-construction and post construction)	General Staffing		\$ -	40	\$ -
Scope of work write-ups and cost estimate review.	General Staffing		\$ -	40	\$ -
Evaluation of bid submittals	General Staffing		\$ -	20	\$ -
Completion of documentation for historical preservation	General Staffing		\$ -	10	\$ -
Completion of documentation for environmental preservation measures	General Staffing		\$ -	10	\$ -
Program development/public awareness	General Staffing		\$ -	20	\$ -
Review of each proposed home improvement file to ensure documentation	General Staffing		\$ -	10	\$ -
Monitoring and reporting	General Staffing		\$ -	20	\$ -
<b>PHASE III TOTALS =</b>				<b>458.00</b>	<b>\$ -</b>

PHASE	HOURS	TOTAL COST
PHASE I TOTALS =	70.25	\$ -
PHASE II TOTALS =	109.75	\$ -
PHASE III TOTALS =	458.00	\$ -
<b>TOTAL PROJECT HOURS/COSTS =</b>	<b>638.00</b>	<b>\$ -</b>