

**Homeland Security Grant Program – FY2022 Operation Stonegarden Grant (OPSG)**

**REQUIRED FEDERAL GRANT PROVISIONS**

1. Termination for Default. In the event of Contractor's breach of this Agreement, County shall have the right to terminate this Agreement in whole or in part.
  - (a) Prior to termination for default, Contracting Officer will send Contractor written notice specifying the default. Contractor shall have ten (10) days from issuance (unless a different time is given in the notice) to respond to the notice as directed by County to acknowledge the default or show cause as to why Contractor is not in default. Such notice may provide Contractor the opportunity to cure the default or to demonstrate progress towards curing the default. If Contractor fails to respond, or if Contractor's response is not satisfactory to the County, County may terminate this Agreement for default upon written notice from Contracting Officer.
  - (b) If County determines that the default contributes to the curtailment of an essential service; poses an immediate threat to life, health, or property; or constitutes fraud or other serious misconduct, County may terminate this Agreement for default by written notice from the Contracting Officer.
  - (c) In the event of termination for default, all finished or unfinished documents, and other materials, prepared by Contractor under this Agreement shall become the sole and exclusive property of County.
  - (d) If, after termination for default, it is determined for any reason that Contractor was not in default under this Agreement, the rights and obligations of the parties shall be the same as if terminated for convenience under section 2. "Termination for Convenience."
  
2. Termination for Convenience. The County may, by written notice from Contracting Officer, terminate this Agreement for convenience, in whole or in part, at any time. Upon receipt of such notice, Contractor shall promptly report to County all undelivered or unaccepted work performed in accordance with this Agreement prior to termination ("Incomplete Work"). Contractor may, at County's option, be required to complete some or all Incomplete Work during disentanglement.
  - (a) The County shall pay Contractor as full compensation for work performed and costs of termination:
    - i. The unit or pro rata price for any delivered and accepted portion of the work.
    - ii. Actual and reasonable Contractor costs for Incomplete Work not mitigable or otherwise recoverable by Contractor. Such compensation shall not exceed the unit or pro rata price due to Contractor had the work been completed.
  - (b) In no event shall the County be liable for any loss of profits or any other consequential damages.
  - (c) County's termination of this Agreement for convenience shall not preclude it from changing the termination to a default, as set forth in section 1. of this Agreement, nor from taking any action in law or equity against Contractor for:
    - i. Fraud, waste, or abuse of Agreement funds, or
    - ii. Improperly submitted claims, or
    - iii. Any failure to perform the work in accordance with the Statement of Work, or
    - iv. Any breach of any terms or conditions of the Agreement, or

- v. Any actions under any warranty, express or implied, or
- vi. Any claim of unprofessional negligence, or
- vii. Any other matter arising from or related to this Agreement, whether know, knowable, or unknown before, during, or after the date of termination.

3. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms. Contractor shall, in accordance with 2 CFR 200.321, take affirmative steps to include minority business, women's business enterprises, and labor surplus area firm by:

- (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

4. Clean Air Act and The Federal Water Pollution Control Act. [for contracts in excess of \$150,000]

- (a) 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.
- (b) The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the appropriate federal agency, and the appropriate Environmental Protection Agency Regional Office.
- (c) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance.
- (d) 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.
- (e) The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the appropriate federal agency, and the appropriate Environmental Protection Agency Regional Office.
- (f) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance.

5. Debarment and Suspension.

- (a) This Agreement is a covered transaction for purposes of 2 C.F.R. 180 and 2 C.F.R. 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).
- (b) The Contractor must comply with 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

- (c) This certification is a material representation of fact relied upon by County. If it is later determined that the Contractor did not comply with 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
6. Byrd Anti-Lobbying Amendment. In accordance with 31 U.S.C. 1352 and related regulations, (a) Contractor certifies, and shall require each lower-tier recipient (as that term is defined in 31 U.S.C. 1352) to certify to the tier above, that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any covered federal contract, grant or any other award covered by 31 U.S.C. 1352, and (b) Contractor shall disclose, and shall require each lower-tier recipient to disclose to the tier above, any lobbying with non-federal funds that takes place in connection with obtaining any covered federal award.
7. Procurement of Recovered Materials.
- (a) In the performance of this Agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - ii. Meeting contract performance requirements; or
  - iii. At a reasonable price.
- (b) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site: <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.
- (c) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.
8. Domestic Preferences. In accordance with 2 CFR 200.322, as appropriate and to the extent consistent with law, Contractor shall, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). This requirement shall be included in all subcontracts under this Agreement.
- (a) "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, must occur in the United States.
- (b) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
9. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. In accordance with 2 CFR 200.216, Contractor and its subcontractors are prohibited from expending funds under this Agreement to:
- (a) Procure or obtain;
  - (b) Extend or renew a contract to procure or obtain; or
  - (c) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
  - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
  - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
10. Contract Work Hours and Safety Standards Act. [for contracts in excess of \$100,000 that involve the employment of mechanics or laborers] If mechanics or laborers are to be employed under this Agreement, Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR 5). Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Contractor shall not require any laborer or mechanic to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous.
11. Equal Employment Opportunity. During the performance of this Agreement, the Contractor agrees as follows:
  - (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
  - (b) 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.
  - (c) 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.
  - (d) 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.
  - (e) 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.

- (f) 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.
- (g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement 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.
- (h) The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) 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 Agreement. 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.

12. Davis-Bacon Act. [for construction contracts in excess of \$2,000]

- (a) All transactions regarding this Agreement shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. 5 as may be applicable. The Contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. 5 as applicable.
- (b) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- (c) Additionally, contractors are required to pay wages not less than once a week.

13. Copeland Anti-Kickback Act. [for construction or repair contracts in excess of \$2,000]

- (a) Contractor. The Contractor shall comply with 18 U.S.C. 874, 40 U.S.C. 3145, and the requirements of 29 C.F.R. 3 as may be applicable, which are incorporated by reference into this Agreement.
- (b) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the federal funding agency 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.
- (c) Breach. A breach of the contract clauses above may be grounds for termination of the Agreement, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. 5.12.